Emergency Meeting of the Dorset Select Board August 25, 2010 ~ Minutes

Present:

Chris Brooks, Michael Connors, Brad Tyler, Marge Freed (via phone)

Absent:

Michael Oltedal

Also, present:

R. Gaiotti (Town Manager)

Visitors: Bill Mahlmann, Danny Pinsonault, Meg Canavan, Joe O'Dea, Christina Von Riesenfelder, Kevin Roe, Ed Yaros, Roger Rumney, Marilyn Kinney, Sandy Pinsonault.

C. Brooks, Chairperson, called the meeting to order at 5:38 p.m.

Contracts/Legal

C. Brooks opened the meeting stating that he had questions about the contract with the Vermont Telecommunications Authority (VTA) with regard to the cell tower project. C. Brooks asked if the board would like to discuss the contract in executive session. M. Connors & B. Tyler stated that they thought the discussion could happen publicly. M. Connors asked R. Gaiotti what had changed since the discussion at the last Selectboard meeting one week prior. R. Gaiotti stated that the town had held an informational session and community site visit recently, to get a feel for the project before the application was submitted, and that concerned neighbors and residents had come forward with a letter listing the reasons why the cell tower should not be located at the pinnacle property. R. Gaiotti also mentioned that the heirs of the family that gifted have stated that the restriction on the land deed would not allow for a cell tower to be located at the pinnacle.

R. Gaiotti asked J. O'Dea to explain what would need to happen for the project to keep moving. J. O'Dea stated that before the town received the property the previous beneficiary attempted to get the restriction changed so the property could be developed. J. O'Dea stated that this request was denied, but the town could still seek to get a judgment from a higher court that would allow for a cell tower. J. O'Dea also stated that a judgment allowing the use would be needed to acquire title insurance and that without title insurance the project would not be viable. S. Pinsonault questioned the coverage for each site. D. Pinsonault questioned whether a portion of residents would be left without the service. K. Roe stated that his understanding is that the sites would have similar coverage as they are only half a mile apart. B. Tyler questioned whether multiple carriers would go on the Rumney site. K. Roe stated that AT&T and T-Mobile use the same technology and that US Cellular and Verizon use the same as well. R. Rumney pointed out his site on a map and explained about the project. B. Mahlmann stated that he lives across from the Rumney site and that he has no problems with the location.

C. Brooks stated that he felt the town should keep the pinnacle site as a back up location and support the Rumney site as the primary location. M. Freed stated that the town had been working on the issue for a long time and that getting the service into town was the priority. M. Connors asked how the town can be sure that the Rumney site won't be opposed by neighbors and concerned citizens. C. Von Riesenfelder asked if the Selectboard would be sure to read the letter sent by those opposing the pinnacle. B. Tyler stated that the letter was very directive and that the board has to think about what is

good for the entire town. There was discussion as to the wording of the Selectboard decision; board members felt that an alternative site is needed in the chance that the primary site is unable to get permits.

It was the consensus of the board that the Pinnacle Property be listed as a back up cell tower location, and to fully support the Rumney cell tower location as the primary site in Dorset.

C. Brooks asked R. Gaiotti to contact the VTA and inform them of the decision. C. Brooks stated that he hoped the VTA would understand the situation and offer their support and expertise to convince the carrier to seek permits for the Rumney site immediately. R. Gaiotti stated that his understanding was that the VTA was working as a facilitator and would hopefully be able to assist with any potential location in town. C. Von Riesenfelder asked if the Selectboard would get copies of the letter with signatures. R. Gaiotti stated that he would be sure to email a copy to each member. M. Connors stated that the letter needed to be kept, because the Rumney site might face opposition for any number of the same reasons the pinnacle site was opposed. R. Gaiotti stated that the letter pertaining to the meeting would be included in the minutes.

There being no more business to discuss, M. Connors moved and B. Tyler seconded to adjourn the meeting at 6:05 p.m. Motion carried 3-0.

Respectfully submitted, Rob Gaiotti Town Manager

Cc: Town Clerk, Listers, Zoning, Highway

Posted: East Dorset Post Office, East Dorset General Store, Dorset Post Office, H.N. Williams General Store

Meeting Sign-In Sheet

PRINT NAME	ADDRESS	TESTIFYING (Y/N)	EMAIL
1. Danny Pinsonault	East Dorset VY		
Beel Mallman	Porset it		
3. MARGARET CANA	MN DORSET 05253		
4. JOE O'QEA			
5. Christina von Ries	senfelder Gys Dorset		
6. KEVIN ROE	n		
7. En YAROS	DORSET VT		
8. Roger Rumney	Dorset Vt		AMARONA BANGO, WITH THE RESIDENCE OF A SECURITY
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August 21, 2010

We, the signed Dorset, VT homeowners below, respectfully submit this letter in opposition to the construction and ownership of a cellular tower by the Vermont Telecommunications Authority (VTA) on "The Pinnacle" site.

We are not opposed to cellular service in Dorset, and support the construction of a tower. We are only opposed to The Pinnacle site for the numerous reasons detailed below.

We support an alternative cellular site on Roger Rumney's private property in Dorset, VT. The Rumney site is already under a signed leased contract (Exhibit 1) with AT&T (effective 5/27/10) and would provide equivalent cellular coverage vs. The Pinnacle site. Mr. Rumney continues to support a cellular tower constructed on his land vs. The Pinnacle site.

We respectfully request The Select Board of Dorset drop their support of the taxpayer funded cellular tower built and owned by the VTA at The Pinnacle, and allow the Rumney site to proceed.

It is the intent of the signatories to retain outside counsel if the VTA and/or Select Board does not cease their plans for The Pinnacle.

Site Violates Deed Language of the Donated Pinnacle Land

The Pinnacle land was donated to the Town of Dorset in 2005 by the Robert Keeler family. Originally, The Pinnacle land was donated to a local Dorset private school, The Long Trail School, as a nature preserve for the students. Unfortunately, The Long Trail School proposed to subdivide and sell The Pinnacle land. The Keeler/Mithoefer family challenged this action in court and won its case that the land could not be developed. The land was then donated to the Town of Dorset for permanent preservation and public recreational use. Specifically, the deed states the "said lands are conveyed to the Town of Dorset for its perpetual use as a park or recreation area" and the "lands herein conveyed will not be used at any time for other than residential purposes." The deed goes on to state:

"The purpose of such restrictions and covenants is to insure the use of the property for attractive residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the property, and thereby to secure to each site or home owner the full benefit and enjoyment thereof...."

Members of the Keeler/Mithoefer family are signatories of this letter.

Negative Impact on Future Land Preservation Donations to Dorset

The Keeler/Mithoefer family donated The Pinnacle land to the Town of Dorset for permanent preservation and use as a recreational area. Other material parcels of land

have also been generously donated to The Town of Dorset for permanent preservation. We the signatories believe the development of The Pinnacle for a cellular tower violates the intent of the land donors. More importantly, we believe such development of The Pinnacle would be a material disincentive for residents to donate land to the Town of Dorset for preservation in the future. We believe the Town of Dorset should not take the risk of losing future land donations in order to promote The Pinnacle site cellular site over the Rumney site.

Rumney Site Provides Equivalent Network Coverage

Details of the Roger Rumney site, including the GPS coordinates and lease agreement, are attached as Exhibit 1 & 2.

The Rumney site is at a higher elevation of approximately 200ft vs. The Pinnacle site. The Rumney site is only 0.6 miles to the Village Green (from Williams store) which is well within the 6 mile coverage radius of the Rumney site. We have spoken to the AT&T site acquisition expert that prepared the Rumney site and he stated that The Pinnacle site and the Rumney site would provide equal coverage to the town. It is also worth noting that AT&T would not have considered The Pinnacle site (if it were privately owned) given its close proximity to numerous residences and its designation as a public use recreational area.

Pinnacle Site Funded and Owned by State vs. Private Funds & Ownership of Rumney Site

We believe the Town of Dorset and the State should not be competing with a viable private enterprise alternative to provide cellular coverage to the Town of Dorset and should only act as a tower owner of last resort.

It is important to note that the State of Vermont, through the VTA, would pay for the construction of The Pinnacle site (upwards of \$250,000) through the use of taxpayer funds and additional State debt issued by the VTA. The State will be the owner and operator of the Pinnacle Site. In contrast, the Rumney site will be paid for and operated by AT&T Corp.. Roger Rumney, as a private land owner, will receive the rent revenue for leasing his land (which will create additional tax revenue for the town, State and Federal governments). The Town of Dorset would only receive a minor monthly rent payment for leasing the land on The Pinnacle. Much of the funds will be absorbed by the town's new commitment of maintaining the private Pinnacle road which would be used to service the cellular tower site. Specifically, the Town of Dorset will collect \$100 per month (yrs. 1-10) for two operators located on the site or \$500 per month if more than 2 operators co-locate on the site.

Rumney Site Would Provide GSM & CDMA Coverage

The Rumney site would be built and owned by AT&T. We have spoken to AT&T and it their intention and standard industry practice to allow a CDMA operator to co-locate on

the site. As seen in Exhibit 2, the proposed Rumney site would have capacity for at least 3 separate operators. We recognize having both GSM (AT&T, T-Mobile) and CDMA (US Cellular, Sprint, Verizon) coverage from this site is important to the Dorset Select Board and the residents of Dorset. One of the signatories, Kevin Roe, is a 17+ year wireless telecommunications analyst and has excellent contacts at all of the operators mentioned above. Mr. Roe has already contacted US Cellular corporate to secure a Letter of Intent (LOI) for US Cellular to co-locate on the Rumney site. Given the VTA has already secured a LOI from Verizon for The Pinnacle site, we believe the VTA and our state Representative could be helpful (along with Mr. Roe) in securing an LOI from Verizon for the Rumney site.

Rumney Site Would Provide Public Safety Coverage for E. Dorset/ Dorset Fire Departments

We believe AT&T is willing (as is the VTA) to provide room for a "public safety" antennae in order for emergency responders in East Dorset and Dorset to communicate seamlessly.

Material Adverse Environmental Impact

We believe a tower on The Pinnacle site would have a material adverse impact on the aesthetics of this rare and irreplaceable natural area. The Pinnacle site has numerous walking and hiking trails that are primarily maintained by Dorset residents along with the Town of Dorset. The visual impact of the site, the noise impact of the site (HVAC & generator) and the potential radiation risk to children would permanently and negatively change the desirability of the site for recreational use.

In addition to a 150 foot monopole, the tower site would cover a fenced in footprint of 50ft. x 50ft (2500 sq. ft.) which is the equivalent footprint of a Dorset home. The site would include a backup generator, propane tank, backup AC/DC batteries, multiple sheds filled with electronic/radio equipment. HVAC will run year round to maintain a constant temperature for the electronics.

Nearby residents (families with small children) have already expressed their intention to not bring their children to The Pinnacle given the trails will pass immediately next to the proposed cellular tower.

Material Adverse Impact on a Historic Site

We believe a tower on The Pinnacle site would have a material adverse impact on the historic site (a stone tower) located at the top of The Pinnacle.

Tyler Resch in his authoritative book "Dorset – in the shadow of the marble mountain", describes one of Dorset's most memorable "summer people" – Miss Cecelia deNottbeck – the great-granddaughter of John Jacob Astor. About 1895, Miss deNottbeck built her manor house near the knoll known as The Pinnacle and acquired 241+ acres of land

surrounding The Pinnacle. These lands were developed into parks. As described in Resch's book, "the centerpiece was her Pinnacle tower, build about 1910 to resemble an English ruin (photo on p. 215 of Resch's book – Exhibit 1)." This imposing tower, intact today, is immediately next to the proposed cellular tower.

Material Adverse Impact on Historic Dorset Field Club

The Pinnacle is immediately across Rt. 30 from The Dorset Field Club (DFC). As described in Resch's book, "golf was played in Dorset as early as 1881 when Arvin W. Harrington, laid out rough greens centered with tomato cans on Pinnacle Hill."

Last year the DFC was placed on the historic site list by the Vermont Division for Historic Preservation.

The placement of a cellular tower on The Pinnacle would have a material adverse impact on the visual beauty and historical integrity of the DFC.

Negative Impact on Land Values vs. Rumney Site

Nearly two dozen homes are within 2000 feet of the proposed Pinnacle cellular tower (Exhibit 3). In fact, several residences are within 600 feet of the proposed Pinnacle cellular tower. In contrast, only one home is within that radius of the Rumney site – the home of the Roger Rumney.

We strongly believe the construction of The Pinnacle cellular tower will have a material adverse effect on the property values of the homes that surround that historic site.

Putting a cellular tower near residential homes means decreased property values. For local businesses (realtors and brokers) representing and listing these properties, it will create decreased income. And for local governments, it results in decreased revenue (property taxes).

One independent academic study was performed by Dr. Sandy Bond (2005) which examined the impact of home prices after a cell tower was constructed in close proximity to those subject homes. Initially, the study was conducted in Christchurch New Zealand and a follow up study was performed in Orange County, Florida. Both studies were conducted using actual home price sales data and regression and hedonic mathematical techniques to isolate the impact of proximity (as defined by distance from the subject homes to the cellular tower) as the independent variable for determining the price decrease in home values. The percentage decreases mentioned in the study range from 2% to 20% with the percentage moving to the higher range as the property become closer to the cellular tower.

Furthermore, this study also identifies qualitative factors that may influence the extent of the price decrease. We believe two of these factors are highly relevant for homes located in or near the Village of Dorset.

- 1. Marketability of homes near towers. Homebuyers in or near the Town of Dorset purchase their homes on the basis of beautiful vistas and historic elements of the Village. Having a cellular tower near a home would make that home less attractive. Unlike constructing a tower in a Suburban or Urban area where there are many nearby cell towers, we believe a cellular tower placed near such homes would make them undesirable.
- 2. The Social-Economic make-up of the resident population. It is fair to say that Dorset residents are highly educated, sophisticated and have median income / net worth well above the state and national averages. This demographic group tends to have a greater awareness of potential health risk associated with long-term exposure to EM radiation from cellular towers. As such, a potential buyer of homes from this group would place greater emphasis on evaluating the health risk issue when purchasing a home near cellular towers compared to the general population. In addition, this group tends to be more savvy in making purchasing decisions and if such buyer were to be comfortable in buying a home near a cellular tower would ask for significant discount to fair market value because the buyers would know there are fewer buyers all else being equal.

Pinnacle Cell Tower May Limit Future Recreational Development of that Land

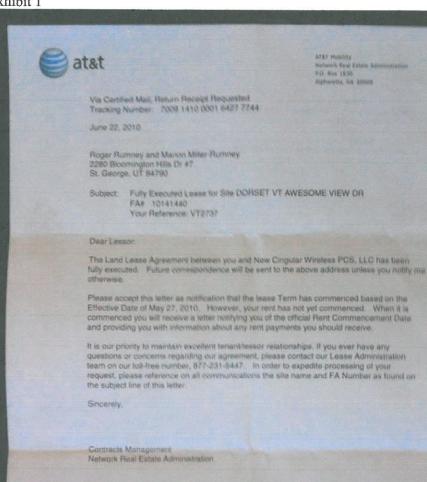
Laws restricting the location of cellular towers are in flux. We believe these regulations will only become more restrictive over time. For instance, in many European countries, cellular towers cannot be located near elementary schools, playgrounds and hospitals. Should US cellular tower regulation follow the European trend, The Town of Dorset could find itself severely restricted in developing The Pinnacle for future recreational use once a cellular tower is built.

We are hopeful that the Town of Dorset will support our desire to locate a cellular tower on the Rumney property and cease their support of a cellular tower on The Pinnacle.

Thank you for your time and attention to this very important matter.

Signature pages follow.

Exhibit 1



Project Manager - NEW ENGLAND

HENN 867 4188

Exhibit 2

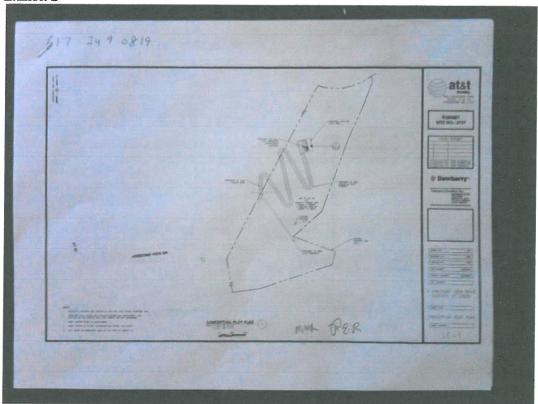


Exhibit 2 (cont.)

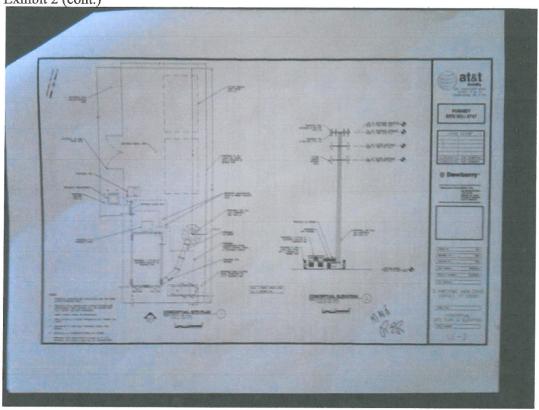


Exhibit 3

(Distance Calculations)

A.	Distance Calulation from Proposed Cell Tower Location on Pinnacle to nearby Residences	<u>Latitude</u>	Longitude	Altitude (ft)	Distance Latitude/Longitute Only (ft)	Distance Line of Sight (ft)
	Proposed Pinnacle Tower Location	43.25926	-73.09644	1085		
	Yaros Residence - 285 Pinnacle Lane	43 26030	-73.09780	1003	524	530
	Groves/Hannum Residence - 341 Pinnacle Lane	43.26053	-73.09634	1039	463	465
	Sakamoto Residence - 138 Pinnacle Lane	43.25913	-73.09973	957	898	907
	Roe Residence - 645 Dorset Hollow Road	43.25979	-73.08903	995	2006	2008
В.	Distance from Dorset Green to Proposed Tower Sites Dorset Green - Between Dorset Inn & Library	<u>Latitude</u> 43.25476	Longitude	Altitude (ft)	Distance Latitude/Longitute Only (ft/miles)	Distance Line of Sight (ft/miles)
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	Proposed Rumney / AT&T Tower Site	43.25003	-73.08470	1279	4224 0.800	4248 0.805
	Proposed Pinnacle Tower Site	43.25926	-73.09644	1085	1795 0.340	1814 0.344
C.	Distance from Manchester Tower to Proposed Tower Sites	Latitude	Longitude	Attitude (ft)	Distance Latitude/Longitute Only (ft/miles)	Distance Line of Sight (ft/miles)
	Manchester Cell Tower Site	43.17152	-73.03772	642		
	Proposed Rumney / AT&T Tower Site	43.25003	-73.08470	1279	31258 5.920	31264 5.921
	Proposed Pinnacle Tower Site	43.25926	-73.09644	1085	35587 6.740	35590 6.741

Cell Tower

	Print Name	Physical Street Address	Signature (same as printed)
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2.	ANDY CAMPANEUA	324 Panigway	A
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4.	STEVE HOLMAN	169 DEGPARHLUI, DOPSET	Steven Al
5.	WILTON HALOKINS	HIDDEN HOLLOW RA	Well Hawking of Brenge
6.	DAVAS BUMCOARDING	LANCE RD.	Brungfond.
7.	GILLIAN CHINN	104 KIRBY HOLLOW	Es. & Cim
8.	AUSTIN CHINN	11 11 11	Date B. Chima
9.	Corne Knight	75 Timberbrook	\$ 12 A
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12.	Dorothen Kelly	842 Lower HollowRd	Specific Killy
13.	ROGER W. SQUIRE	3395 Dorset West Al	Jaller Da
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1.	PATRICIA A. TAYLOR	191 Hidden Hollow	Catagina of Teach
2.	Christina von Riesentelder	645 Dorset Hollow Rd	Concluis
3.	Kevin M. Roe	645 Doiset-Hollow Rd	Ken floe
4.	Janet Saint Bermain	511 Upper Hollow Rd.	Jane Saint Germain
5.	TRACEY MATHYAS	799 Kikey Hollow Rd	(1 wey Wathyrs
6.	Roger E. Rumney	605 AWESOME View	Joge & Jumpey
7.	Mizabeth S Eyre	2457 Danby Mtn Rd.	awalet & Suge
8.	Margaret Mithdefer	249 Dogpatch Lane	margaret by the versal
9.	Mike Seely	1	(Anlug)
10.	Richard Jackson	282 Peace Street	via email
11.	Ann Jackson	282 PeacStreet	via email
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26.	ALEC MARSHALL	845 Dorse Hollow Rd	Cerent special
27.	DANIEL Sheldon	776 RT 30 POPSET	Janvel Steethe
28.	Shirley Thompson	4208 Dorset W. Rd	Solugy Thoupson
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30.	Curtis Taylor	191 Hidden Hollar	Cingto 8/14/
31.	Geoffrey Arnold	82 Upper Hollow Rd Joset	JAMOU
32.	Carol, Cone	10 Fox Lane	Mars Cono

3? Susan Banford	310 Myrigh View Rd.	Susan H. Bairifard
34. John P Stannard	Po Box 73 Dorset Ut	John & Stonnard
35 Michael Bickford	3219 K+ 30 Dorset VI	HOOJ (Juefa)
36. Diana Dickford	3219 RT 30 Dorret VT	Dava Siel 200
37. W.L. King Ir.	PO BOX 278 DOBET	Il forthand
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46 ZICHARD BILLES	PE PC BOX 75/ 0505	Tel Dik pl
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49. BERW Am Sheldon	3536 MUSERIII Rd.	BUMB Stale
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3.	JOAN MENSON	1131 RT. 30 DORSET	from Henson
4.	ROBERT MENSON	1131 ROUTE 30 DORSET/	Robert S. Menson
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and the same of th	Print Name	Physical Street Address	Signature (same as printed)
* 1 ·	Robert Hopkins	401 Pinnack Lane	Helet Heal
2.	FLAINE F. TOWNSLE	V HAI DINNACLE LARRY	Eligina A Specimen
3.	Gail Hopkin	Y HAI PINNACIE LANC	X 9 8 Opp, 8-2300
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	Pı	int Name	Physical Street Address	Signature (same as printed)
1.	BAXARD	R. KRAFT	133 KENT HILL ROAD.	1
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	Print Name	Physical Street Address	Signature (same as printed)
1.	James R. Matthews	674 Dorset Hollow Road	2 Matth
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	Print Name	Physical Street Address (same as printed)
1.	David Shehadi	274 Pauls Way
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	Print Name	Physical Street Address	Signature (same as printed)
1.	FRANK J. Gilbride Trustee	207+209 Hidden Hollow Laws	Frank & Grebudo II
2.	CAROL R Gilbride, TRustee	207 + 209 Hickon Holbw LANE	Gy/Rallui
3.	Bonnie McBride	114 Pinnacle Lane	Bonne Mc Bride
4.		114 Pinnade Lane	Pellis
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	Print Name	Physical Street Address	Signature (same as printed)
1.	SUZANNE GROVES	341 PinNacle LN.	Lugarne Lyroves
2. `	Michele E. Hannum	341 Pinnacle LA	Wichele & Hannin
3.	E. Isabel NeIN	345 Upper Hollow Rd	E Joubel Hain
4.	LOWARD YAROS	285 PUNNACCELN	Sopray Yaros
5	Dolores Verchious VAROS	285 timbacle La	Notores Villacos
5.	Elizabeth Hontz	397 Pinnacle Ln.	Clyalet 19 Hontz
7.	JACK HONTZ	397 PINNACIE IN	Class of Section
8.	KRAIG B. HANNUM	341 PINNACLE LANG	78/1
9.	Spence S. Woush I	239 Primade Lone	to deed
10.	BETTY MARSH	239 Purac Ce Lane	- Styaheel N. Maule
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	Print Name	Physical Street Address	Signature (same as printed)
1.	HAROKAT BUILDENTAUSTON	201+204 Hidder Ablow Drug	Starley Starles Sont
2.	CAROLR GOLDEN TRUSTER	201 20 HARDEN HUYOW LANE	actioning
3.	SIMON SAKAMOTO	138 Pinnucle Lane	Sun Delint
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