City of Albany
Board of Zoning Appeals
Application

This application must be filed with the Department of Development and Planning, Land Use Division at 200 Henry Johnson Boulevard, Albany, New York 12206, (518-445-0754). Applications are not considered to be complete until all supplemental documents and fees are received. (See attached instructions.) Planning Office staff shall determine the completeness of applications before scheduling the case before the Board of Zoning Appeals. Notice of public hearing shall be mailed to the applicant, adjacent property owners, and other interested parties. **The applicant or his/her representative shall appear at the public hearing to substantiate the application.**

REGARDING THE PREMISES AT 392-396 Delaware Avenue
APPLICANT Cellco Partnership d/b/a Verizon Wireless
ADDRESS 175 Calkins Road CITY Rochester STATE NY ZIP 14623
PHONE 585-321-5435 FAX NUMBER 585-359-3503
AUTHORIZED AGENT Young/Sommer LLC, David C. Brennan, Esq.
AFFILIATION Regional Local Counsel
ADDRESS 5 Palisades Drive CITY Albany STATE NY ZIP 12205
PHONE 518-438-9907 FAX NUMBER 518-438-9914
PROPERTY OWNER Delaware Stanwix Partners, LLC
ADDRESS 2075 Blanche Lane CITY Merrick STATE NY ZIP 11566
PHONE 516-546-1606 FAX NUMBER 518-525-1778
OTHER TO BE NOTIFIED N/A
ADDRESS _____ CITY _____ STATE _____ ZIP _____
PHONE _____ FAX NUMBER _____

REQUEST:
- x SPECIAL USE PERMIT
- __ USE VARIANCE
- x AREA VARIANCE (Rosenberg)
- __ INTERPRETATION
- __ PARKING LOT PERMIT
- __ OTHER _____

ZONING CLASSIFICATION C-O TAX LOT ID NUMBER 76.61-1-30
LOT SIZE (DIMENSIONS) 0.37 acres BLDG SIZE (SQ FT) _____ ADDITION SIZE (SQ FT) _____
EXISTING USE / # OF UNITS Rooftop Communications Facility
PROPOSED USE / # OF UNITS Public Utility/Personal Wireless Service Facility
OCCUPANCY STATUS (FULLY OCCUPIED / PARTIALLY OCCUPIED / VACANT) Fully occupied
CITY WARD 7 NEIGHBORHOOD DESIGNATION Delaware Ave Neighborhood Assn.

REQUESTED PUBLIC HEARING DATE: May, 2013
PROJECT TIME FRAME: 3 mos. (est.) TOTAL PROJECT COST: $170,000.00

Is the property within 500 feet of a municipal boundary, State or County property, road, park or facility, or other recreation area? (Yes) No If yes, the submission will require review by the Albany County Planning Board.

Does any state officer or any officer or employee of the City of Albany or County of Albany have any affiliation with or interest in the applicant or this application? Yes (No) If yes, set forth the name, address, and nature and extent of the affiliation or interest of an officer / employee.

I, the undersigned owner, hereby authorize the applicant to bring the application herein before the Board of Zoning Appeals of the City of Albany.

SIGNED Steven Goldschein DATE 4/17/13
Steven Goldschein, Managing Member

I, the undersigned applicant, hereby state that the information and facts set forth in this application are true to the best of my knowledge and belief.

SIGNED David C Brennan DATE 4/23/13
David C. Brennan, Esq., Regional Local Counsel

AREA VARIANCE STANDARDS

Applications for area variances must be based on some extraordinary topographic condition or other physical condition inherent in the parcel (for example: exceptional narrowness, shallowness, shape or area). This condition must prohibit or unreasonably restrict the use of the land and/or building.

- When considering a request for an area variance, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

  [1] Whether an **undesirable change** will be produced in the character of the neighborhood or a **detriment to nearby properties** will be created by the granting of the area variance.

  [2] Whether the **benefit sought** by the applicant can be **achieved** by some method feasible for the applicant to pursue, **other** than an area variance.

  [3] Whether the requested area variance is **substantial**.

  [4] Whether the proposed variance will have an **adverse effect** or **impact** on the physical or environmental **conditions** in the neighborhood or district.

  [5] Whether the alleged difficulty was **self-created**, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.

[1] DESCRIPTION OF CONDITIONS

(Describe topographic condition or other physical condition of the property and the manner by which this condition restricts use):

Please refer to discussion of New York's Rosenberg standard in the attached Project Narrative

[2] BENEFIT TO APPLICANT
(Please describe why the proposed project cannot be achieved without an area variance):

Please refer to discussion of New York's Rosenberg standard in the attached Project Narrative

[3] SUBSTANTIAL
(Please describe why you feel the proposed project is not substantial in nature):

Please refer to discussion of New York's Rosenberg standard in the attached Project Narrative

[4] CHARACTER OF NEIGHBORHOOD
(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area):

Please refer to discussion of New York's Rosenberg standard in the attached Project Narrative

[5] SELF-CREATED N/A
Were you aware of the requirements of the City of Albany Zoning Ordinance at the time of purchase of the property? Yes No

If you answered no to this question, did you use the services of an attorney? Yes No

SPECIAL USE PERMIT STANDARDS

Special permit uses are those that have some special impact or unique form which require a careful case by case review of their location, design, configuration, and impact to determine, against fixed standards, the desirability of permitting their establishment on any particular site.

~ When considering a request for a special use permit, the Board shall take into consideration the following:

[1] Whether the use is **listed as a permitted special use** in the appropriate zoning district.

[2] Will not have an undue adverse effect upon adjacent property, the **character of the neighborhood** and surrounding areas, **traffic conditions**, **parking**, **utility facilities** or other matters affecting the public health, safety, welfare or convenience.

[3] Operations in connection with the proposed use will **not be more objectionable** to nearby properties by reason of noise, fumes, vibration, illumination, etc., than the operations of any permitted use **not** requiring a special use permit.

[4] Will be served **adequately by essential public facilities** and services or **that the applicant will be responsible for providing such services.**

[1] DESCRIPTION OF USE

(Describe the proposed use):

Co-location of a public utility/personal wireless service facility on the rooftop of 400 Delaware Avenue (12 panel antennas at 45.5+/- ft. level of building with no increase in overall existing structural height; placement of a 12+/- ft. x 26+/- ft. equipment shelter in an 837 SF ground lease area; installation of 21 coaxial cables and all related equipment, appurtenances and utilities).

- For commercial establishments, please complete the following: N/A (public utility use)
  a) Number of customers per day: 0
  b) Number of employees: 0
  c) Days/Hours of operation: 7 days/24 hours
  d) Hours of deliveries: N/A
  e) Frequency of deliveries: ___Less than once a month ___Monthly ___Biweekly ___Weekly ___Several times a week ___Daily N/A

[2] CHARACTER OF NEIGHBORHOOD

(Please provide evidence/information, which demonstrates that the proposed use will not substantially impact the nature and character of the surrounding neighborhood):

Installation of this facility will not result in any increase in structural height, or additional FAA marking or lighting of the building rooftop. Lastly, collocation will eliminate the need for a new tower in this area.

[3] OBJECTIONABLE USES

(Please explain how the proposed use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking/double parking, utility facilities, and other matters affecting the public health, safety, and general welfare):

See 2, above. Due to the relative lack of project visibility, adjacent properties will not be significantly impacted. As the proposed facility will be unmanned, and visited 1-3 times per month as needed for maintenance purposes only, demands on existing parking and other services will be minimal.

[4] OBJECTIONABLE USES

(Please explain why your proposed use will not be more objectionable than would a use permitted by the Zoning Ordinance. Specifically, will your proposed use create any nuisances by generating noise, odors/fumes, and glare from lighting):

The proposed communications facility will be co-located on the rooftop of an existing 4+ story building.

The rooftop is remote and well-suited for telecommunications use.

Noise will be negligible and consistent with ongoing building operations.

No additional odors, fumes, glare or other impacts will result from this action.

[5] ADEQUATE SERVICE OF FACILITIES

(Please demonstrate to the Board that the proposed use will be adequately served by storm drainage, water, sanitary sewers, off-street parking, access to city streets to handle projected traffic volumes, fire and police protection, schools, and refuse disposal, as these services are relevant to your project):

Utility services will be obtained from existing service connections already available at or near the site. As an unmanned facility, this project will not have any impact on existing water, sewer or refuse disposal services, or increased demand for fire and police protection or school services.

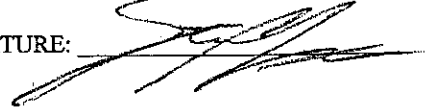
SHORT ENVIRONMENTAL ASSESSMENT FORM

INSTRUCTIONS:

In order to answer the questions in this short EAF it is assumed that the preparer will use currently available information concerning the project and the likely impacts of the action. It is not expected that additional studies research or other investigations will be undertaken.

ENVIRONMENTAL ASSESSMENT

1.	Will the project result in a large physical change to the project site or physically? alter more than 10 acres of land?.....	__Yes	X No
2.	Will there be a major change to any unique or unusual landform found on this site?.....	__Yes	X No
3.	Will project alter or have a large effect on an existing body of water?.....	__Yes	X No
4.	Will project have a potentially large impact on groundwater quality?	__Yes	X No
5.	Will project significantly affect drainage flow or air quality?.....	__Yes	X No
6.	Will project affect any threatened or endangered plant or animal species...	__Yes	X No
7.	Will project result in a major adverse impact on air quality?.....	__Yes	X No
8.	Will project have a major effect on visual character of the community or scenic views or vistas known to be or important to the community?...	__Yes	X No
9.	Will project adversely impact any site or structure of historic, prehistoric or paleontological importance or any site designated as a critical environmental area by a local agency?.....	__Yes	X No
10.	Will project have a major effect on existing or future recreational opportunities?	__Yes	X No
11.	Will project result in major traffic problems or cause a major impact on existing transportation systems?.....	__Yes	X No
12.	Will project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbances as a result of the project's operation?.....	__Yes	X No
13.	Will project have any impact on public health or safety?.....	__Yes	X No
14.	Will project affect the existing community by directly causing a growth? in permanent population of more than 5% over a one-year period or have a major negative effect on the character of the community or neighborhood?.....	__Yes	X No
15.	Is there any public controversy concerning the project?.....	__Yes	X No

PREPARER'S SIGNATURE:  TITLE: Project Manager

REPRESENTING: Tectonic Engineering & Surveying Consultants PC on behalf of Verizon Wireless DATE: April 18, 2013

GERALD D. JENNINGS
MAYOR

CITY OF ALBANY
DIVISION OF BUILDINGS & REGULATORY COMPLIANCE
CITY HALL – ROOM 303
ALBANY, NEW YORK 12207
PHONE (518) 434-5995 FAX (518) 434-6015
WWW.ALBANYNY.ORG

JEFFERY V. JAMISON
COMMISSIONER

March 27, 2013

Cellco Partnership d/b/a Verizon Wireless
C/o Young/Sommer, LLC. Attn: David Brennan
Executive Woods, Five Palisades Drive
Albany, NY 12205

RE: 400 Delaware Avenue
Application Number: 66607

Dear Sir:

On **March 25, 2013**, you made an application for work at the above referenced property involving: **Installation of a rooftop communications facility.**

This property is located in an area which is zoned **R-2A.**

This Application has been examined for compliance with the applicable provisions of the Zoning Ordinance of the City of Albany, NY.

That review has revealed that the proposed work will require

- ☐ Common Council Approval (375-186)
- ☐ Parking Lot Permit (375-174)
- ☐ Site Plan Approval (375-33)
- ☒ Special Use Permit (375-27)
- ☐ Approval by Historic Resources Commission (42-83)

Therefore, your application of 3/25/13 cannot be granted at this time until the approvals indicated above have been granted and all zoning issues are resolved.

Application for the required review(s) may be made on forms available from the Office of Planning & Neighborhood Development, 200 Henry Johnson Blvd. *Applications for the required review(s) must be filed completely with the Office of Planning and Neighborhood development within thirty (30) days of the date of this letter.* ***Upon successful approval(s) required above, a full set of construction documents prepared by a NYS licensed architect or engineer may be required to be submitted to this office prior to a Building Permit being issued.***

For The Commissioner,

Vincent DiBiase
Deputy Chief Inspector

cc: Planning Office

GERALD D. JENNINGS
MAYOR

CITY OF ALBANY
DIVISION OF BUILDINGS & REGULATORY COMPLIANCE
CITY HALL – ROOM 303
ALBANY, NEW YORK 12207
PHONE (518) 434-5165 FAX (518) 434-6015
WWW.ALBANYNY.ORG

JEFFERY V. JAMISON
COMMISSIONER

March 27, 2013

Cellco Partnership d/b/a Verizon Wireless
C/o Young/Sommer, LLC. Attn: David Brennan
Executive Woods, Five Palisades Drive
Albany, NY 12205

Re: 400 Delaware Avenue
Application Number: 66607

Dear Sir:

On **March 25, 2013**, you made an Application for work at the above referenced property involving: **Installation of a rooftop communications facility at a height of 45.6'+/- feet.**

The property is located in an area which is zoned **R-2A**.

This Application has been examined for compliance with the applicable provisions of the Zoning Ordinance of the City of Albany.

That review revealed that the proposed work will not comply with the following provisions of the Zoning Ordinance: **REQUIRES AREA VARIANCE. 375-64D(10) Yard Requirements. Proposed rooftop communications facility exceeds the maximum building height of 35' feet in an R-2A zoning district.**

Therefore, your Application of 3/25/13 is hereby **DENIED** pursuant to Sections 375-59 and 375-9(d) of the Zoning Ordinance.

These objections may be addressed by filing revised plans reflecting conditions which comply with the requirements of the Zoning Ordinance. In the alternative, this Denial may be appealed to the Board of Zoning Appeals on forms available from the Office of Planning and Neighborhood Development, 200 Henry Johnson Blvd. *This appeal must be filed completely with the Office of Planning and Neighborhood development within thirty (30) days of the date of this letter.* ***Should this cause of Denial be resolved by successful Appeal, a full set of construction documents prepared by a NYS licensed architect or engineer may be required to be submitted to this office prior to a Building Permit being issued.***

For the Commissioner,

Vincent DiBiase
Deputy Chief Inspector

cc: Planning Office

BOARD OF ZONING APPEALS
CITY OF ALBANY, ALBANY COUNTY, NEW YORK

In the Matter of the Application of

CELLCO PARTNERSHIP d/b/a Verizon Wireless

Premises: Delaware Stanwix Partners LLC
400 Delaware Avenue
City of Albany, Albany County, New York
Section 76.61, Block 1, Lot 30

STATEMENT OF INTENT
APPLICATION FOR SPECIAL USE PERMIT
and ROSENBERG VARIANCE APPROVAL

I. Introduction

CELLCO PARTNERSHIP d/b/a Verizon Wireless ("Verizon Wireless" or the "Applicant") proposes the construction of an unmanned public utility/personal wireless service facility (a "communications facility"), located on the rooftop and ground of an existing building owned by Delaware Stanwix Partners LLC. The premises is located at 400 Delaware Avenue in the City of Albany, Albany County, New York (Tax Map Parcel No. 76.61-1-30), and is located in the R-2A (One- and Two-Family Residential District) Zoning District (the project is referred to herein as the "Hackett Communications Facility") **[TABS 1, 6-A and 6-I]**.

Verizon Wireless is considered a public utility under New York decisional law (*Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364 (1993)) **[TAB 6-B]**, and a provider of "personal wireless services" under the federal Telecommunications Act of 1996 (the "TCA") **[TAB 6-C]**. Verizon Wireless' equipment will be in operation twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. Copies of the applicable Verizon Wireless FCC licenses are included herewith **[TAB 6-D]**.

Pursuant to the City of Albany Zoning Ordinance (hereinafter, the "Zoning Ordinance") and associated denial letters of the City of Albany Division of Buildings & Regulatory Compliance dated March 27, 2013, this project requires Special Use Permit and Area Variance approval from the City of Albany Board of Zoning Appeals ("BZA") *(Zoning Ordinance, §§ 375-27 - Special Use Permit and 375-64[D][10] – Yard Requirements – proposed rooftop communications facility exceeds the maximum building height of 35 ft. in an R-2A Zoning District)*. Copies of the denial letters are annexed hereto for reference **[TAB 5]**.

To the extent any variance relief is required for this project, this State's highest Court determined in *Rosenberg* that the ordinary variance standard is inapplicable and a cellular telephone company applying for relief need only show that (1) the relief is "required to render safe and adequate service," and (2) there are "compelling reasons, economic or otherwise," for needing the variance. *Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364, 372 (1993).

II. Purpose of Hackett II Communications Facility

The purpose of the Hackett communications facility is to provide an adequate and safe level of emergency and non-emergency Verizon Wireless communications services to the Delaware Avenue / Hackett Boulevard / Second Avenue area of the City of Albany. This facility will fill in existing coverage gaps, and also improve in-building and mobile service and calling capacity to the neighborhoods, businesses and local thoroughfares in the vicinity, including areas along Hackett Boulevard, Delaware Avenue, Second Avenue, US-9W (Southern Blvd) and dense residential and commercial areas generally within 0.5 miles of the Second Ave / Delaware Ave intersection.

Coverage to this area is currently insufficient, spotty, and unreliable, mainly due to the patches of dense mature vegetation, heavy network usage generated in this portion of the City, and the excessive distance to Verizon Wireless' existing neighboring facilities. Verizon Wireless' closest existing facilities are located in the City of Albany and consist of the Normansville[1] facility (off Holland Ave., approximately 0.7± miles north of the proposed Hackett site), Lincoln Park (off Morton Ave, approximately 1.2± miles east), East Karlsfeld (at the Albany JCC, approximately 1.5± miles west), and St. Peters Hospital (off New Scotland Ave, approximately 1.5± miles northwest). Two other distant facilities in the neighboring Town of Bethlehem provide mostly nuisance and interfering coverage to the proposed Hackett site area; these facilities are the Glenmont facility (2.5± miles south off Interstate 87) and Delmar (1.7± miles southwest off Delaware Ave). Lastly, Verizon Wireless is working on a future co-location called "South Swan" one mile northeast of the proposed facility in the City of Albany to be located on an existing building at 175 South Swan St. (tax map number 76.10-1-4).

Due to changes in mobile wireless communications technology, dramatic increases in wireless usage patterns (particularly data services), a rapidly expanding Verizon Wireless subscriber base and other factors (e.g., distance, dense mature vegetation, existing build conditions and varied terrain), existing service from these surrounding communications facilities is sporadic at best across the proposed site's targeted coverage area. For similar reasons the future South Swan facility will also not be able to provide adequate service to the targeted Hackett coverage objective area. To provide a dominant (i.e., continuous) adequate and safe level of advanced, third-generation (3G) and fourth-generation (4G) communications service to the target area, a new wireless facility in the Hackett Blvd / Delaware Ave / Second Ave area is required.

Importantly, coverage from this proposed site will also integrate to the extent practicable with service from Verizon Wireless' adjoining existing and planned communications facilities, addressing a significant gap in Verizon Wireless coverage and network performance in this part of the City of Albany. Signal propagation maps and other technical information, prepared by Verizon Wireless' Radio Frequency (RF) Design Engineer to demonstrate the purpose and need for this facility, are included herewith **[TAB 6-E]**.

III. Description of Land Use

Verizon Wireless proposes to co-locate a new communications facility on the rooftop of 400 Delaware Avenue. The new communications facility will consist of the following general components:

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1 Although the Normansville facility is relatively close at 0.7 miles, Verizon Wireless antennas are mounted at 60 ft. on a 4 story building at 84 Holland Ave. From this relatively low antenna height, the antennas do not provide significant coverage to the target area along Delaware Ave, and most of the capacity available from this site is consumed by heavy usage around Albany Medical Center, Albany Stratton VA Medical Center, Sage College, Albany College of Pharmacy, Albany Law School, etc.

- twelve (12) panel antennas on ballast mounts on the following areas of the rooftop:
  - four (4) panel antennas in the northwest quadrant of the roof at a centerline of approximately 45'-6" AGL;
  - four (4) panel antennas in the southwest quadrant of the roof at a centerline of approximately 45'-6" AGL;
  - four (4) panel antennas in the southeast quadrant of the roof at a centerline of approximately 45'-6" AGL;
- a single 12± ft. x 26± ft. (312± sq. ft.) unmanned equipment shelter for the housing of electronic communications equipment, a backup power generator and placement of one GPS unit, located on the ground on a concrete slab;
- Twenty-one (21) coaxial cables connecting the antennas to the equipment shelter;
- all related equipment, appurtenances and utility services (power and telephone).

Utilities will be obtained from the existing service connections already available at or near the premises. The proposed communications facility will be unmanned, and visited for routine maintenance purposes approximately 1 - 3 times per month (as needed). As such, the project will not have any impact on existing water and sewage services. In addition, neither pedestrian nor vehicular access will be significantly impacted **[see, Zoning Site Plan of Tectonic Engineering & Surveying Consultants, P.C., included herewith at TAB 6-I]**.

IV. Compliance with Special Use Requirements in City of Albany Zoning Ordinance

Verizon Wireless' proposed communications facility complies in all material respects with the Special Use Permit requirements in §375-27 of the City of Albany Zoning Ordinance:

A. **General Description of Proposed Use (§ 375-27[A][1]):** A general description of the proposed land use is provided on page 2 of this Statement of Intent, as required by Zoning Ordinance §375-27[A][1].

B. **Site Plan/Zoning Drawings (§ 375-27[A][3]):** A Site Plan prepared by a New York State Licensed Professional Engineer and showing all existing and proposed structures and improvements is included at **TAB 6-I** (*see,* Zoning Ordinance §375-27[A][3]).

C. **Use Allowable in R-2A District (§ 375-27[B][1][a]):** Subject to the Applicant obtaining Special Use Permit and Area Variance approval from the City of Albany Board of Zoning Appeals ("BZA"), the City of Albany Division of Buildings & Regulatory Compliance has determined that the proposed use is allowable in the R-2A District (letters dated March 27, 2013, attached hereto).

Without limitation to these determinations, "Essential Services" are allowable in all zoning districts pursuant to the City of Albany Zoning Ordinance (§375-100). New York's Court of Appeals has held that a cellular telephone company is a "public utility" for land use purposes, reasoning in significant part that wireless telecommunications are an essential service that is faced with a number of logistical challenges to deliver its services to areas of the community where service is needed. *Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364, 371 (1993).

D. **Conformance With Applicable Standards and Conditions (§ 375-27[B][1][b]):** For the reasons set forth herein, this project will conform to all applicable standards and conditions set forth in the City of Albany Zoning Ordinance.

E. **No Undue Adverse Effect (§ 375-27[B][1][c]):** For the following reasons, this project will not have an undue adverse effect on the surrounding community or neighborhood:

- A completed City of Albany Short Environmental Assessment Form ("Short EAF") is included at **TAB 4**. As stated above, Verizon Wireless will locate its antennas and associated telecommunications equipment at the 45.5± ft. centerline levels of an existing 50.0± ft. apartment building, with no increase in overall building height **[TAB 6-I]**. Co-location in this manner will dispense with the need for an additional new tower facility in this part of the City of Albany.

- The proposed communications facility will address a significant gap in Verizon Wireless communications services in the Hackett Boulevard/Delaware Avenue/Second Avenue area of the City of Albany, enhancing the public health, safety, welfare and convenience by providing government, businesses and individuals with an efficient, state-of-the- art 3G and 4G communications services system for police, fire and other emergency or non-emergency use **[TAB 6]**.

- The proposed communications facility will be located on a secure rooftop area of 400 Delaware Avenue, which is not generally accessible to the public. A certification by a New York State Licensed Professional Engineer that the proposed communications facility will be designed in accordance with all applicable structural engineering requirements is included at **TAB 6-F**.

- A Visual Impact Assessment, with photographic simulations of the proposed antennas and photographs of existing conditions in the surrounding community, can be found at **TAB 6-G**. Photographs of the existing conditions on the building rooftop are included at **TAB 6-H**.

  As these materials demonstrate, there will be no increase in building height or require FAA marking and/or lighting as a result of this project. All antennas and equipment mounted to the tower will blend in with background conditions. Verizon Wireless' equipment will be located on the building rooftop and at the rear of the structure, and will not be significantly visible to the public. *See, e.g.*, **TABS 8 and 9**. In this context, the communications facility proposed will have the least practical adverse visual effect on the environment and residents of the City of Albany, and any resultant visual impact is minimal in nature and scope.

- As also noted above, the proposed communications facility will be unmanned, and visited for routine maintenance purposes approximately 1 - 3 times per month (as needed). As such, the project will not have any impact on existing water and sewage services. In addition, neither pedestrian nor vehicular access will be significantly impacted, and adequate parking for infrequent maintenance visits exists on site. Utilities will be obtained from the existing service connections already available at the premises.

- While properly a matter of federal jurisdiction and not a specific application requirement under the City of Albany Zoning Ordinance, Verizon Wireless has provided a report from a New York State Licensed Professional Engineer (Paul Dugan, P.E. of Millennium Engineering, P.C.), documenting the fact that the

communications facility proposed will comply with the categorical exclusion established by the Federal Communications Commission ("FCC") for radio frequency ("RF") signal exposure **[TAB 6-E, Exhibit "1"]**. Accordingly, this project does not pose any potential RF-based public health or regulatory issues, and is eligible for the categorical exclusion under the federal TCA **[TAB 6-C]**.

- Finally, while also a matter of federal jurisdiction, the Applicant has submitted a report from the same New York State Licensed Professional Engineer, certifying that the proposed facility will not interfere with communications devices operating in the surrounding vicinity **[TAB 6-E, Exhibit "2"]**.

For these reasons, Verizon Wireless has established that this project will not have an undue adverse effect upon adjacent property, the character of the surrounding neighborhood and surrounding areas, traffic conditions, parking, utility facility or other matters affecting the public health, safety, welfare or convenience in accordance with Zoning Ordinance §375-27[B][1][c].

F. **Operations Will Be No More Objectionable (§ 375-27[B][1][d]):** The project is located in the R-2A (One- and Two-Family Residential District) Zoning District, which allows a number of commercial, office, educational and residential land uses as permitted or special permit land uses (Zoning Ordinance §375-64[A] and [C]).

The proposed communications facility will be located on a remote and secure rooftop and in a secure location on the ground. This project will not result in any increase in overall building height, and will not result in any significant noise, fumes, vibration, illumination or other impacts beyond those attributable to the ongoing operations of the existing 4+ story apartment building at the premises. For these reasons, operation of the proposed communications facility will be no more objectionable to adjoining properties than the existing apartment building.

G. **Adequate Facilities and Utility Services (§ 375-27[B][1][e]):** As noted, the proposed communications facility will be unmanned, and visited for routine maintenance purposes approximately 1 - 3 times per month (as needed). As such, the project will not have any impact on existing water and sewage services. In addition, neither pedestrian nor vehicular access will be significantly impacted, and adequate parking for infrequent maintenance visits exists on site. Utilities will be obtained from the existing services already in place at or near the site.

H. **Zoning Ordinance Compliance (§ 375-27[B][1][f]):** For the reasons stated herein, and subject to the Applicant obtaining all requested relief, this project complies with all additional requirements imposed by the City Zoning Ordinance.

I. **Harmony With R-2A Zoning District (§ 375-27[B][1][g]):** For the reasons stated herein, this project is in harmony with the R-2A Zoning District and will not adversely affect the neighborhood or surrounding areas. Without limitation to our prior statements, co-location on existing buildings or other tall structures is generally preferred to the construction of new tower facilities. The rooftop of 400 Delaware Avenue is well-suited for telecommunications use. The proposed development is the least intrusive way of providing essential Verizon Wireless services to a critical area of the City of Albany, in a manner consistent with applicable technological and land use limitations.

J. **General Considerations (§ 375-27[C][1 and 2]):** As noted, the Applicant is a public utility licensed to provide essential public services **[TABS 6-B, 6-C and 6-D]**, and the proposed communications facility is necessary to provide adequate and safe 3G and 4G Verizon Wireless communications services to a critical area of the City of Albany in and around Hackett Boulevard/Delaware Avenue/Second Avenue **[TAB 6-E]**. In this context, the proposed use is necessary and desirable to provide a service that is both (a) in the interest of the public convenience, and (b) a contribution to the general welfare of the surrounding community within the meaning of Zoning Ordinance §375-27[C][1].

Additionally, by co-locating its facility on the rooftop of an existing 4+ story building (with no increase in overall building height), the Applicant has attempted to minimize any adverse effects of the proposed use on its surroundings, as required by Zoning Ordinance §375-27[C][2].

For these reasons, and in accordance with Zoning Ordinance §375-27, Verizon Wireless respectfully submits that the proposed project complies in all material respects with the Special Use Permit requirements in the City of Albany Zoning Ordinance.

V. Compliance with *Rosenberg* Public Utility Variance Exception Standard

With respect to the requested variance relief,[2] Verizon Wireless' proposed communications facility complies in all material respects with the requirements of the *Rosenberg* public utility variance exception standard:

A. **Public Need for New Facility:** The Applicant has submitted expert proof in the form of a report from its Radio Frequency (RF) Design Engineer demonstrating that: (a) there are significant gaps in mobile and in-building Verizon Wireless communications service in the Hackett Boulevard/Delaware Avenue/Second Avenue area of the City of Albany; and (b) at the 45.5± ft. antenna centerline height proposed, the Applicant will be able to provide an adequate and safe level of 3G and 4G emergency and non-emergency Verizon Wireless communications services to the targeted area, with connecting service to Verizon Wireless' existing communications facilities in Albany. *See*, Site Selection Analysis and propagation studies completed by Verizon Wireless' RF Design Engineer at **TAB 6-E**.

B. **Existing Towers or Other Tall Structures:** In connection with this evaluation, the Applicant has retained the services of a real estate expert working in the telecommunications field to assist in the evaluation of existing towers and other tall structures in and around the Hackett Boulevard/Delaware Avenue/Second Avenue search area. Based upon a thorough review of the search area, it is clear that the 400 Delaware Avenue building is the ideal candidate. The building is centrally located in the search area and there are no existing towers or other taller structures of sufficient height that can be used by Verizon Wireless to provide an adequate and safe level of service to the target area **[TAB 6-E]**.

C. **Search Area Is Constrained:** As noted in the report included at **TAB 6**, the area within which a facility can be placed to meet applicable coverage objectives is

[2] As noted, City officials have determined that the proposed antenna centerline height of approximately 45.5 ft. AGL on the existing 50.0± ft. apartment building exceeds the maximum building height of 35 ft. in the R-2A Zoning District, as specified in Zoning Ordinance 375-64[D][10].

severely constrained due to a number of factors, including but not limited to dense urban development and mature vegetation in the vicinity, and the location of the adjoining cell sites in the Verizon Wireless network that the proposed communications facility must interact with. Without limitation, cellular radio is a "line-of-sight" technology, meaning that Verizon Wireless' signals cannot travel through terrain and will be blocked or interfered with by the dense urban development and substantial mature vegetation that is characteristic of the area. To function properly, Verizon Wireless' antennas must be placed a sufficient height above these impediments, so as to (a) "see" the targeted service area, and also (b) connect with service from adjoining cell sites in the Verizon Wireless network.

D. **Least Intrusive Means; Minimum Relief:** As noted, Verizon Wireless' equipment will be located at the 45.5± ft. centerline levels of an existing 50.0± ft. (4+ story) building. There will be no increase in building height or FAA marking and/or lighting as a result of this project. Location on this existing 4+ story structure will dispense with the need for an additional new tower in this part of the City of Albany **[TAB 6-E]**. In this context, Verizon Wireless' antennas and associated equipment will not be significantly visible to the public **[TABS 6-G and 6-H]**.

The requested variance relief is minimal, and the height of Verizon Wireless' equipment and relief requested (approximately 49.5 ft. AGL) will not exceed the 50.0± ft. height of the existing building. Finally, the proposed project minimizes potential land use conflicts by locating Verizon Wireless' equipment at an existing building rooftop.

In this context, (a) the minimum relief from the 35 ft. maximum height in Zoning Ordinance 375-64[D][10] is being requested; and (b) the proposed location of Verizon Wireless' communications facility on the 4+ story building is the least intrusive means of providing the necessary level of service to this area of Albany. "[W]here the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced." *Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364, 371 (1993) (internal citations omitted).

Based upon the foregoing, Verizon Wireless respectfully submits that it has satisfied the burden of proof under New York's *Rosenberg* standard. In addition, Verizon Wireless notes:

Public Necessity

As noted above and in **TABS 6-B and 6-C**, Verizon Wireless is recognized as a public utility under New York law and a provider of personal wireless services under the federal Telecommunications Act of 1996. This project is a public necessity in that it is required to render adequate and safe 3G and 4G hand-held telephone service (mobile and in-building) to a significant portion of the City of Albany.

Location on the existing 4+ story building with no increase in overall building height will enable Verizon Wireless to address a significant gap in wireless services in the Hackett Boulevard/Delaware Avenue/Second Avenue area, thereby enhancing the public health, safety, welfare and convenience by providing government, businesses and individuals with efficient, state-of-the-art 3G and 4G communications services police, fire and other emergency or non-emergency use. This, combined with the federal mandate to expeditiously deploy advanced 3G and 4G wireless services across the nation and Verizon Wireless' FCC licenses to provide such services in

the City of Albany, demonstrates that Verizon Wireless' facility is a public necessity. Without the construction of the communications facility proposed, the public would be deprived of an essential means of communication, which, in turn, would jeopardize the safety and welfare of the community and traveling public.

Compelling Reasons for Approval

As is demonstrated by the Applicant's Site Selection Analysis, there are significant gaps in Verizon Wireless network coverage (mobile and in-building) in the Hackett Boulevard/Delaware Avenue/Second Avenue area of the City of Albany, and the area within which Verizon Wireless can locate its facility and provide adequate and safe service to this area is severely constrained due to a number of factors including dense urban development, substantial mature vegetation and terrain in the vicinity, and the location of Verizon Wireless' surrounding facilities. The Applicant's Radio Frequency (RF) Design Engineer has also demonstrated that by locating wireless antennas on the building rooftop at the height proposed, Verizon Wireless can provide an adequate and safe level of service to this area.

Location on the existing building rooftop is consistent with the objective of siting new communications facilities on existing towers or other tall structures where feasible. Verizon Wireless' equipment will be located on a rooftop area that is well-suited for telecommunications use, and the proposed facility is generally not visible to the traveling public. In this context, the communications facility proposed has been sited to have the least practical adverse visual effect on the environment, and any resultant visual impact is minimal in nature and scope.

As noted above, the Applicant has proposed a facility that will enable Verizon Wireless to provide adequate and safe coverage to an important area of the City of Albany, in accordance with its FCC licenses. In this regard, the proposed communications facility will not give rise to an undue visual impact.

In sum, approval of the Hackett Communications Facility will enable Verizon Wireless to provide an adequate and safe level of hand-held 3G and 4G wireless telephone service to the Hackett Boulevard/Delaware Avenue/Second Avenue area of the City of Albany, within the confines of applicable technological limitations and all or substantially all land use requirements. The communications facility will benefit, and will not be detrimental to, the public health, safety, morals and welfare. Given the small degree of potential visual impact and site-specific design measures discussed above, this project will not be injurious to the use and enjoyment of other property in the immediate vicinity.

VI. Conclusion

Verizon Wireless respectfully submits that approval of this project will be in the public interest, in that it will allow Verizon Wireless to comply with its statutory mandate to build out its network and provide local businesses, residents and public service entities with safe and reliable wireless communications services. Verizon Wireless' project complies in all material respects with the Special Use Permit requirements of the City of Albany Zoning Ordinance, or alternatively, with the *Rosenberg* public utility variance exception standard, and any potential impact on the community created by this project may properly be considered to be minimal and of no significant adverse effect.

Attached to this Application and Statement of Intent are the following:

A. Redacted Copy of Option and Building and Rooftop Lease Agreement between Delaware Stanwix Partners LLC and Cellco Partnership d/b/a Verizon Wireless;

B. Documentation of Public Utility Status and Overview of the *Rosenberg* Decision;

C. Overview of Telecommunications Act of 1996;

D. Copies of Verizon Wireless' FCC Licenses for the Albany County area;

E. Site Selection Analysis and Radio Frequency (RF) Engineering Coverage Plots prepared by the Verizon Wireless Network Engineering Department and Tectonic Engineering & Surveying Consultants, P.C., site acquisition agent to Verizon Wireless;

E(1) RF Safety FCC Compliance Report prepared by Paul Dugan, P.E. of Millennium Engineering, P.C.;

E(2) Non-Interference Certification prepared by Millennium Engineering, P.C. (Paul Dugan, P.E.);

F. Structural Certification of Tectonic Engineering & Surveying Consultants, P.C.;

G. Visual Analysis with Photographic Survey and Photographic Simulations prepared by Tectonic Engineering & Surveying Associates, P.C.;

H. Photographs of Existing Conditions prepared by Tectonic Engineering & Surveying Associates, P.C.; and

I. Zoning Site Plan Drawings prepared by Tectonic Engineering & Surveying Consultants, P.C.

Kindly place this matter on the agenda for discussion at the next meeting of the City of Albany Board of Zoning Appeals. In the meantime, should you have any questions or require any additional information concerning this project, I can be reached at (518) 438-9907.

Thank you for your consideration.

Respectfully submitted,

CELLCO PARTNERSHIP
d/b/a Verizon Wireless

David C. Brennan, Esq.
Regional Local Counsel

Dated: April 23, 2013

VISUAL RESOURCE EVALUATION

PROPOSED ROOFTOP TELECOMMUNICATIONS INSTALLATION

HACKETT
PROJECT NUMBER: 2006193116
LOCATION CODE: 175246

400 DELAWARE AVENUE
CITY OF ALBANY
ALBANY COUNTY
NEW YORK

Submitted by:

verizonwireless
175 Calkins Road
Rochester, NY 14623

Prepared by:

TECTONIC ENGINEERING & SURVEYING CONSULTANTS, P.C.
36 British American Blvd., Suite 101
Latham, New York 12110
518-783-1630
518-783-1544 FAX

W.O. # 5304.93116

April 16, 2013

VISUAL RESOURCE EVALUATION

Tectonic Engineering & Surveying Consultants, P.C., was contracted by Verizon Wireless to create computer simulated photographs depicting the proposed addition of their antennas on the existing building located at 400 Delaware Avenue in the City of Albany, Albany County, NY. The proposed antenna installation consists of three sectors of antennas, one each at the southeast, southwest, and northwest corners of the building. Each sector consists of 4 cellular panel antennas supported by a steel-framed ballast mount which bears directly on the main roof of the building.

Setting:

The proposed installation is located at 400 Delaware Avenue in the City of Albany. The surrounding land use is primarily residential (single and multi-family) with commercial uses located along Delaware Avenue and Second Avenue. Within the study area, the topography is very flat, with an approximate ground elevation of 210' above mean sea level.

Methodology:

On April 9, 2013, Tectonic Engineering & Surveying Consultants, P.C., conducted a field investigation for the purpose of evaluating the views associated with the proposed rooftop installation from various locations in the neighborhood. Weather conditions were overcast with temperatures around 45 degrees. The study area consisted of a 750-foot radius from the project site.

Photographs were taken from various vantage points within the study area to document the actual view toward the existing building. Each photograph attached includes a brief description of the location and orientation from which it was taken. These photograph descriptions are summarized below:

1. *View from the intersection of Delaware Avenue and Marshall Street, looking southwest towards the proposed rooftop installation from approximately 595' away. Hook and Ladder No. 4 (listed on National Historic Register) and St. Francis of Assisi Church are located at this intersection. The proposed antennas will not be visible from this location.*

2. *View from the intersection of Delaware Avenue and Jeanette Street, looking southwest towards the proposed rooftop installation from approximately 335' away. The proposed antennas will not be visible from this location.*

3. *View from the intersection of Delaware Avenue and Stanwix Street, looking south towards the proposed rooftop installation from approximately 175' away. The proposed antennas will be visible from this location.*

4. *View from the intersection of Delaware Avenue and Beekman Street, looking east towards the proposed rooftop installation from approximately 320' away. The proposed antennas will not be visible from this location.*

5. *View from the intersection of Delaware Avenue and Cuyler Avenue, looking east towards the proposed rooftop installation from approximately 495' away. The Praise Tabernacle Church is located at this intersection. The proposed antennas will not be visible from this location.*

6. *View from the intersection of Second Avenue and Beekman Street, looking northeast towards the proposed rooftop installation from approximately 500' away. The proposed antennas will not be visible from this location.*

7. *View from sidewalk at north end of Beekman Street, looking east towards the proposed rooftop installation from approximately 315 away. The proposed antennas will be partially visible (obscured by vegetation) from this location.*

8. *View from the intersection of Second Avenue and Stanwix Street, looking north towards the proposed rooftop installation from approximately 455' away. The proposed antennas will be visible from this location.*

9. *View from the intersection of Second Avenue and Jeanette Street, looking northwest towards the proposed rooftop installation from approximately 550' away. The proposed antennas will not be visible from this location.*

10. *View from Jeanette Street, looking west towards the proposed rooftop installation from approximately 215' away. The proposed antennas will be partially visible (obscured by vegetation) from this location.*

11. *View from the intersection of Second Avenue and Marshall Street, looking northwest towards the proposed rooftop installation from approximately 735' away. The proposed antennas will not be visible from this location.*

These photo locations are presented on the attached "PhotoLog Map."

Process:

Photographs of the existing building from the viewpoints noted were taken with a 35mm Canon EOS Digital Rebel XT 8 mega pixel camera using a 55mm focal length lens (unless otherwise noted).

Photographs that contain simulated views (#3 and 8) of the proposed rooftop facility were produced by first photographing the existing building. Digital images of the site photos and the proposed equipment were then merged and manipulated through the use of the image editing software "Adobe PhotoShop CS5." Based on our site visit observations as well as using aerial imagery, the software is used to transpose the proposed equipment to scale in relation to the existing building. The composite is printed out directly on a color printer, producing the final image.

Conclusion:

Views of the proposed rooftop telecommunications installation from most locations in the study area are blocked by buildings or vegetation. The proposed installation will only be visible along Stanwix Street, and will be partially visible (obscured by dense vegetation) from one location on Beekman Street and one location on Jeanette Street. There are two churches in the vicinity of the project along with a property on the National Register of Historic Places (Hook and Ladder No. 4). The closest school is Delaware Community School (approximately 1000' from the site). Views of the proposed telecommunications facility from all of the aforementioned properties are blocked by buildings or vegetation. There are no properties on the City of Albany Historic Resources Commission list near the proposed facility

In conclusion, the proposed addition of Verizon Wireless equipment on the existing building at 400 Delaware Avenue will have little to no adverse impact on existing views of this building.

Sincerely,

TECTONIC ENGINEERING & SURVEYING CONSULTANTS, P.C.

By: _____
Timothy VanBuren
Visual Technician

By: _____
Steven M. Matthews
Project Manager

TECTONIC
Practical Solutions, Exceptional Service

HACKETT – EXISTING CONDITIONS PHOTOGRAPHS

Photo 1 - Looking at the proposed shelter location from Stanwix Street.

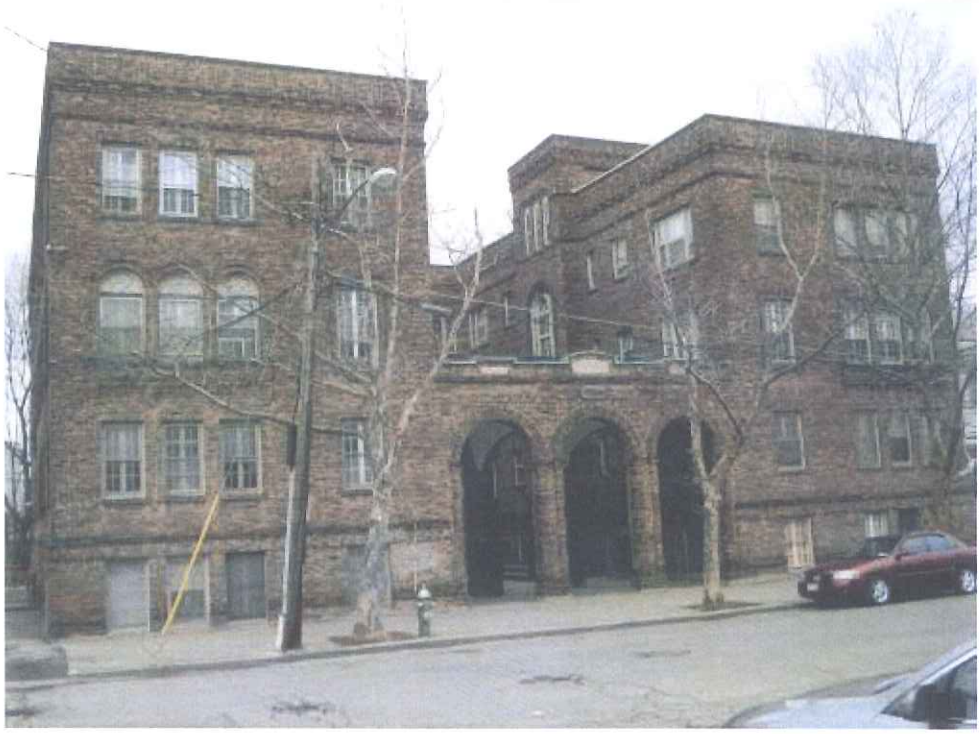

Photo 2 – Looking at the existing utility pole that will be utilized for the proposed power/telco service.

Photo 3 - Looking at the proposed cable tray location at the rear wall of the building.

Photo 4 - Looking at Alpha Sector antenna mount location.

Photo 5 – Looking out from Alpha Sector antenna mount location.

Photo 6 - Looking at Beta Sector antenna mount location (building wing in background).

Photo 7 – Looking out from Beta Sector antenna mount location.

Photo 8 - Looking at Gamma Sector antenna mount location (in foreground).

Photo 9 - Looking out from Gamma Sector antenna mount location.

The search area for the Hackett cell site is located in a relatively small geographic area bounded by Hackett Blvd to the north, Hoffman Ave to the east, Southern Blvd to the south, and Academy Rd / Marwill St to the west, or generally to within 1/2 mile of the Delaware Ave / Second Ave intersection. The location of the search area is driven by the coverage objectives – Verizon Wireless' facility must be located where it can provide the needed coverage detailed in the previous section. The size and shape of the search area is driven primarily by topography, surrounding vegetative and building clutter, and existing coverage. An illustration of the Hackett search area is set forth at **Figure 1**, where the red circle represents the designated search area and the yellow arrow points to the proposed rooftop collocation at the intersection of Stanwix St and Delaware Ave:

Figure 1 – Hackett Search Area

A radio frequency (RF) propagation map showing the areas where additional service is required is shown below at **Figure 2**. Areas of Blue indicate coverage from existing facilities, whereas areas of Yellow represent future coverage from VZW's in-development South Swan facility. Areas of White indicate a lack of sufficient coverage:[2]

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[2] All propagation studies in this report were developed using a Verizon Wireless in-house radio frequency propagation prediction tool called "Geoplan". Coverage shown is plotted at a signal strength value of -78 dBm which is the Verizon Wireless design criteria for adequate and safe in-vehicle and urban in-building service.

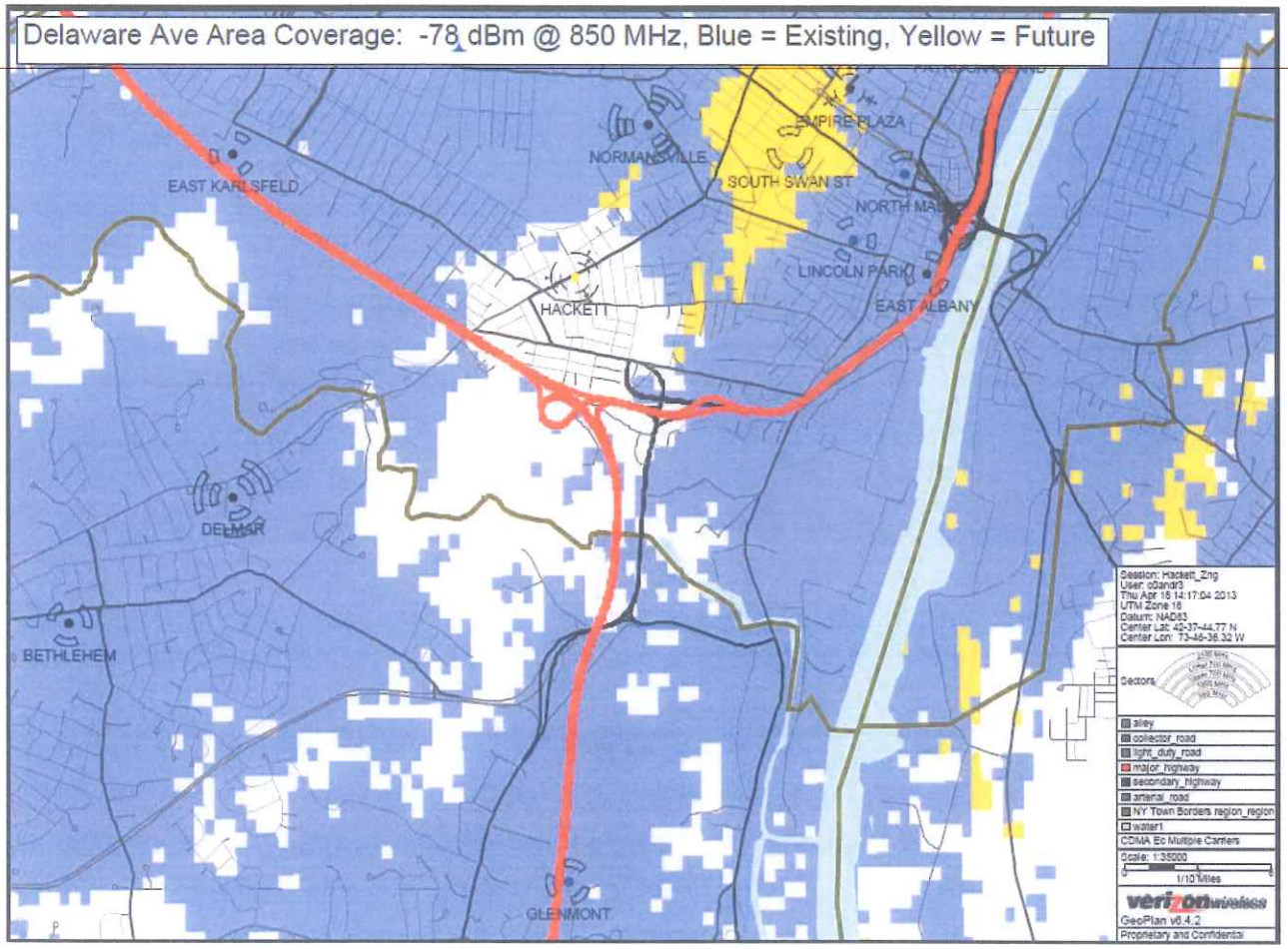


Figure 2 – Existing and Future Coverage
850 MHz (Cellular)

Site Analysis Summary

The Hackett search area was analyzed to determine potential locations for the proposed facility. The search area primarily consists of densely developed urban and residential areas, together with a variety of commercial businesses and religious facilities. The Stanwix Apartments building rooftop is one of the tallest structures within the Search Area, and despite its relatively low height does offer sufficient height to satisfy VZW coverage objectives. Although there are a few miscellaneous relatively tall structures in the immediate area (e.g., St. Francis Church at the intersection of Delaware Ave and St. James Place, St. Matthew Church off Whitehall Rd, etc.), placing a wireless facility at these locations would be difficult due to limited space and the ornate architectural details associated with these buildings. There are other structures of similar height as the proposed facility, many of which contain pitched roofs and do not lend themselves to wireless facility development, but none are located in the near-ideal location in the search ring center or offer comparable relatively unobstructed views of the surrounding area as the proposed facility.

Although a raw land build (i.e., a new tower) would work from Verizon Wireless' perspective, the tower would have to be tall enough (approximately 60 ft. – to - 70 ft.) to clear the local buildings and other surrounding obstructions. Since the search area contains a significant amount of relatively small residential lots, there are limited options from which development of a new tower is practical. Given the availability of space on the Stanwix Apartments building rooftop, however, a new tower is not necessary in this case.

Importantly, this Stanwix Apartments location has adequate space and structural capacity available for Verizon Wireless' proposed use. Co-location at this facility will avoid the construction of a new tower in the City of Albany, will *not* result in any increase in overall structural height at the apartment building, and therefore will *not* result in any FAA lighting or markings on the apartment building rooftop.

A radio frequency (RF) propagation map showing the in-building and mobile coverage that will be achieved from this location is attached as **Figure 3** (where proposed new coverage is depicted as the Green region):

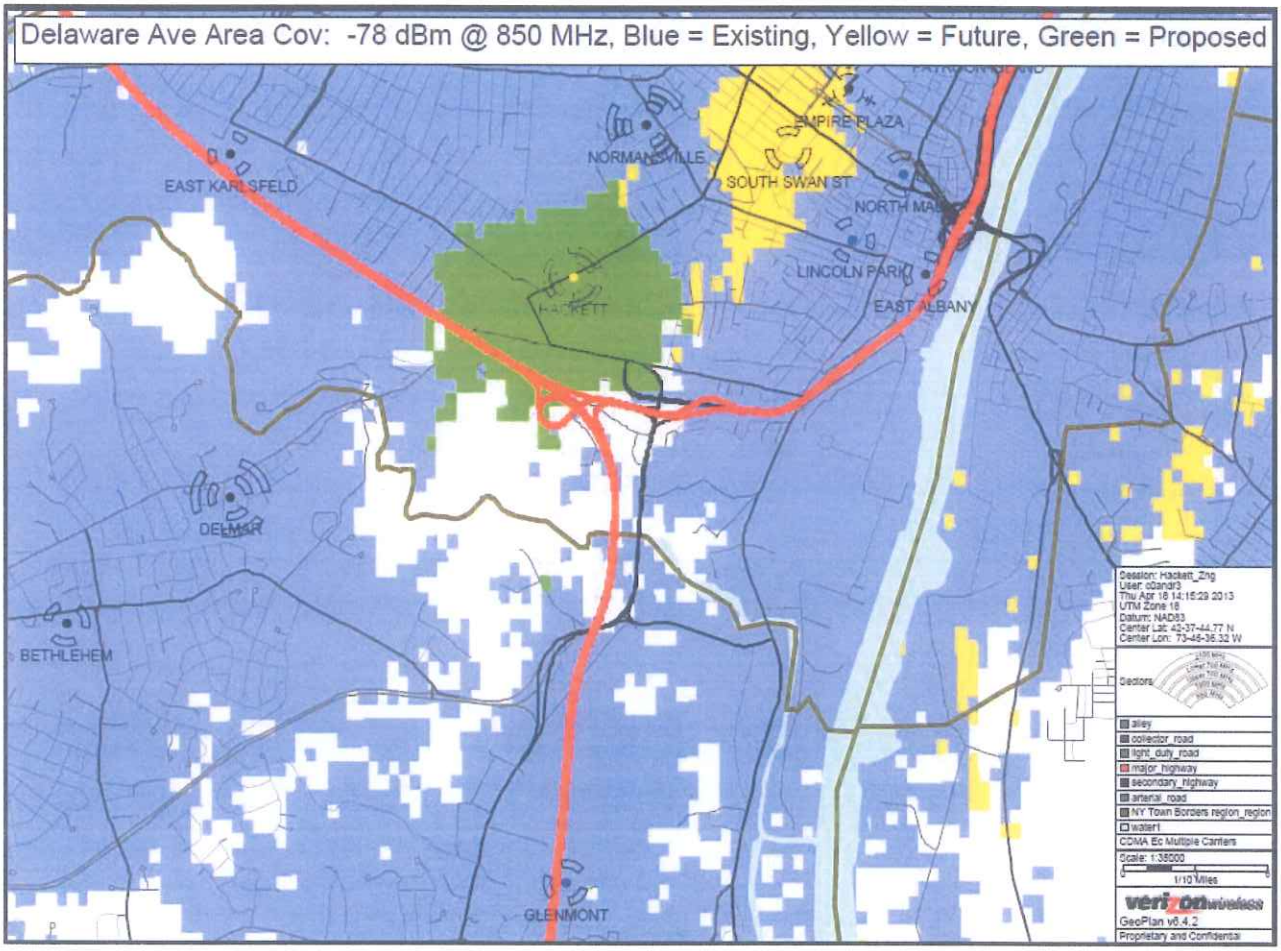


Figure 3 – Proposed Coverage (Green)
800 MHz (Cellular)

As noted (and demonstrated in **Figure 3**), Verizon Wireless will be able to satisfy all applicable RF coverage objectives[3] for its proposed Hackett facility by placing its antennas at the Stanwix Apartment building rooftop with an antenna centerline height of 46.5 ft.

Based upon the foregoing, Verizon Wireless believes that co-location on the Stanwix Apartment building rooftop will be as consistent as possible with the purpose and intent of the City of Albany Zoning Ordinance. As this location meets all applicable RF coverage objectives, and also complies with the City of Albany Zoning Ordinance to the extent practicable, no further site analysis is required.

Technical Information

Frequency / Modulation / Type of Service

The frequency, modulation and class of service of Verizon Wireless' radio equipment will be:

Frequencies:	Cellular (B Band) Tx 880.020 – 889.98 and 891.51 - 893.970 MHz Rx 835.020 – 844.98 and 846.51 - 848.970 MHz Personal Communications Service (PCS) Tx 1975.00 – 1990.00 MHz Rx 1895.00 – 1910.00 MHz WU 700 MHz Upper Band (Block C) Tx 746.00 – 757.00 MHz Rx 776.00 – 787.00 MHz Advanced Wireless Services (AWS-1) (Block F) Tx 2145.00 – 2155.00 MHz Rx 1745.00 – 1755.00 MHz
Modulation:	Code Division Multiple Access (CDMA) Long Term Evolution (LTE)
Class of Service:	Handheld Mobile Communications

[3] In-building service levels are based upon a number of factors, including but not limited to the assumptions that the buildings and homes in the coverage area are constructed of common building materials, and that reasonable window space exists at each structure. Actual coverage results into various local area buildings may vary based upon construction materials at each location.

Categorical Exclusion / Maximum Permitted Exposure (MPE)

A completed report entitled "RF Safety FCC Compliance of Proposed Communications Facility" prepared by Millennium Engineering, P.C. is included at **Exhibit E-1**, to document that the proposed modifications will be: (a) in full compliance with the current FCC RF emissions guidelines (NIER); and (b) categorically excluded from local regulation under applicable federal law.

Non-Interference Certification

A Non-Interference Certification document entitled "Non-Interference Certification of Proposed Communications Facility" prepared by Millennium Engineering, P.C. is included at **Exhibit E-2**, to document that the proposed antennas will not cause interference with existing communications devices in the surrounding area.

Conclusion

Verizon Wireless is unable to satisfactorily serve customers in the Hackett Blvd / Delaware Ave / Second Ave area of the City of Albany from existing or planned sites in the vicinity, or by upgrading these nearby facilities. By co-locating on the existing Stanwix Apartments rooftop at an antenna centerline height of approximately 45.5 ft. AGL, Verizon Wireless will be able to provide an adequate and safe level of in-building and mobile service to an important section of the City of Albany. Additionally, service from this facility will integrate to the extent practicable with coverage from Verizon Wireless' neighboring facilities in the City of Albany and Town of Bethlehem, which are located a range of approximately 0.7 to 2.5 miles from the proposed site.

Co-location on this existing apartment building (with no increase in overall building height) is as consistent as practicable with the requirements of the City of Albany Zoning Ordinance, and therefore is the most appropriate means of improving coverage in this area of the City. Upon completion, the Hackett communications facility will enhance the public welfare by providing government, businesses and individuals with a modern, more efficient system of 3G and 4G communications services for police, fire and other emergency or non-emergency use.

Respectfully submitted by:

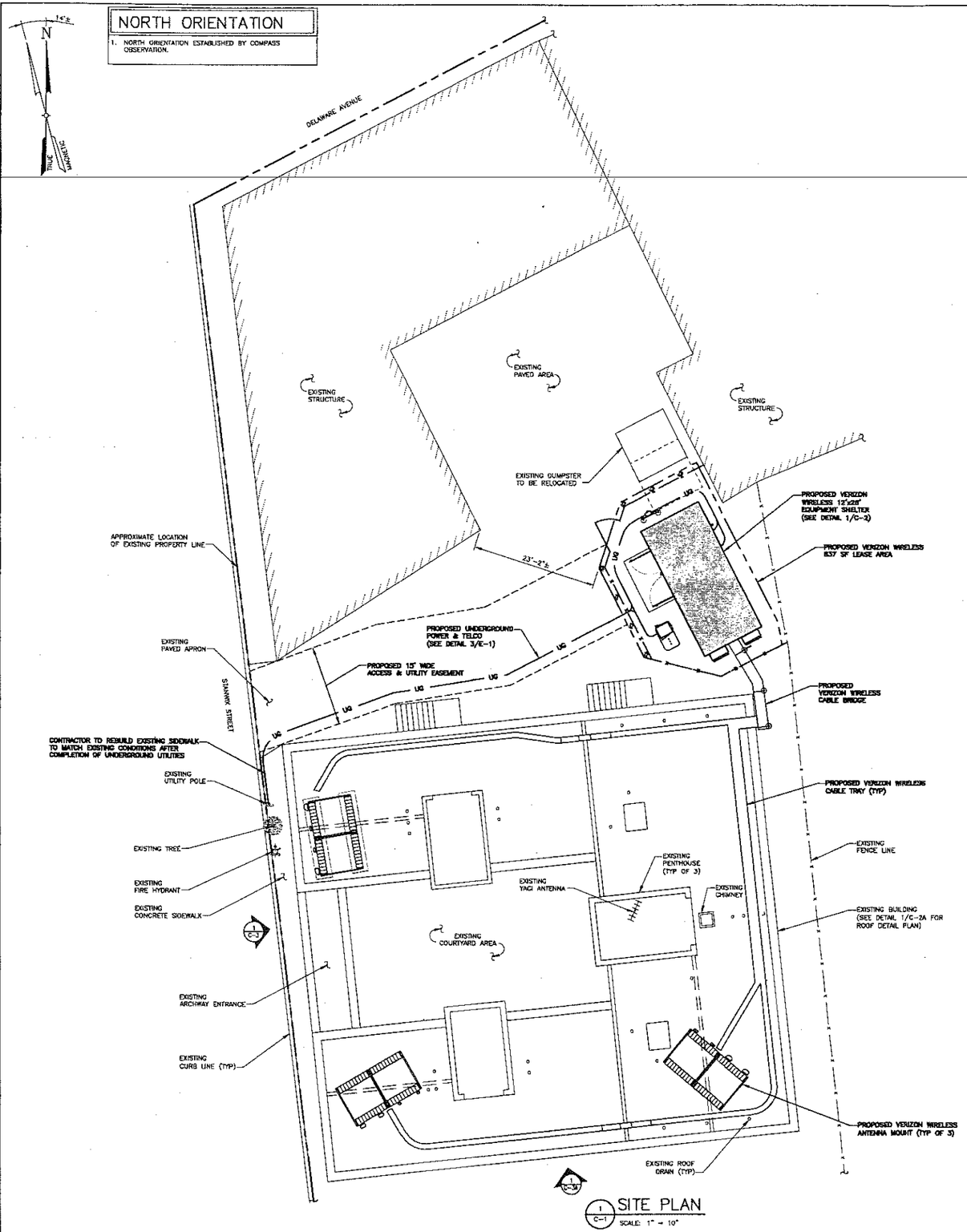
Rick Andras
Radio Frequency (RF) Design Engineer
Cellco Partnership d/b/a Verizon Wireless

Mike Orchard
Site Selection Specialist
Tectonic Engineering

Dated: April 18, 2013

NORTH ORIENTATION

1. NORTH ORIENTATION ESTABLISHED BY COMPASS OBSERVATION.



1 / C-1 SITE PLAN
SCALE: 1" = 10'

SITE NOTES

1. ALL SITE WORK SHALL BE AS INDICATED ON THE DRAWINGS.
2. RUBBISH, STUMPS, DEBRIS, STICKS, STONES AND OTHER REFUSE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF LEGALLY.
3. THE SITE SHALL BE GRADED TO CAUSE SURFACE WATER TO FLOW AWAY FROM THE PROPOSED SHELTER.
4. NO FILL OR EMBANKMENT MATERIAL SHALL BE PLACED ON FROZEN GROUND. FROZEN MATERIALS, SNOW OR ICE SHALL NOT BE PLACED IN ANY FILL OR EMBANKMENT.
5. THE SUBGRADE SHALL BE COMPACTED AND BROUGHT TO A SMOOTH UNIFORM GRADE PRIOR TO FINISHED SURFACE APPLICATION.
6. ALL EXISTING ACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES WHERE ENCOUNTERED IN THE WORK, SHALL BE PROTECTED AT ALL TIMES, AND WHERE REQUIRED FOR THE PROPER EXECUTION OF THE WORK, SHALL BE RELOCATED AS DIRECTED BY THE ENGINEER. EXTREME CAUTION SHOULD BE USED BY THE CONTRACTOR WHEN EXCAVATING OR PIER DRILLING AROUND OR NEAR UTILITIES.
7. ALL EXISTING INACTIVE SEWER, WATER, GAS, ELECTRIC AND OTHER UTILITIES, WHICH INTERFERE WITH THE EXECUTION OF THE WORK, SHALL BE REMOVED AND/OR CAPPED, PLUGGED OR OTHERWISE DISCONTINUED AT POINTS WHICH WILL NOT INTERFERE WITH THE EXECUTION OF THE WORK, SUBJECT TO THE APPROVAL OF THE ENGINEER.
8. THE AREAS OF THE OWNERS PROPERTY DISTURBED BY THE WORK SHALL BE GRADED TO A UNIFORM SLOPE, FERTILIZED, SEEDED, AND COVERED WITH MULCH.
9. CONTRACTOR SHALL MINIMIZE DISTURBANCE TO EXISTING SITE DURING CONSTRUCTION. EROSION CONTROL MEASURES, IF REQUIRED DURING CONSTRUCTION, SHALL BE IN CONFORMANCE WITH THE STATE GUIDELINES AND ANY LOCAL REGULATIONS.
10. ALL RESTORATION ISSUES SHALL BE COMPLETED WITHIN 72 HOURS OF THE COMPLETION OF THE WORK ACTIVITY OR WITHIN A REASONABLE AMOUNT OF TIME AS DIRECTED BY CONSTRUCTION MANAGER/ENGINEER.
11. CARE SHALL BE TAKEN TO RETAIN NATURAL GROWTH AND PREVENT DAMAGE TO TREES WITHIN AND OUTSIDE THE LIMITS OF CONSTRUCTION AND SPECIFIED WORK AREAS CAUSED BY EQUIPMENT AND MATERIALS. ANY DAMAGE TO THIS NATURAL GROWTH SHALL BE RESTORED AT THE EXPENSE OF THE CONTRACTOR.
12. ALL AREAS DISTURBED BY THE CONTRACTOR WITHOUT AUTHORIZATION SHALL BE RESTORED BY THE CONTRACTOR.
13. IN THE EVENT THE CONTRACTOR DAMAGES AN EXISTING UTILITY SERVICE CAUSING AN INTERRUPTION IN SAID SERVICE, HE SHALL IMMEDIATELY COMMENCE WORK TO RESTORE SERVICE AND MAY NOT CONTINUE HIS WORK OPERATION UNTIL SERVICE IS RESTORED.

LEGEND

— x — x — x — x —	EXISTING FENCE
— — — — — — — —	PROPOSED LEASE LINE
— x — x — x — x —	PROPOSED CHAINLINK FENCE
——— UG ———	PROPOSED UNDERGROUND UTILITIES
— — — — — — — —	PROPOSED EASEMENT

GENERAL NOTES

1. ALL WORK SHALL CONFORM TO THE REQUIREMENTS OF THE NEW YORK STATE BUILDING CODE, AND ALL OTHER APPLICABLE CODES AND ORDINANCES.
2. CONTRACTOR SHALL VISIT THE JOB SITE AND FAMILIARIZE HIMSELF WITH ALL CONDITIONS AFFECTING THE PROPOSED WORK AND MAKE PROVISIONS AS TO THE COST THEREOF. CONTRACTOR SHALL BE RESPONSIBLE FOR FAMILIARIZING HIMSELF WITH ALL CONTRACT DOCUMENTS, FIELD CONDITIONS AND DIMENSIONS AND CONFIRMING THAT THE WORK MAY BE ACCOMPLISHED AS SHOWN PRIOR TO PROCEEDING WITH CONSTRUCTION. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE COMMENCEMENT OF WORK.
3. PLANS ARE NOT TO BE SCALED. THESE PLANS ARE INTENDED TO BE A DIAGRAMMATIC OUTLINE ONLY, UNLESS OTHERWISE NOTED. THE WORK SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT, APPURTENANCES, AND LABOR NECESSARY TO EFFECT ALL INSTALLATIONS AS INDICATED ON THE DRAWINGS.
4. DIMENSIONS SHOWN ARE TO FINISH SURFACES. UNLESS OTHERWISE NOTED, SPACING BETWEEN EQUIPMENT IS REQUIRED CLEARANCE. THEREFORE, IT IS CRITICAL TO FIELD VERIFY DIMENSIONS. SHOULD THERE BE ANY QUESTIONS REGARDING THE CONTRACT DOCUMENTS, EXISTING CONDITIONS AND/OR DESIGN INTENT, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING A CLARIFICATION FROM THE CARRIER'S AUTHORIZED REPRESENTATIVE OR THE ENGINEER PRIOR TO PROCEEDING WITH THE WORK.
5. DETAILS ARE INTENDED TO SHOW END RESULT OF DESIGN. MINOR MODIFICATIONS MAY BE REQUIRED TO SUIT JOB DIMENSIONS OR CONDITIONS, AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK.
6. CONTRACTOR SHALL RECEIVE CLARIFICATION IN WRITING, AND SHALL RECEIVE IN WRITING AUTHORIZATION TO PROCEED BEFORE STARTING WORK ON ANY ITEMS NOT CLEARLY DEFINED OR IDENTIFIED BY THE CONTRACT DOCUMENTS.
7. CONTRACTOR SHALL NOTIFY THE CONSTRUCTION MANAGER OF ALL PRODUCTS OR ITEMS NOTED AS "EXISTING" WHICH ARE NOT FOUND TO BE IN THE FIELD.
8. CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK USING THE BEST CONSTRUCTION SKILLS AND ATTENTION. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, PROCEDURES, AND FOR COORDINATING ALL PORTIONS OF THE WORK UNDER CONTRACT, UNLESS OTHERWISE NOTED.
9. ERECTION SHALL BE DONE IN A WORKMANLIKE MANNER BY COMPETENT EXPERIENCED WORKMEN IN ACCORDANCE WITH APPLICABLE CODES AND THE BEST ACCEPTED PRACTICE. ALL MEMBERS SHALL BE LAID PLUMB AND TRUE AS INDICATED ON THE DRAWINGS.
10. CONTRACTOR SHALL BE RESPONSIBLE FOR THE SAFETY OF THE WORK AREA, ADJACENT AREAS, AND BUILDING OCCUPANTS THAT ARE LIKELY TO BE AFFECTED BY THE WORK UNDER THIS CONTRACT. WORK SHALL CONFORM TO ALL OSHA REQUIREMENTS.
11. CONTRACTOR SHALL COORDINATE HIS WORK AND SCHEDULE HIS ACTIVITIES AND WORKING HOURS IN ACCORDANCE WITH THE REQUIREMENTS OF THE OWNER.
12. CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING HIS WORK WITH THE WORK OF OTHERS AS IT MAY RELATE TO RADIO EQUIPMENT, ANTENNAS AND ANY OTHER PORTIONS OF THE WORK.
13. CONTRACTOR SHALL MAINTAIN LIABILITY INSURANCE TO PROTECT THE OWNER AND CARRIER.
14. INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
15. MAKE NECESSARY PROVISIONS TO PROTECT EXISTING SURFACES, EQUIPMENT, IMPROVEMENTS, PIPING, ANTENNA AND ANTENNA CABLES. REPAIR ANY DAMAGE THAT OCCURS DURING CONSTRUCTION.
16. REPAIR ALL EXISTING SURFACES DAMAGED DURING CONSTRUCTION SUCH THAT THEY MATCH AND BLEND WITH ADJACENT SURFACES.
17. KEEP CONTRACT AREA CLEAN, HAZARD FREE, AND DISPOSE OF ALL DEBRIS AND RUBBISH. EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY OF THE OWNER SHALL BE REMOVED. LEAVE PREMISES IN CLEAN CONDITION AND FREE FROM PAINT SPOTS, DUST, OR SMUDGES OF ANY NATURE. CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL ITEMS UNTIL COMPLETION OF CONSTRUCTION.
18. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS IN THE FIELD PRIOR TO FABRICATION AND ERECTION OF ANY MATERIAL. ANY UNUSUAL CONDITIONS SHALL BE REPORTED TO THE ATTENTION OF THE ENGINEER.
19. CONTRACTOR SHALL SECURE ALL NECESSARY BUILDING PERMITS AND INSPECTIONS AND PAY ALL REQUIRED FEES.
20. PROVIDE A PORTABLE FIRE EXTINGUISHER WITH A RATING OF NOT LESS THAN 2-A OR 2-A/10-BC WITHIN 75 FEET TRAVEL DISTANCE TO ALL PORTIONS OF THE BUILDOUT AREA DURING CONSTRUCTION.
21. ALL BROCHURES, OPERATING AND MAINTENANCE MANUALS, CATALOGS, SHOP DRAWINGS AND OTHER DOCUMENTATION SHALL BE TURNED OVER TO CARRIER AT COMPLETION OF CONSTRUCTION.
22. COMPLETE JOB SHALL BE GUARANTEED FOR A PERIOD OF ONE (1) YEAR AFTER THE DATE OF ACCEPTANCE BY CARRIER. ANY WORK, MATERIALS, OR EQUIPMENT FOUND TO BE DEFECTIVE DURING THAT PERIOD SHALL BE CORRECTED IMMEDIATELY UPON WRITTEN NOTIFICATION AT NO ADDITIONAL COST TO CARRIER.
23. AIR CONDITIONING USED IN THE RADIO EQUIPMENT ROOM IS NOT INTENDED FOR HUMAN COMFORT, BUT IS TO COOL ELECTRONIC EQUIPMENT.
24. RIGGING OPERATIONS SHALL BE DONE IN ACCORDANCE WITH STATE AND FEDERAL SAFETY REGULATIONS (OSHA). TECTONIC, CARRIER AND THE OWNER SHALL BE HELD HARMLESS IN THE EVENT THE CONTRACTOR DOES NOT FOLLOW SUCH SAFETY REGULATIONS.
25. CONTRACTOR SHALL PROVIDE ACCESS TO THE SITE AND ASSIST THE RADIO EQUIPMENT VENDOR AND THE ANTENNA INSTALLATION CONTRACTOR AS THEY MAY REQUIRE.

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- ALL EXCAVATION WORK WITHIN 36" OF EITHER SIDE OF UNDERGROUND UTILITIES MUST BE DONE BY HAND EXCAVATION METHODS

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ROCHESTER, NEW YORK 14623

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DESIGN APPROVAL

PRELIMINARY/CONSTRUCTION

RF ENG. _____ DATE: _____
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5304.93116	JRF

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0	7/17/12	FOR COMMENT
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RELEASED BY _____ DATE _____

STATE OF NEW YORK · STEVEN M. MATTHEWS · 057681 · LICENSED PROFESSIONAL ENGINEER

0 1 2 3
ORIGINAL SIZE IN INCHES

SITE INFORMATION

HACKETT
2006193116
400 DELAWARE AVE
CITY OF ALBANY
ALBANY COUNTY
NY 12209

SHEET TITLE

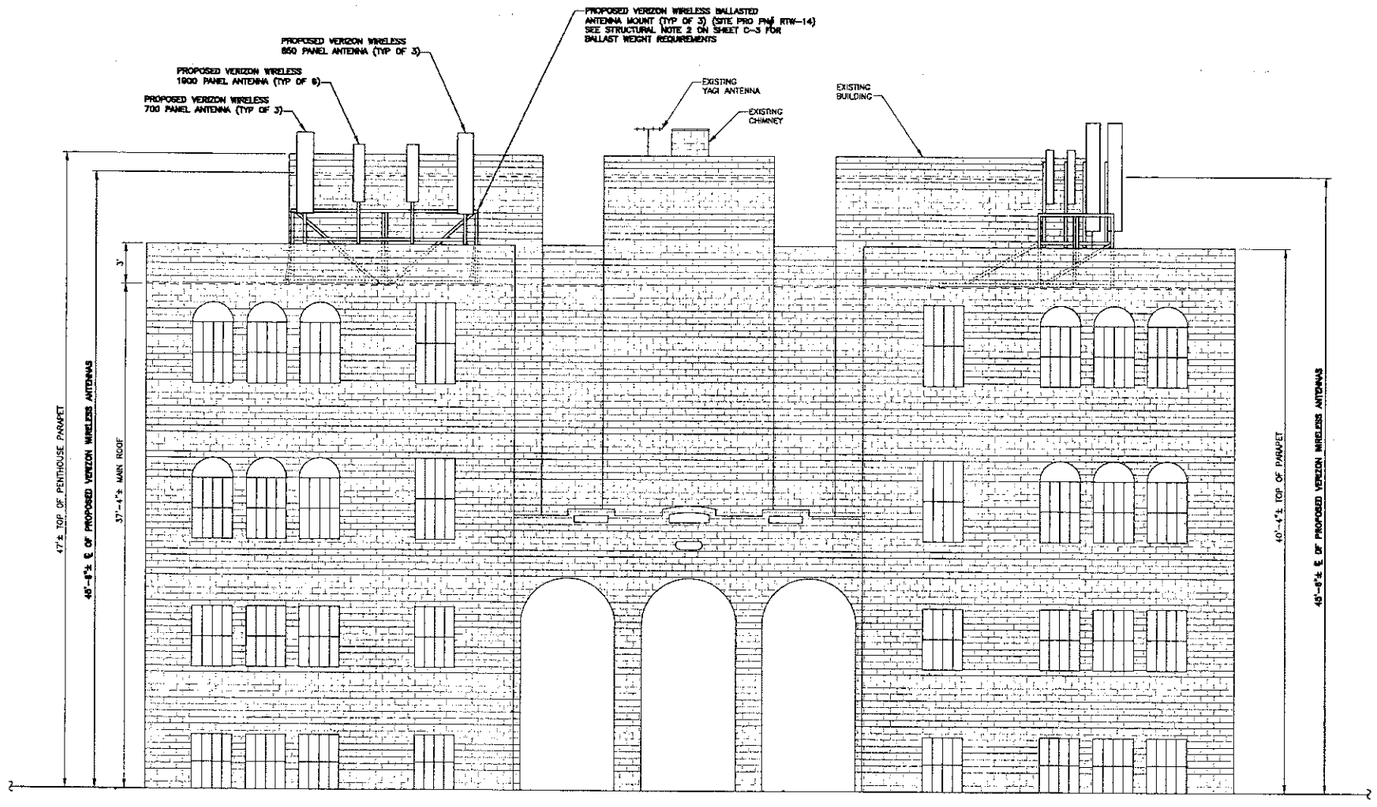
SITE PLAN
& NOTES

SHEET NUMBER

C-1

ANTENNA AND COAXIAL SCHEDULE

SECTOR	ANTENNA	ANTENNA DATA	MECHANICAL DOWN TILT	ELECTRICAL DOWN TILT	AZIMUTH (TRUE NORTH)	# OF ANTENNAS PER SECTOR	ANTENNA ℄ HEIGHT (AGL)	COAXIAL CABLE	# OF CABLES	COAXIAL CABLES LENGTH
ALPHA	850	72"x 14.6"x 8", 28 LBS	3°	0°	40°	1	45'-6"±	AVA7	2	135'±
ALPHA	700	72"x 14.8"x 8", 28 LBS	3°	0°	40°	1	45'-6"±	AVA7	2	135'±
ALPHA	1900	51"x 10.2"x 3.6", 14 LBS	2°	0°	40°	2	45'-6"±	AVA7 + HYBRIFLEX	(2) AVA7 (1) HYBRIFLEX	135'±
BETA	850	96"x 12.5"x 7", 38.5 LBS	0°	0°	150°	1	45'-6"±	AVA7	2	215'±
BETA	700	96"x 12.5"x 7", 38.5 LBS	0°	0°	150°	1	45'-6"±	AVA7	2	215'±
BETA	1900	48"x 6.7"x 4.1", 11 LBS	2°	0°	150°	2	45'-6"±	AVA7 + HYBRIFLEX	(2) AVA7 (1) HYBRIFLEX	215'±
GAMMA	850	72"x 14.6"x 8", 28 LBS	2°	0°	260°	1	45'-6"±	AVA7	2	160'±
GAMMA	700	72"x 14.8"x 8", 28 LBS	0°	0°	260°	1	45'-6"±	AVA7	2	160'±
GAMMA	1900	51"x 10.2"x 3.6", 14 LBS	0°	0°	260°	2	45'-6"±	AVA7 + HYBRIFLEX	(2) AVA7 (1) HYBRIFLEX	160'±



C-3 1 WEST ELEVATION
SCALE: 1" = 5"

ANTENNA MOUNTING NOTES

1. THE DESIGN AND CONSTRUCTION OF ANTENNA SUPPORTS SHALL CONFORM TO ANSI/TIA-222-G "STRUCTURAL STANDARD FOR ANTENNA SUPPORTING STRUCTURES AND ANTENNAS," THE BUILDING CODE OF NEW YORK STATE, AND ALL OTHER APPLICABLE LOCAL, STATE, AND FEDERAL CODES.
2. ALL STEEL MATERIALS SHALL BE GALVANIZED AFTER FABRICATION IN ACCORDANCE WITH ASTM A123 "ZINC (HOT-DIP GALVANIZED) COATINGS ON IRON AND STEEL PRODUCTS", UNLESS OTHERWISE NOTED.
3. ALL BOLTS, ANCHORS AND MISCELLANEOUS HARDWARE SHALL BE GALVANIZED IN ACCORDANCE WITH ASTM A153 "ZINC-COATING (HOT-DIP) ON IRON AND STEEL HARDWARE", UNLESS OTHERWISE NOTED.
4. DAMAGED GALVANIZED SURFACES SHALL BE REPAIRED BY COLD GALVANIZING IN ACCORDANCE WITH ASTM A780.
5. ALL ANTENNA MOUNTS SHALL BE INSTALLED WITH DOUBLE NUTS AND SHALL BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
6. DESIGN OF THE ANTENNA MOUNTING BRACKETS, SUPPORTS, AND ALL COMPONENTS THEREOF AND ATTACHMENT THERETO SHALL BE THE RESPONSIBILITY OF THE MANUFACTURER. MANUFACTURER SHALL PROVIDE THE OWNER DRAWINGS DETAILING ALL COMPONENTS OF THE ASSEMBLY, INCLUDING CONNECTIONS, DESIGN LOADS, AND ALL OTHER PERTINENT DATA. MANUFACTURER SHALL ALSO PROVIDE THE OWNER WITH A STATEMENT OF COMPLIANCE, INDICATING THAT THE ANTENNA SUPPORTS HAVE BEEN DESIGNED IN ACCORDANCE WITH ANSI/TIA-222-G STANDARDS. ALL SUBMISSIONS SHALL BEAR THE SIGNATURE AND SEAL OF A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF NEW YORK.

STRUCTURAL NOTES

1. REFER TO STRUCTURAL ANALYSIS REPORT PREPARED BY TECTONIC ENGINEERING & SURVEYING CONSULTANTS, P.C., DATED DECEMBER 6, 2012, LAST REVISED JANUARY 3, 2013.
2. EACH BALLAST MOUNT REQUIRES 685 LBS OF BALLAST WEIGHT PER SIDE, ASSUMING 4"x6"x16" SOLID CONCRETE BLOCKS ARE USED AT 35 LBS EACH. A TOTAL OF 20 BLOCKS PER SIDE PER FRAME ARE REQUIRED.
3. EACH PROPOSED BALLAST MOUNT SHALL BEAR ON VALMONT RUBBER MATS (P/N: MAT18).

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STATE OF NEW YORK · STEVEN M. MATTHEWS · 087897 · LICENSED PROFESSIONAL ENGINEER

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SITE INFORMATION

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NY 12209

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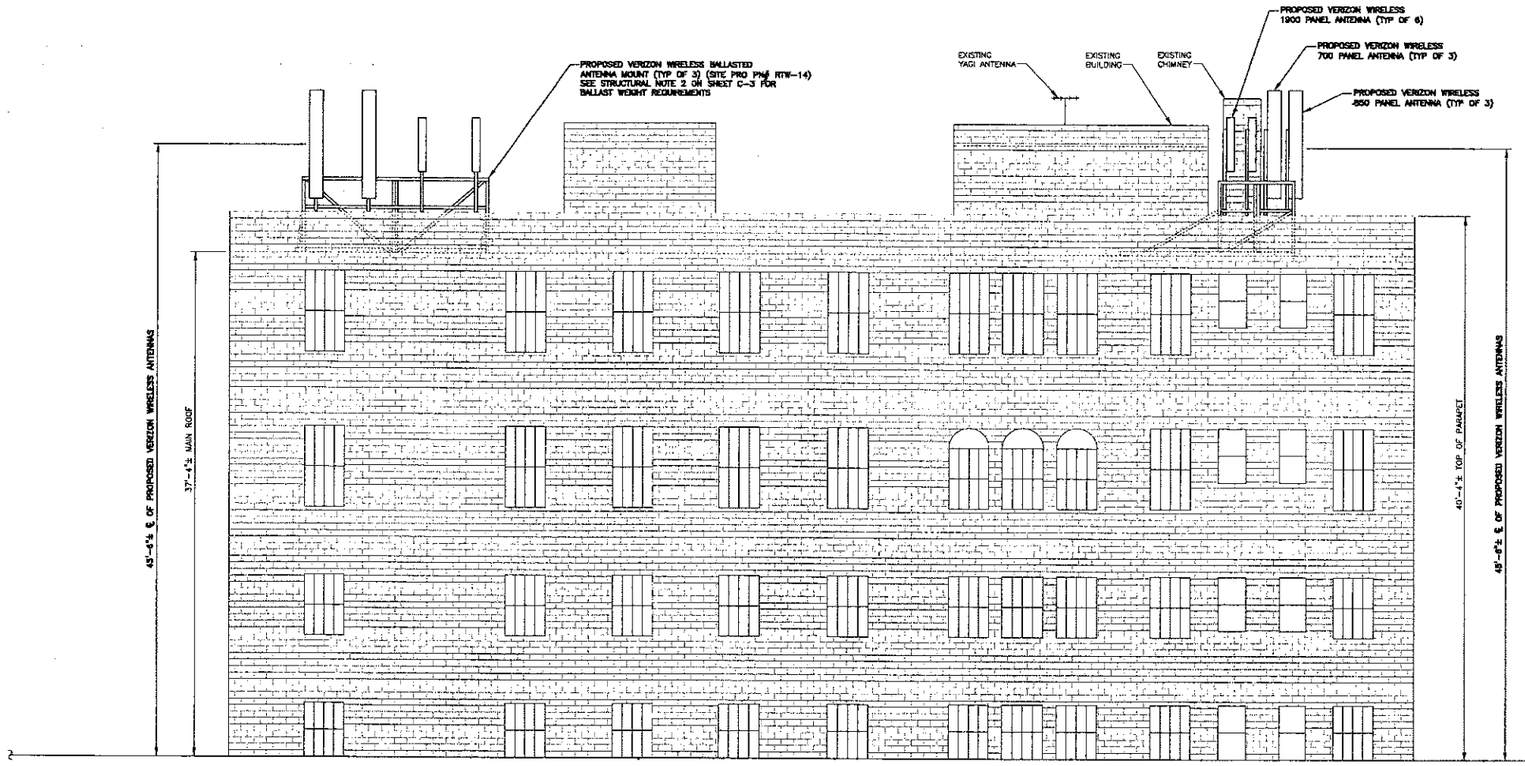
WEST ELEVATION & NOTES

SHEET NUMBER

C-3



1 / C-3A SOUTH ELEVATION

SCALE: 1" = 5"

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ALBANY COUNTY
NY 12209

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SOUTH ELEVATION

SHEET NUMBER

C-3A