

1 STATE OF NEW YORK : COUNTY OF ROCKLAND

2 TOWN OF STONY POINT : PLANNING BOARD

3 - - - - - X

IN THE MATTER

4 OF

CROWN CASTLE REPLACEMENT FACILITY

5 - - - - - X

Town of Stony Point

6 RHO Building

5 Clubhouse Lane

7 Stony Point, New York

June 27, 2019

8 8:03 p.m.

9 BEFORE:

10

THOMAS GUBITOSA, CHAIRMAN

11 PETER MULLER, VICE CHAIRMAN

MICHAEL FERGUSON, BOARD MEMBER

12 ERIC JASLOW, BOARD MEMBER

EUGENE KRAESE, BOARD MEMBER

13 JERRY ROGERS, BOARD MEMBER

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2 CHAIRMAN GUBITOSA: Next item, Crown  
3 Castle Replacement Facility. This is  
4 160 North Liberty Drive, the Stony Ridge  
5 shopping plaza. It's anew application, and  
6 it's for the existing -- there's already a  
7 cell tower flagpole there. Yeah.

8 MR. KENNY: Good evening, Board. My  
9 name is David Kenny.

10 CHAIRMAN GUBITOSA: Wait. Before we get  
11 started, do you have a plan up anywhere?

12 MR. KENNY: Bringing it up.

13 CHAIRMAN GUBITOSA: Okay, good. Thank  
14 you.

15 MR. KENNY: Good evening. My name is  
16 David Kenny. I'm an attorney with Snyder and  
17 Snyder. I'm here tonight representing Crown  
18 Castle. They're the owners of the existing  
19 telecommunications facility located at  
20 160 North Liberty Drive. It's also known as  
21 Stony Ridge Plaza.

22 Right now, what exists is a hundred foot  
23 tall flagpole, or unit pole, where the  
24 antennae is concealed inside the flagpole.  
25 What's being proposed now is to replace that

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2 existing 100-foot-tall facility with a  
3 120-foot-tall facility with the same design,  
4 which is a little bit thicker and a little  
5 bit taller, to accommodate the AT&T antennas  
6 which are not currently at the facility. So  
7 this facility is for a replacement of the  
8 existing facility with a new facility. It  
9 will be a little bit taller and a little bit  
10 thicker, so that way, we can accommodate AT&T  
11 antennas, and thereby, AT&T won't have to  
12 build its own facility elsewhere in the town.

13 We received some comments at the TAC  
14 meeting. Most of the comments can be  
15 responded to with just revised drawings.  
16 Many of the comments which add in additional  
17 details on the equipment cabinets.

18 One of the comments discussing ground  
19 disturbance, we've confirmed with our  
20 environmental engineer that there will be no  
21 new ground disturbance. The facility is  
22 going to go right into the same foundation  
23 that exists for the current facility.  
24 There's enough structural capacity there to  
25 support the new facility. So there will be

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2 no new ground disturbance, and therefore, no  
3 additional environmental impact to the  
4 surrounding area.

5 Again, we will submit an engineer's  
6 report confirming that the equipment that's  
7 going to be located on the rooftop of the  
8 Stony Ridge Plaza, that there will be  
9 structural capacity to support the additional  
10 equipment. And we are also supplying  
11 architectural renderings to show how those  
12 screen walls will screen the additional  
13 equipment proposed on the roof.

14 And then we require a conditional use  
15 permit or special permit from the Town Board  
16 as part of this application specifically to  
17 waive the additional height that's requested.  
18 As a little bit of background, there was an  
19 application made to the Town Board back in  
20 March of -- March 12, 2019. The Town Board  
21 granted certain waivers for this application.

22 Most of those waivers were just  
23 application requirements that probably  
24 weren't necessary for an existing facility  
25 being rebuilt. A lot of the application

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2 items were requested, were intended for a new  
3 facility on raw land, such as a balloon test.  
4 A balloon float is necessary where you can't  
5 tell where the facility will be located and  
6 what the visual impact will be.

7 Having the existing hundred-foot  
8 facility where it is, we can do a photo  
9 simulation design and increase the tower by  
10 20 feet. And you already have a frame of  
11 reference with the existing tower there.

12 Many of the other requirements that were  
13 waived were also waivers of items that have  
14 already been granted or already been issued  
15 for the existing facility, such as removal.  
16 However, if none of those agreements are in  
17 effect, we would be willing to have those as  
18 conditions of approval.

19 CHAIRMAN GUBITOSA: Steve?

20 MR. HONAN: Yes.

21 CHAIRMAN GUBITOSA: Do we have questions  
22 on the --

23 MR. HONAN: Yes.

24 CHAIRMAN GUBITOSA: Hey. All right,  
25 thank you. Go ahead, sorry.

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2 MR. HONAN: At the TAC meeting that was  
3 conducted two weeks ago, there was members of  
4 the Planning Board that were present, and  
5 other advisers were advised for the first  
6 time that your office had made an application  
7 for waivers to the Town Board. I followed up  
8 to try to get a copy of a resolution with  
9 respect to that. I have not as of now. So  
10 if the applicant could track down that  
11 particular resolution that was granted by the  
12 Town Board, that would assist our Board to  
13 know what was waived particularly so that we  
14 can move forward with this application.

15 MR. KENNY: Absolutely. Earlier this  
16 week, it was requested, and I supplied a copy  
17 to the Planning Board clerk.

18 THE CLERK: That was just this little  
19 paper. I sent it all to Steve.

20 MR. KENNY: The resolution --

21 THE CLERK: And you sent me --

22 MR. KENNY: I gave you --

23 THE CLERK: -- your letter.

24 MR. KENNY: Yup.

25 THE CLERK: And you sent me what the

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2 Town Clerk sent you about the resolution, but  
3 not the exact waivers.

4 MR. KENNY: Well, that's what we  
5 received from the Town Board. That's all I  
6 have is a waiver and the letters. And then I  
7 had a resolution saying that the waivers were  
8 granted. So that's all the information I  
9 have. And again, I understand, you know,  
10 hopefully there could be better communication  
11 in the town.

12 But it was specifically referenced in  
13 our cover letter for filing that on  
14 March 12th, the Board adopted a resolution  
15 granting certain waivers. So I understand  
16 the TAC meeting might have been first time it  
17 came up in discussion. But it was  
18 specifically mentioned in the cover letter of  
19 our filing.

20 MR. HONAN: And you may be right. I  
21 just don't know what the Town Board granted,  
22 what waiver. Generally, the resolution is in  
23 the form of a resolution by the Town Board,  
24 and I haven't seen that yet.

25 MR. KENNY: Understood. I --

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2 CHAIRMAN GUBITOSA: You see, we're two  
3 different boards. We don't answer to the  
4 Town Board, so.

5 MR. KENNY: Well, I understood. But  
6 with this review, because the special permit  
7 is required from the Town Board, I first  
8 communicated with Brian Nugent, the Town  
9 Attorney, and requested the Town code  
10 authorizes the reviewing Board to issue  
11 certain pre-application waivers. And that  
12 was the process that was discussed with the  
13 Town Attorney, was to make a filing.

14 Because again, I can read the letter.  
15 The waivers that were requested, they weren't  
16 really substantive waivers. They were more  
17 items that we felt were appropriate because  
18 you're dealing with an existing facility and  
19 not a brand new facility.

20 The first waiver that we asked for was  
21 that we didn't want to provide FCC licenses  
22 for the existing carriers. That's because  
23 the existing carriers are already there. And  
24 also, that the carrier that's coming to this  
25 application, AT&T, they're obviously an FCC



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2 licensed carrier. We can provide those, but  
3 we felt it would have been appropriate to  
4 request a waiver from that application  
5 requirement.

6 The other application requirement we  
7 requested for was we said the radio frequency  
8 issue of issue of radio frequency  
9 interference, that is preempted by federal  
10 law. So we just ask for a waiver from that  
11 requirement that we provide a statement of  
12 noninterference. I can assure you that they  
13 operate on different frequencies and there's  
14 not an interference issue. However, that is  
15 preempted by federal law.

16 The other waiver we asked for was a  
17 co-location agreement, or an explanation why  
18 we couldn't co-locate. Obviously, this is a  
19 co-location application, so we felt it was  
20 appropriate to request a waiver from that  
21 condition.

22 Another waiver was requested, was  
23 physical materials to show the stealth  
24 design, physical samples. We're going to  
25 continue the same unipole design. So that's

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2 why we asked a waiver for that, and we said  
3 that we would supply photo simulations.

4 The other waiver we requested was,  
5 again, as I discussed, a balloon test because  
6 we felt with the frame of reference of the  
7 existing facility, a balloon test was not  
8 necessary.

9 It was also requested that we ask for a  
10 waiver for a contract for removal of the  
11 existing facility. Again, we just ask for  
12 that because we believe there's an existing  
13 contract in place for the existing facility  
14 regarding removal. If there's not, there's  
15 one that can be discussed as a condition of  
16 approval.

17 There was also a request for a map of  
18 the existing facilities to show other  
19 co-location potential. We requested a waiver  
20 from that because obviously, this is a  
21 co-location site.

22 And the final waiver that we requested  
23 is a waiver of the height requirement so that  
24 the Town Board is authorized to issue a  
25 waiver for the height if it's seen that the

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2 application is for one of co-location to add  
3 a new carrier to the existing facility.

4 So those were the waivers that were  
5 requested. And from my understanding, the  
6 resolution says that the waivers were  
7 granted. So those waivers were granted.

8 But none of that is really a substantive  
9 review. There's still the review of the site  
10 plan. There's still the review before this  
11 Board. I believe that those waivers were  
12 appropriate because many of them wouldn't  
13 have been applicable because you have an  
14 existing facility and those were intended for  
15 a new facility. But that wasn't, by any  
16 means, trying to, you know, take anything  
17 away from this Board or anything. It was  
18 just meant to streamline the process and to  
19 clean up the application.

20 CHAIRMAN GUBITOSA: All right. I know  
21 the one thing we talked at the TAC meeting,  
22 and the one thing I'd like for the Board are  
23 new pictures. The pictures that we have in  
24 here --

25 MR. KENNY: Again, I did send an

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2 electronic copy because maybe some clarity is  
3 lost by printing. But we will revise the  
4 photo simulations.

5 CHAIRMAN GUBITOSA: I want -- yeah.

6 MR. KENNY: Absolutely. We will work  
7 together, the revised photo simulations. And  
8 I believe it was also discussed that, you  
9 know, if we'd like to have a site visit, we'd  
10 be open to having a site visit, and possibly,  
11 if we can schedule that site visit soon,  
12 maybe we can discuss proposed photo locations  
13 at the site visit and have the Planning Board  
14 involved in the photo simulations.

15 CHAIRMAN GUBITOSA: Max, I think you had  
16 a comment.

17 MR. STACH: Yeah, so I had a couple of  
18 comments. One is with regard to the 50-foot,  
19 or the hundred, the waiver from the  
20 hundred-foot height requirement.

21 MR. KENNY: It's, we're going from 100  
22 to 120.

23 MR. STACH: Right. And I think that  
24 might be a substantive waiver. In other  
25 words, that's not about whether or not you

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2 have to submit a map. That's how high you  
3 can build your structure.

4 MR. KENNY: We're still going before the  
5 Town Board for a special permit for that. So  
6 I understand that the waiver was granted  
7 included that. But I don't see that as us  
8 not having to go before the Town Board and  
9 still get a special permit for the additional  
10 height. So even though that waiver may have  
11 been issued, we're not taking that as we  
12 don't have to get a special permit, the  
13 height is no longer an issue. We're  
14 absolutely coming before the Town Board as  
15 part of that application.

16 MR. STACH: I would worry. And the  
17 reason why I bring this up is because  
18 tonight, the Planning Board is going to  
19 notice their intent to act as lead agency on  
20 the SEQR review. And I would hope that that  
21 waiver would be something that would be  
22 issued at the completion of the SEQR process.  
23 I would imagine that it may qualify as an  
24 action under SEQR. So I think in terms of  
25 the procedure, or whether or not you have to

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2 submit a map, I don't think that's a  
3 substantive action. But I'm questioning  
4 whether that waiver of the height requirement  
5 might be.

6 MR. KENNY: I think we're on the same  
7 page with that. And I think we can address  
8 that by stating that the waiver would  
9 absolutely be conditioned on getting the  
10 special permit issued by the Town Board.

11 MR. STACH: So it may help if Planning  
12 Board Counsel requests a written  
13 clarification by the Town Board on which  
14 waivers have been granted so that we can be  
15 clear that these are just the submission  
16 requirements that have been waived.

17 MR. KENNY: I think that's fine.

18 MR. STACH: And that the height  
19 requirement is something that the Town Board  
20 is reserving until such time as they're ready  
21 to issue a special permit.

22 With regard to the pictures, thank you  
23 for submitting new pictures that are a little  
24 crisper. I had a concern reading the  
25 methods. I think that they reported that the

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2 camera that was used was not a full frame  
3 35-millimeter camera, which means that if you  
4 used a 50-millimeter focal length and it was  
5 a micro sensor, you're not getting the right  
6 focal length. You're actually getting a 1.6  
7 time zoom.

8 MR. KENNY: Okay.

9 MR. STACH: So you need to look at maybe  
10 retaking those. If you're going to use that  
11 camera, I would suggest probably around  
12 27 millimeters would be the right setting.  
13 And make sure that you're also using an  
14 F stop between 3.2 and 3.5 for the depth of  
15 field.

16 I think I saw today, and I didn't have a  
17 lot of time to review it, but a response,  
18 basically, that since you're building in the  
19 same location, there won't be any impact to  
20 bald eagles.

21 MR. KENNY: We will make that, again, a  
22 full submission to the Board. I just wanted  
23 to get it --

24 MR. STACH: Sure. Well, I think in  
25 advance, to keep this moving, I think it

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2 would be good to get a letter from DEC.

3 Because we received a letter for them on a  
4 nearby development, and they had some  
5 concerns about that. And I think since this  
6 is about the same distance to the understood  
7 location of where those eagles might be, we  
8 want to just get a note back from them that  
9 this isn't going to cause a problem with  
10 that.

11 MR. KENNY: We can write to DEC. But  
12 again, I think that the letter says -- and  
13 again, we'll still write the DEC -- is the  
14 fact that we're not encroaching into new land  
15 and we're not taking any trees, we're there  
16 to not taking any habitat.

17 MR. STACH: Sure, understood,  
18 understood. And so that's, those are my  
19 primary concerns. And we'll reserve further  
20 comment for when the revised visual  
21 simulation is submitted.

22 MR. KENNY: Understood.

23 MR. STACH: Tonight, I provided you with  
24 the lead agency notice, notice of intent. As  
25 involved agencies, I've identified the Town.



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2 DOT, I don't know if you're going to need a  
3 DOT work permit.

4 MR. KENNY: Rockland County said that --  
5 Rockland County Highway said that they had no  
6 interest in the application. And because  
7 we're not actually doing any new curb cuts or  
8 doing anything in the street, I don't think  
9 we'll need DOT approval.

10 MR. STACH: Okay. I don't know if you  
11 can get a letter from DOT.

12 MR. KENNY: We can write to them, yes.

13 MR. STACH: Yeah. We'll actually send  
14 this application with this lead agency  
15 notice.

16 MR. KENNY: Okay.

17 MR. STACH: So I will suggest to DOT.  
18 And then as involved agencies, to the PIP for  
19 the battlefield. And there was one other  
20 agency I think I indicated. Oh, GML, County  
21 of Rockland.

22 MR. KENNY: Yup. And we will also  
23 include in the revised photo simulations some  
24 photos from the battlefield. But we're  
25 fairly confident that the distance between

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2 the site and the battlefield and the rolling  
3 topography in between, it's not going to be  
4 visible.

5 MR. STACH: Understood. The only other  
6 location that might be considered sensitive  
7 under SEQR is the Washington lookout up off  
8 of -- it's Buckburg Mountain, Road, it's  
9 Buckburg Road, or is it that -- scratch out,  
10 not scratch out.

11 BOARD MEMBER FERGUSON: Solar?

12 MR. STACH: Solar. Yeah. I think so.

13 MR. KENNY: Well, if you have additional  
14 locations that you'd like us to include in  
15 revised photo simulations, please send them  
16 to me.

17 MR. STACH: Okay.

18 MR. KENNY: And we'll try to  
19 accommodate.

20 MR. STACH: Okay.

21 CHAIRMAN GUBITOSA: All right. And then  
22 one last thing, just for clarification for  
23 the Board and for the members, the original  
24 flagpole, the cell tower we approved years  
25 ago had a flag and light. The flag is no

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2 longer there. It was removed a while ago  
3 because it was clanging and make noises.

4 MR. KENNY: Correct. Our understanding  
5 is that the clanging of the line that holds  
6 up the flag was causing disturbance to the  
7 neighbors. So we agreed to keep that  
8 removed. And if you'd like, since it's no  
9 longer a flagpole, we can paint it a  
10 different color and remove the ornamental  
11 ball as well.

12 CHAIRMAN GUBITOSA: Okay.

13 BOARD MEMBER KRAESE: Just a point. I  
14 kind of like what we did up by Mancuso, with  
15 that out there. Looked like a tree.  
16 Actually, they hung up all their --

17 MR. KENNY: Monopines sometimes are  
18 good. They're usually better in areas that  
19 are surrounded by woods and trees. This  
20 being on an existing shopping mall, shopping  
21 center, it might stick out as why is that big  
22 Frankenpine standing right behind the  
23 shopping center.

24 BOARD MEMBER KRAESE: Like the one that  
25 sticks out off of Route 210.

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2 MR. KENNY: Or what I've usually heard  
3 is the Hutch down in Westchester. Everybody  
4 hates that one.

5 CHAIRMAN GUBITOSA: All right. I just  
6 need, I need a motion to our notice of intent  
7 to become lead agency.

8 MR. KENNY: Could I also ask the Board,  
9 if we were able to get a submission in by a  
10 certain time, would there be ability to  
11 schedule a public hearing for this  
12 application?

13 CHAIRMAN GUBITOSA: Not tonight.  
14 Maybe -- we're not going to do it tonight.

15 MR. KENNY: Understood.

16 CHAIRMAN GUBITOSA: I mean, we're still,  
17 we still, we still have to wait for the Town  
18 Board to give us stuff and -- right, Max?

19 MR. STACH: Yeah. I think the, I think  
20 the waiver, clarifying the waiver, and  
21 getting the revised photos would be good to  
22 have in advance of the meeting. So that  
23 we're going to the public with something that  
24 has been vetted and understood.

25 MR. KENNY: Absolutely. My question was

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2 if we could set, like, a deadline to get  
3 those materials to you. And maybe if we got  
4 it by that time, we could have a public  
5 hearing.

6 CHAIRMAN GUBITOSA: By the TAC meeting.

7 MR. STACH: Yeah. Usually about a week.

8 CHAIRMAN GUBITOSA: If we do it by the  
9 TAC meeting, you have, like, a week.

10 MR. KENNY: Okay. I'll do my best to  
11 get those to you.

12 THE CLERK: But you would have to set  
13 the public hearing tonight.

14 CHAIRMAN GUBITOSA: Yeah, but -- yeah.  
15 So we can do it next month, we can set the  
16 public hearing.

17 MR. KENNY: Understood.

18 BOARD MEMBER KRAESE: Get us as much as  
19 you can for the TAC meeting as soon as  
20 possible.

21 MR. KENNY: We'll absolutely still try  
22 to get you the stuff as fast as possible.

23 CHAIRMAN GUBITOSA: All right.

24 BOARD MEMBER KRAESE: I don't think you  
25 have to worry too much about a public

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2 hearing. It's more logistics of paperwork  
3 that we're doing it.

4 CHAIRMAN GUBITOSA: Yeah, but we want to  
5 make sure.

6 MR. KENNY: Understood.

7 BOARD MEMBER KRAESE: Taking down the  
8 noisy, no disrespect to the American flag,  
9 it's the lines that are banging that's  
10 probably causing the -- at the public  
11 hearing, you'll probably get some response  
12 that they don't want to have that no more.

13 MR. KENNY: Well, we'll be happy to  
14 accommodate with that.

15 CHAIRMAN GUBITOSA: All right. So I  
16 just need a motion to have our notice of  
17 intent to become lead agency.

18 BOARD MEMBER KRAESE: So be it.

19 CHAIRMAN GUBITOSA: Second?

20 BOARD MEMBER FERGUSON: I'll second it.

21 CHAIRMAN GUBITOSA: Any comments, any  
22 discussion? All right, all in favor?

23 (Response of aye was given.)

24 CHAIRMAN GUBITOSA: Opposed? We'll send  
25 out our notice to intend to become lead

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2 agency. We'll see you at the TAC.

3 BOARD MEMBER KRAESE: When do we do a  
4 site visit?

5 MR. KENNY: We can contact you with some  
6 availability of dates. We could do it early  
7 next week, if you'd like, or after the  
8 holiday.

9 BOARD MEMBER KRAESE: We usually do them  
10 on Saturdays.

11 MR. KENNY: Okay. We can get it maybe  
12 after the July 4th weekend, then. I'm  
13 assuming most people might be unavailable  
14 that weekend.

15 CHAIRMAN GUBITOSA: We could do the  
16 13th.

17 BOARD MEMBER JASLOW: Yeah, the 13th.  
18 It's the Saturday after TAC.

19 CHAIRMAN GUBITOSA: Yeah.

20 BOARD MEMBER KRAESE: Yeah, I don't see  
21 why we can't do it then.

22 CHAIRMAN GUBITOSA: Yeah, we'll try the  
23 13th. We'll do a, set a site visit for the  
24 13th. What time, 8:30? 8:30 on the 13th,  
25 we'll meet you at the site.

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MR. KENNY: Sounds good. Thank you for  
your time, Board.

(Time noted: 8:23 p.m.)

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THE FOREGOING IS CERTIFIED to be a true  
and correct transcription of the original  
stenographic minutes to the best of my ability.

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Jennifer L. Johnson