

Village/Town of Mount Kisco Building Department 104 Main Street Mount Kisco, New York 10549 Ph. (914) 864-0019-fax (914) 864-1085

MEMORANDUM

TO:

Honorable Chairman Hertz and Members of the Mount Kisco Planning Board

FROM:

Peter J. Miley, Building Inspector $\mathcal{Y}_{\mathcal{M}}$.

SUBJECT:

Fortunato Cambareri

147 (151-155) Lexington Avenue

SBL 80.32-2-10

DATE:

April 22, 2020 (revised)

PROJECT

The proposed application includes the legalization of all buildings and sit-work located at 147 Lexington Avenue. 147 Lexington Avenue contained four (4) separate buildings located on one lot. All of the buildings on the lot contain residences. Two of the dwelling units are located above a garage known today as Bld. C & D. Building A (fronting Lexington avenue) contains a mixed-occupancy including a restaurant (Thai Angels) and a two-family dwelling above. The last building (Bld. B) contains an existing two-family dwelling. Today, combined, there are a total of six (6) residential rental units and one (1) commercial business.

The original map of the property (enclosed with this memo) dated February 27, 1928, indicates that the property contained four (4) separate structures. Original Building No. 153 was originally a boarding house, today it is known as Bld. A containing a restaurant on the ground floor and two family dwelling above. Originally Building No. 151 "Residences," is located in the middle of the property. Today, Building No. 151 known as Bld. B and is a two-family dwelling. The building that is located in the rear – right southwest corner of the property, today known as Bld. D, is a 1 story garage with 5 rooms and bath located on the 2nd floor above the garage. The building started as an old barn (today referred to as Bld. C) which originally contained 2 rooms over. Today, the barn has been enlarged and converted into a separate dwelling unit above the garage/storage.

None of the buildings or residences (other than the restaurant) possess a certificate of occupancy.

ZONING

1. According to §110-18 CN (Neighborhood Commercial) District B. principal uses (h) Residences above stores provided that said residences have a separate entrance to the street or sidewalk. Proposed includes an apartment (change of use from 2 rooms) above

- a garage/storage therefore; a variance to allow an apartment above a garage with no direct street/ sidewalk access is required.
- 2. Proposed development coverage is 77.5%, the allowable maximum development coverage is 70% therefore; a 7.5% variance is required as per §110-18 C. (3)
- 3. Required parking is 20 spaces, proposed are 12 spaces therefore; an 8 parking space variance is required as per 110 Zoning Attachment 2 Minimum Off-Street Parking Regulations
- 4. Parking for a restaurant use requires "short-term" parking space dimensions of 9'-6" by 18'-6", proposed parking width is 9'-0" therefore; the applicant can either seek a 6" parking spaces width variance or adjust the parking space width to comply with Village/Town of Mount Kisco Code. 9 of the spaces require a 9'6" width.
- 5. Drive aisles are (1) 22ft. 1 1/16in., (2) 23ft. 7 in. and (3) 24ft. 5in. A minimum of 25ft. is required therefore; a variance is required.

COMMENTS

- 1. ADA parking space can be reduced to 8ft with an 8ft aisle, this would provide the additional width for the space above.
- 2. The property is located in the New York City DEP Designated Main Street area.

APPROVALS REQUIRED

- 1. Site Plan Approval
- 2. Change of Use Permit
- 3. Zoning Board of Appeals

Village/Town of Mount Kisco Municipal Building 104 Main Street, Mt. Kisco, NY 10549 Zoning Board of Appeals Application
Municipal Building 104 Main Street, Mt. Kisco, NY 10549 Zoning Board of Appeals
<u> </u>
Appellant: FORTUNATO CAMBARERI Address: 16 LAWRENCE ST., MT. KISCO, NY 10349
Address: 16 LAWRENCE ST., MI. KISCO, NY 10344 Address of subject property (if different): 147 LEXINGTON AVE., MT. KISCO, NY, 10549
Appellant's relationship to subject property: X Owner Lessee Other Property owner (if different): 151-155 LEXINGTON AVENUE LLC. Address: 16 LAWRENCE ST., MT.KISCO, NY 10549
TO THE CHAIRMAN, ZONING BOARD OF APPEALS: An appeal is hereby taken from the decision of the Building Inspector, PETER J. MILEY dated APPL 22, 2020. Application is hereby made for the following:
X Variation or Interpretation of Section of the Code of the Village/Town of Mount Kisco,
to permit the: Erection; Alteration; Conversion; _X Maintenance of Existing Restaurant & RESIDENTIAL STRUCTURES
in accordance with plans filed on (date) for Property ID # 80.52 - 2 - 10 located in the Zoning District. The subject premises is situated on the EAST side of (street) in the Village/Town of Mount Kisco, County of Westchester, NY. Does property face on two different public streets? Yes No (If on two streets, give both street names) Type of Variance sought: X Use X Area

Is the appellant before the Planning Board of the Village of Mount Kisco with regard to this property? YES
Is there an approved site plan for this property? No in connection with a Proposed or X Existing building; erected (yr.)
Size of Lot: 129 feet wide 119 feet deep Area 15,869 SeFT
Size of Building: at street level 40.5 feet wide 46 feet deep
Height of building: 3-STOPLES Present use of building: MIX-USE RESTAURANT AT STREET & RESIDENTIAL APARTMENTS
Does this building contain a nonconforming use? NO Please identify and explain:
Is this building classified as a non-complying use? YES Please identify and explain: IO - IB - B(XH) RESIDENCE WITHOUT DIRECT STREET ACCESS IN BUILDING C Has any previous application or appeal been filed with this Board for these premises?
Yes/No? NO
Was a variance ever granted for this property? No If so, please identify and explain:
Are there any violations pending against this property? If so, please identify and explain: #2017 - 2524
Has a Work Stop Order or Appearance Ticket been served relative to this matter? Yes or No Date of Issue: October 29 TH , 2018
Have you inquired of the Village Clerk whether there is a petition pending to change the subject zoning district or regulations? YES

I hereby depose & say that all the above statements and the statements contained in the papers submitted herewith are true. (Appellant to sign here)
Notary Public,
[TO BE COMPLETED IF APPELLANT IS NOT THE PROPERTY OWNER IN TEE] State of New York } County of Westchester } ss
Being duly sworn, deposes and say that he resides at in the County of Westchester, in the State of New York, that he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Village of Mount Kisco, County of Westchester aforesaid and known and designated as number and that he hereby authorized to make the annexed application in his behalf and that the statements contained in said application are true.
(sign here)

October 29, 2020

To: Village/Town of Mount Kisco

Zoning Board of Appeals

Village Hall (1st floor)

104 Main St.

Mount Kisco, NY 10549

Via email and hand delivered

Re: 147 Lexington Avenue (aka 151-155 Lexington Ave.)

Mount Kisco, NY 10549

Tax ID 80.32-2-10

VKS

ARCHITECTS

P O Box 696 Katonah, NY 10536 (914) 232-9828

Fax: 232-9839

vks@vksa.com

Dear Sir or Madam,

We are pleased to submit the revised plans for the legalization of the existing buildings and uses at 147 Lexington Avenue, also known as 151-155 Lexington Avenue.

We have proposed variances based on the comments of the Building Inspector as follows:

Comments of Peter Miley, Building Inspector dated 4/22/2020:

- 1. Variance for apartment in Building C is required agreed
 - a. 110-18-B(1)(h) Residence above stores, restaurants, offices and personal service establishments, provided that said residences have a separate entrance to the street or sidewalk.
- 2. Proposed development coverage is 77.5%, down from previous 99%. A 7.5% coverage variance is required agreed.
 - a. 110-18-C(3) Maximum development coverage: 70%
- 3. There are 20 required parking spaces, while there are 12 parking spaces proposed a variance for 8 parking spaces is required this was discussed at length during several previous reviews with the Planning Board. We feel (and the Board agreed) that providing fewer parking spaces in order to decrease the development coverage is a desired approach.
 - a. 110 attachment 2
- 4. 9'-6" wide parking spaces have been provided in the front of the property to partially comply with the Village/Town of Mt Kisco Code. Due to the reduced overall number of parking spaces, only four (4) spaces are proposed to be 9'-6" wide.
- 5. The drive aisle width is limited due to the location of the existing structure(s). Therefore a 3'-0" drive aisle variance is needed.
 - a. 110 attachment 1

Respectfully submitted,

Viktor Solarik

Viktor K. Solarik AIA LEED AP

VKS Architects

Enc. 10 sets: Drawings S1, S2 dated 10/29/2020

cc. Fortunato Cambareri, file

Cambareri: 147 Lexington Ave

1

Timeline of 151-155 Lexington Ave. (147 Lexington Ave.)

March 2002 to November 2018

- 1. In March of 2002 I, Fortunato Cambareri purchased 151-155 Lexington Ave.(147 Lexington Ave.), Mount Kisco, NY from Rosario Simone.
- 2. I eventually formed an LLC 151-155 Lexington Ave. LLC. The property consisted of everything that stands today at the time I purchased it: There are 4 structures on the property:
 - a. <u>151 Lexington Front</u> is a two family house. Downstairs is a three bedroom apartment occupied by Jamie Murcia and Raquel Jaramillo. They have lived in this Apartment for thirty years. Upstairs is occupied by the Martinez family. They have lived there for 27 years.
 - b. 151 Lexington Rear consists of a garage and a studio apartment.
 - c. <u>155 Lexington Front</u> consists of a restaurant and two apartments with tenants that have occupied it for many years.
 - d. 155 Lexington Rear consists of a garage and a two bedroom apartment.
- 3. Prior to Purchasing my Attorney and I met with Austin Cassidy, who was the Building Inspector at the time. During this meeting he expressed that Lexington Ave. was zoned retail, but properties like 151-155 lexington Ave. are grandfathered in and assured me that all apartments are legal. Although it has been 16 years, I recall seeing papers that stated that the property consisted of 6 apartments and a restaurant. I purchased the property and made cosmetic repairs.

In approximately 2004, I was able to remove Café La China from Leasing the Restaurant. This was a Bar where Drugs and Prostitution was taking place. This was without a doubt the biggest problem in the History of our great Town of Mount Kisco and the Police Dept. Now it is a regular restaurant.

In the mid to late 2000's I tried with my Architect to add an addition to the front house at 155 Lexington and add living space to the large garage at rear house of 155 Lexington. I never did anything. During this time, the Building Department and Planning Board acknowledged that I had four structures on property consisting of 6 apartments and a restaurant.

Since 2004, I have had several Landlord Registry and Fire and Safety Inspections from numerous Inspectors. The inspections always came out good and an issue was never brought up about having 6 Apartments and a restaurant.

In approximately 2010 or 2011, I went to the Building Dept. to get permission to replace a 24" railroad tie wall and build a 24" stone wall. In addition, I was going to Blacktop the front parking lot. After speaking to the powers that be, they said to go ahead because the wall is only 24 inches and I am just going to go over the existing blacktop. So after getting the OK, shortly after on a Saturday and Sunday I built the stone wall and prepped for Blacktopping on Monday. Monday morning came and my worker and I were waiting for my Cousin to come with the Blacktop. Unfortunately, Mr. Buxton, The Mount Kisco

Timeline of 151-155 Lexington Ave. (147 Lexington Ave.)

March 2002 to November 2018

Code Enforcement officer, said that I have a stop work order and cannot proceed because I do not have a site plan. This was extremely discouraging. I then hired an architect and he completed a site plan. I was then forced to meet with Austin Cassidy, Building Inspector, Mr. Oliveri, representing engineering company, Patti Tippa, Secretary, Joe Cosentino, Chairman of the Planning Board, and perhaps a few others. After getting everything approved, I got the ok to blacktop parking lot which I did right away.

Unfortunately, in 2012 I got some more bad news. The Building Dept. notified me that because I have more than five connections (6 Apartments and a restaurant) I will now have to eliminate my water well and be forced to hookup to Town water. I was very disappointed because, I would test my water regularly and the lab would always say that my water is better than the town's. There were 4 such properties in Mount Kisco that had more than five connections, but only my and another property were forced to connect. The other two consisting of the 6 family behind the Diner and Mr. DeFrancisco's place on Sarles were asked to switch over but not forced like me. Water was free for me, but now between the six apartments and the restaurant I have been paying \$10,000 yearly since 2012 for town water! In addition, the Building Dept. charged me \$3,000 for a connection fee for the restaurant and \$1,500 per the six apartments which totaled an additional \$9,000. Again, the Building Dept. acknowledged and charged me for 6 apartments.

Throughout the years of owning this Property, up until my last Fire Inspection in December of 2017, the Building Dept. always acknowledged that the property consisted of 6 apartments and a restaurant. I would never have paid \$878,000 for a property in 2002 if it was only 4 apartments and a restaurant. I now have over \$1 Million dollars invested in the property and will be stuck with it because I will never get my money back. I believe this is really unfair.

I urge the Town agencies to work with me and help me resolve this issue, which was not created by me.

Planning Board

NOV 2 3 2020 RECEIVED

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of
Mount Kisco, New York will hold a Public Hearing on the15 TH day of
DECEMBER 20 20 at the Municipal Building, Mount Kisco, New York,
beginning at7:00 PM pursuant to the Zoning Ordinance on the Appeal of
FORTUNATO CAMBARERI
(Name of Applicant) 16 LAWRENCE ST., MT.KISCO, NY 10549 (Address of Applicant)
from the decision of Peter J. Miley, Building Inspector, dated APOLL 22, 2020 (Date of Denial Letter) denying the application dated to permit the LEGALIZATION OF EXISTING STRUCTURE (Proposed Work)
The property involved is known as 147 LEXINGTON AVE., MT. KISCO, NY, 10549 (Address of Property)
and described on the Village Tax Map as Section 80.32 Block Z Lot 10
and is located on the EasT side of LEXINGTON AVE. in a east/west/n/s (Street Name)
NEIGHTOOLHOOD (omnteur)Zoning District. Said Appeal is being made to obtain a (CN) variance from Section(s) 110-10-B(1)(H); 110-18-C; 110 ATTACHMENT 1+2 of the (Identify specific zoning code section number(s))
Code of the Village/Town of Mount Kisco, which requires A 7.5% DEVELOPMENT COVERAGE VARIANCE, AN USE VARIANCE, AN 8 PARKING SPACE VARIANCE, A 6" TEMPORARY PARKING WIDTH VARIANCE, & 3' DRIVE AIGLE VARIANCE.
Harold Boxer Chair

Harold Boxer, Chair Zoning Board of Appeals Village/Town of Mount Kisco

EXHIBIT B

147 Lexington Ave, Mt.Kisco 10549

Property Owners within 300' Radius

Owner	Property Address	Owner/Mailing Address	Тах Мар#
Antonio & Carmela Cambareri	177 Lexington Ave	16 Lawrence St, Mt.Kisco, NY 10549	80.32-3-4
Lisa C Abzun	85 W Hyatt Ave.	145 Croton Ave, Mt.Kisco, NY 10549	80.32-2-7.1
Fedele LLC	4 Sarles Ave.	26 Primrose St, Katonah, NY 10536	80.32-2-5
n/a	n/a		n/a
S&Y Property Management LLC	113-115 Gregory Ave.	115 Gregory Ave, Mt.Kisco, NY 10549	80.32-3-2
5&Y Property Management LLC	88 W Hyatt Ave.	115 Gregory Ave, Mt.Kisco, NY 10549	80.32-3-3
Asaro Properties LLC	169 Lexington Ave.	115 Gregory Ave, Mt.Kisco, NY 10549	80.32-3-1
Bedford Central S.D.	W Hyatt Ave.	Attn: Mark Betz Fox Lane Campus, P.O.Box 180, Mt.Kisco, NY 10549	80.33-6-1.1
Community Living Corporation	41 Highland Ave	Attn: John E. Porcella 135 Radio Circle, Mt.Kisco, NY 10549	80.25-5-6
159 Lexington Avenue LLC	159 Lexington Ave.	16 Lawrence St, Mt.Kisco, NY 10549	80.32-2-9
Lisa C Abzun	89 W Hyatt Ave.	145 Croton Ave, Mt.Kisco, NY 10549	80.32-2-7.2
Pat Cambareri	22 Sarles Ave.	5 Chestnut Ridge Rd, Mt.Kisco, NY 10549	80.32-2-2
West Hyatt Management LLC	83 W Hyatt Ave.	PO Box 838, Mount Kisco, NY 10549	80.32-2-6
Pat Cambareri	143 Lexington Ave	5 Chestnut Ridge Rd, Mt.Kisco, NY 10549	80.32-2-1
Timothy M, Foran	52 Highland Ave.	52 Highland Ave, Mt.Kisco, NY 10549	80.33-1-2
DePalDe Sarles Corp.	14 Sarles Ave.	23 Stone House Rd, Somers, NY 10589	80.32-2-4
n/a	n/a		n/a
Asaro Properties LLC	173 Lexington Ave.	115 Gregory Ave, Mt.Kisco, NY 10549	80.32-3-5
Village of Mount Kisco	Lexington Ave.	104 Main St, Mt.Kisco, NY 10589	80.24-3-13
583 Locust Ave LLC	56 Highland Ave.	30 Sunrise Drive, Armonk, NY 10504	80.33-1-1
163 Lexington Avenue, LLC	163 Lexington Ave.	779 Main St, Mt.Kisco, NY 10549	80-32-2-8
Nancy Bronzino	16 Sarles Ave.	16 Sarles Ave, Mt.Kisco, NY 10549	80.32-2-3
Bedford Central S.D.	W Hyatt Ave.	P.O. Box 180, Mt.Kisco, NY 10549	80.33-1-19

AFFIDAVIT OF MAILING

*
STATE OF NEW YORK } }SS.:
COUNTY OF WESTCHESTER }
FORTUNATO CAMBARERI being duly sworn, deposes and says:
I reside at 16 LAWRENCE ST., MT. KISCO, NY 10549
On November 12 TH 2020 I served a notice of hearing, a copy of which is
attached hereto and labeled Exhibit A, upon persons whose names are listed in a schedule
of property owners within 300 feet of the subject property identified in this notice. A
copy of this schedule of property owners' names is attached hereto and labeled Exhibit B.
I placed a true copy of such notice in a postage paid property addressed wrapper
addressed to the addresses set forth in Exhibit B, in a post office or official depository
under the exclusive care and custody of the United States Post Office, within the County
of Westchester.
Sworn to before me on this 24th day of November 20 20 STATE: OF NEW YORK:
Sum Dagolia Digolia Di

(Notary Public)



421930432DEDH

Control Number 421930432

WIID Number 2002193-000201

09:57:00

Instrument Type DED



WESTCHESTER COUNTY RECORDING AND ENDORSEMENT PAGE (THIS PAGE FORMS PART OF THE INSTRUMENT) *** DO NOT REMOVE ***

THE FOLLOWING INSTRUMENT WAS ENDORSED FOR THE RECORD AS FOLLOWS: TYPE OF INSTRUMENT DED - DEED FEE PAGES 5

TOTAL PAGES 5

RECORDING FEES

TP-584 CROSS REFERENCE MISCELLANEOUS	\$4.75 \$25.00 \$5.00 \$0.00 \$0.00
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TRANSFER TAXES

CONSIDERATION	\$850,000.00
TAX PAID	\$3,400.00
TRANSFER TAX #	19775

RECORDING DATE 07/22/2002 TIME

MORTGAGE TAXES

MORTGAGE DATE	
MORTGAGE AMOUNT EXEMPT	\$0.00
YONKERS	
BASIC	\$0.00
ADDITIONAL	\$0.00
SUBTOTAL	\$0.00
MTA	\$0.00
的表现是4的表现在是有效的是多数的有效的。	\$0.00
SPECIAL	\$0.00
TOTAL PAID	\$0.00

SERIAL NUMBER DWELLING

THE PROPERTY IS SITUATED IN WESTCHESTER COUNTY, NEW YORK IN THE: TOWN OF MT. KISCO

WITNESS MY HAND AND OFFICIAL SEAL

LEONARD N. SPANO

WESTCHESTER COUNTY CLERK

Record & Return to: LISA C JOYCE ESQ 84 SMITH AVE

MOUNT KISCO, NY 10549

工士 3,400

Rosario Simone, Grantor,

to -

Fortunato Camberari, Grantee

DEED

The Premises Affected by this instrument are designated Lot 10 in Block 2 in Section 80.32 of the Tax Map of the Village/Town of Mount Kisco, Westchester County, New York.

Street Address:

151-155 Lexington Avenue Mount Kisco, New York 10549

Record and Return to:

Lisa C. Joyce, Esq. 84 Smith Avenue Mount Kisco, New York 10549

This Deed is made as of February 5, 2002 between ROSARIO SIMONE, as Grantor, Durdue New York 10578, and FORTUNATO residing at 451 Rte 22 CAMRERARI, as Grantee, residing at 16 Lawrence Street, Mount Kisco, New York

WHEREAS, the Grantor, in consideration of Ten Dollars, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, does hereby sell, grant and release to the Grantee, and to the heirs, successors and assigns of the Grantee. forever, all that certain plot of land, together with the improvements located upon it, more particularly described on Schedule "A" annexed to this Deed;

TOGETHER with all of the right, title and interest, if any, of the Grantor in and to any streets and roads abutting the premises described on Schedule "A" to the center lines thereof; TOGETHER with all the appurtenances and all the estate and rights of the Grantor in and to the said premisés; TO HAVE AND TO HOLD the said premises herein granted unto the Grantee, and the heirs, successors and assigns of the Grantee, forever.

AND the Grantor convenants that he has not done or suffered anything whereby the said premises have been encumbered in any way whatever;

AND the Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor will receive the consideration for this conveyance, and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements, and will apply the same first to the payment of the cost of the improvement before using any part of the total of the sale for any other purpose.

Any noun or pronoun in this instrument shall be construed to include the masculine, feminine, neuter, singular or plural, as the context requires.

IN WITNESS WHEREOF, the Grantor has signed and delivered this instrument as of the date set forth above.

> Rosario Simone, Grantor + Rosairo Smu

By: Rosario Luca Simone, his his attorney Attorney-in-Fact in Fact

Power of Out recorded simone

On February 2002, before me, a Notary Public, personally appeared ROSARIO LUCA SIMONE, personally known to me or proved to me to be the individual(s) whose name(s) is/are subscribed to the within instrument; and (each) acknowledged to me that he/she/they executed the same in his/her/their capacity(ties), and that by his/her/their individuals acted, executed the instrument.

Notary Public

Notary Public, State of Naw York
No. 60-2038046

Qualified in Westchester County
Commission Expires



AFFIDAVIT OF PUBLICATION FROM

State of Wisconsin County of Brown, ss.:

Ad Number: 0004464300

On the 30 day of N	ovember in the year?	2020, before me, the undersigned, a Notary Public in and for said Sta , personally known to me or proved to me on the basis of	te, personally appeared satisfactory evidence to
same in his/her/thei	whose name(s) is (ar	e) subscribed to the within instrument and acknowledged to me that hat by his/her/their signature(s) on the instrument, the individual(s), or	he/she/they executed the
Nichola,	Renstropy	being duly sworn says that he/she is the principal clerk of THE	JOURNAL NEWS, a
newspaper publishe	ed in the County of W	estchester and the State of New York, and the notice of which the an	nexed is a printed copy,
was published in th	e newspaper area(s) o	n the date (s) below:	4
	Zone: Westchester	Run Dates: 11/30/2020	
	1.		
Signature	100-		
Sworn to before i	he, this 30 day of N	ovember, 2020	
1 he	mes Her	uman	
Notary Public. St.	ate of Wisconsin.	ounty of Brown	
	5.15.	33	
My commission e	expires		
Legend:			
Crompond, Cross River, Hastings, Hastings on H Mohegan Lake, Montros	Croton Falls, Croton on Hud udson, Hawthorne, Irvington e, Mount Kisco, Mount Verno Rye, Scarsdale, Shenorock,	dwin Place, Bedford, Bedford Hills, Brewster, Briarcliff Manor, Bronxville, Buchanan, Camison, Dobbs Ferry, Eastchester, Elmsford, Garrison, Goldens Bridge, Granite Springs, Con, Jefferson Valley, Katonah, Lake Peekskill, Larchmont, Lincolndale, Mahopac, Mahopan, New Rochelle, North Salem, Ossining, Patterson, Peekskill, Pelham, Pleasantville, Poshrub Oak, Somers, South Salem, Tarrytown, Thornwood, Tuckahoe, Valhalla, Verplan	Greenburg, Harrison, Hartsdale, ac Falls, Mamaroneck, Millwood, ort Chester, Pound Ridge, Purcha

NANCY HEYRMAN Notary Public State of Wisconsin

Blauvelt, Congers, Garnerville, Haverstraw, Hillburn, Monsey, Nanuet, New City, Nyack, Orangeburg, Palisades, Pearl River, Piermont, Pomona, Sloatsburg, Sparkill, Spring Valley, Stony Point, Suffern, Tallman, Tappan, Thiells, Tomkins Cove, Valley Cottage, West Haverstraw, West Nyack

State of New York)	A FEID A VIT OF DOSTING BOARD OF A SECOND RISCO
) ss: County of Westchester)	AFFIDAVIT OF POSTING Poard of Appeals DEC 1 0 2020
he conspicuously fastened up and posted in seve Mount Kisco, County of Westchester, a printed recopy, to Wit:	hat on the <u>/ ()</u> day of December 2020, public places, in the Village/Town of
Municipal Building – 104 Main Street	<u>X</u>
Public Library 100 Main Street	<u>X</u>
Fox Center	X
Justice Court – Green Street 40 Green Street	X
Mt. Kisco Ambulance Corp 310 Lexington Ave	X
Carpenter Avenue Community House 200 Carpenter Avenue	X
Leonard Park Multi Purpose Bldg	X
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Sworm to before me this 10 th day of 100000000000000000000000000000000000	bu 2020

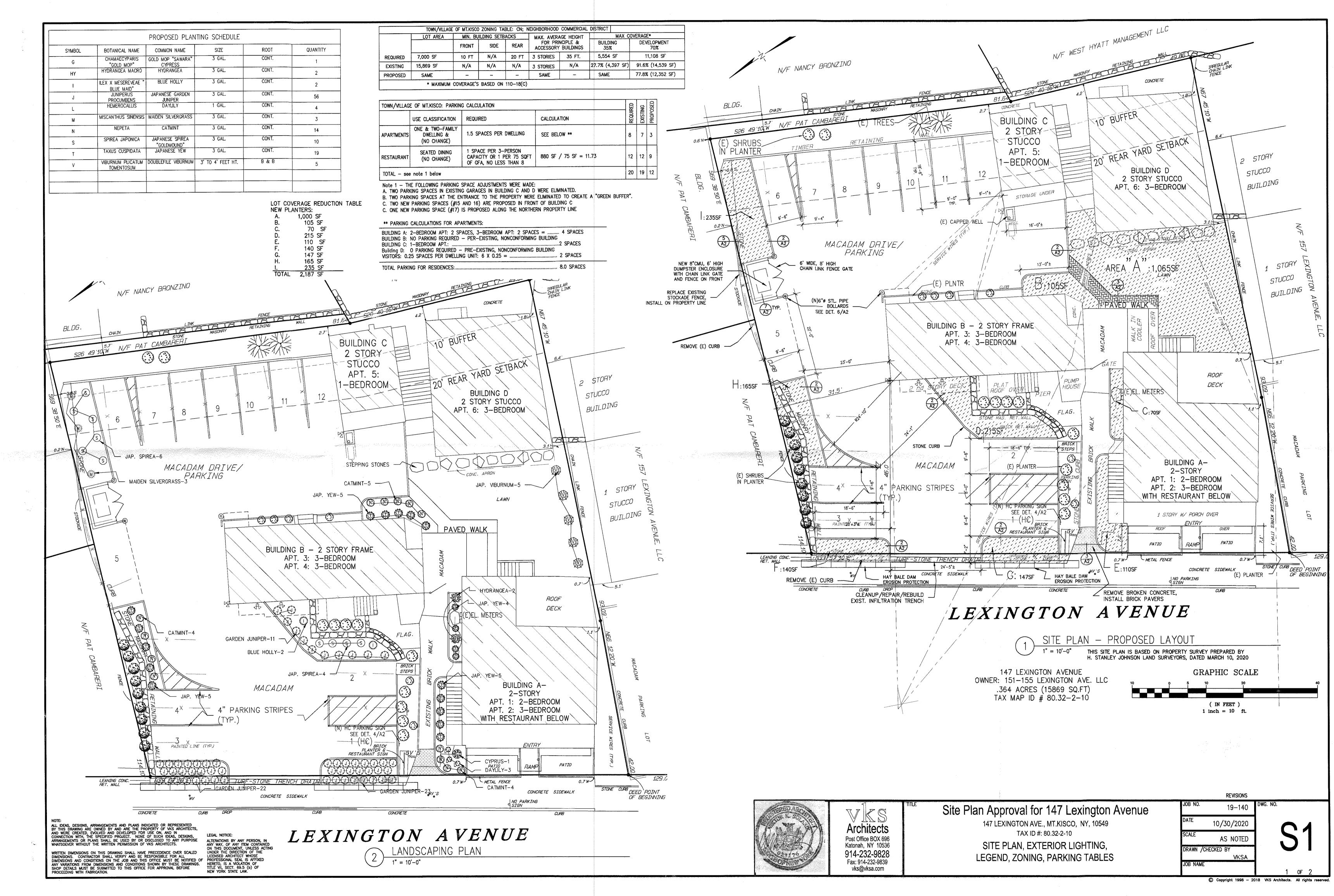
MICHELLE K. RUSSO

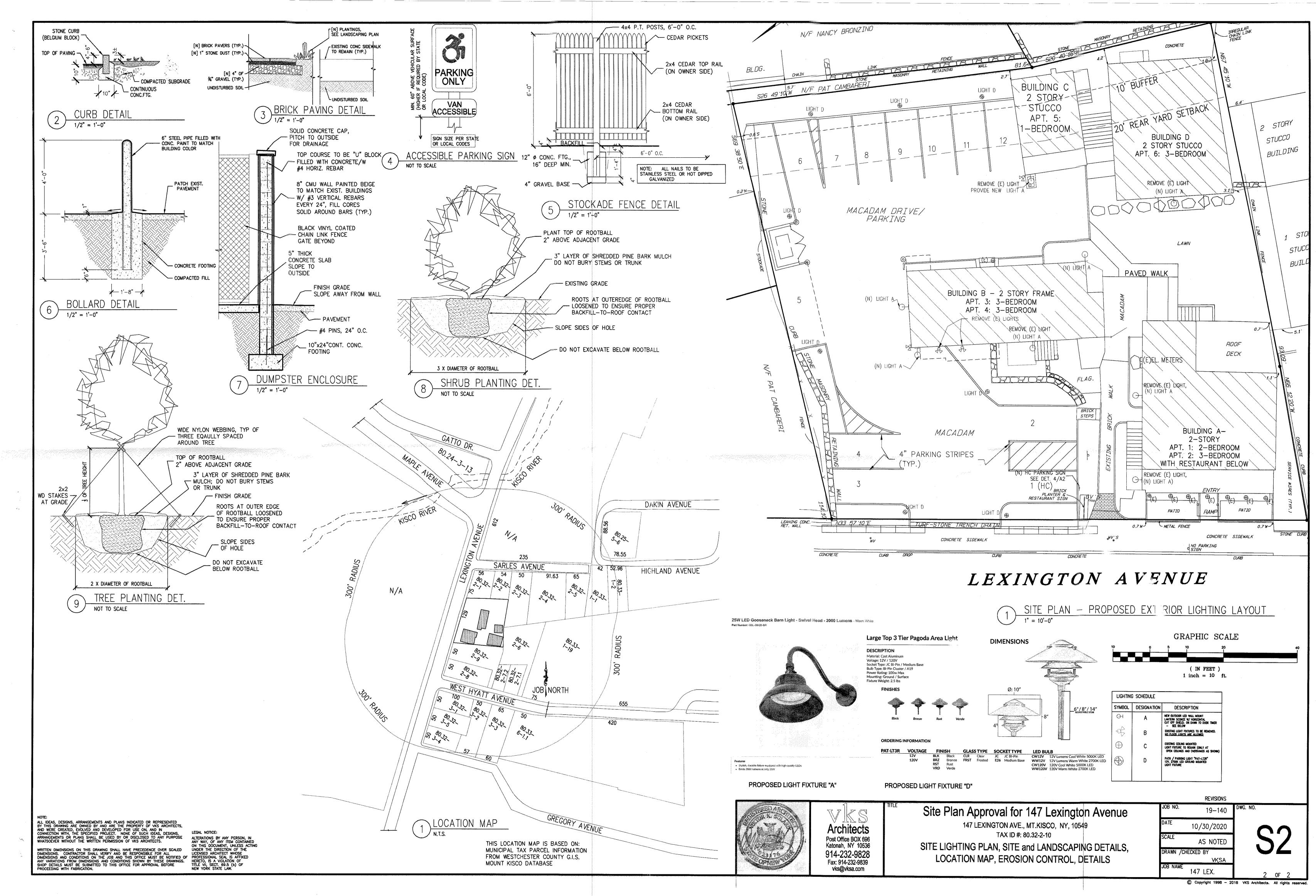
NOTARY PUBLIC-STATE OF NEW YORK

No. 01RU6313298

Qualified In Putnam County

My Commission Expires 10-20-2022







JOB NO. F80-059.05

LAW OFFICES OF

SNYDER & SNYDER, LLP

94 WHITE PLAINS ROAD

TARRYTOWN, NEW YORK 10591

(914) 333-0700

FAX (914) 333-0743

WRITER'S E-MAIL ADDRESS

NEW JERSEY OFFICE ONE GATEWAY CENTER, SUITE 2600 NEWARK, NEW JERSEY 07:02 (973) 824-9772 FAX (973) 824-9774

REPLY TO:

.

TARRYTOWN OFFICE

rgaudioso@snyderlaw.net

November 4, 2020

Honorable Chairman Harold Boxer and Members of the Zoning Board of Appeals Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

Re:

NEW YORK OFFICE

FAX (212) 932-2693

LESLIE J. SNYDER

DAVID L. SNYDER (1956-2012)

ROBERT D. GAUDIOSO

(212) 749-1448

445 PARK AVENUE, 9TH FLOOR

NEW YORK, NEW YORK 10022

180 S. Bedford Road

Public Utility Wireless Telecommunications Facility

Homeland Towers, LLC

Honorable Chairman and Members of the Zoning Board of Appeals:

We are the attorneys for Homeland Towers, LLC ("Homeland Towers") and Verizon Wireless (together "Applicants") in connection with their enclosed application to place a public utility wireless telecommunications facility ("Facility") at the above referenced property ("Property"). The Facility is proposed as a 140-foot (145' to top of branches) monopole designed to resemble a tree ("Monopine") to support the equipment for Verizon Wireless. The Property is located in the CD Conservation Development District.

On October 6, 2020, the Applicants received an interpretation from the Village's Building Inspector that certain area variances are required for the Facility ("Building Inspector's Interpretation"). The Applicants respectfully file this application to appeal the Building Inspector's Interpretation, or in the alternative to request any necessary area variances for the Facility. The Applicants' submission is also in response to the comments received from the Village Building Inspector, Planning Board Engineer, and Planning Board's Wireless Consultant, ("Village Comments"), and also in response to certain public comments received.

In furtherance of the foregoing, enclosed please find, a check in the amount of \$750.00 representing the Zoning Board of Appeals application fee together with ten (10) copies of the following materials:

- 1. Zoning Board Application Form;
- 2. Memorandum in Support of Application;

- 3. Deed;
- 4. EAF with Visual EAF Addendum;
- 5. FCC Compliance Report;
- 6. RF Report dated August 17, 2020;
- 7. Alternate Site Analysis dated August 14, 2020;
- 8. Visual Resource Assessment dated July 29, 2020;
- 9. Supplemental Visual Resource Assessment dated September 28, 2020;
- 10. SHPO Concurrence that there are No Historic Properties in the Area of Potential Effects:
- 11. FAA Determination of No Hazard to Air Navigation;
- 12. Supplemental RF Report prepared by V-COMM L.L.C dated October 28, 2020;
- 13. Letter from Klaus Wimmer, of Homeland Towers, dated November 2, 2020, confirming that the mentioned alternative "high elevation" locations are not feasible alternative locations and are not available for the installation of the Facility;
- 14. Collocation Commitment Letter;
- 15. Memorandum of Lease;
- 16. Letter from APT, dated November 3, 2020, in response to the Village Comments and public comments;
- 17. Letter from APT, dated November 2, 2020, detailing the projects compliance with the requirements of §110-33.1(A) of the Village Code for a Steep Slope permit;
- 18. Letter from APT, dated October 29, 2020, confirming that the generator proposed will be in compliance with the Village's noise level requirements contained in the Village Code;
- 19. Fall Zone/Structural Letter from APT, dated September 16, 2020, certifying that the Facility, in the unlikely event of a collapse, would fall completely within the Property lines;

- 20. Please note that the Facility has been designed to collapse within the Property lines and there are no publicly accessible locations within close proximity to the facility. The Memorandum in Opposition from a neighboring property owner's counsel includes a letter from Dennis Rogers, dated March 28, 2013. This letter was originally submitted to the Town of Kent on behalf of an opposition group represented by Mr. Campanelli. Submitted herewith is the response from Tectonic Engineering, dated April 8, 2013, detailing the false assumptions contained in the Rogers letter;
- 21. Letter from Saratoga Associates, dated November 3, 2020, detailing the scope and methodology for the balloon test; and
- 22. Revised Zoning Drawings.

Please note that a balloon test has been scheduled for the morning of November 14, 2020 at the Property.

We thank you for your consideration, and look forward to discussing this matter with the Zoning Board of Appeals at its next available meeting. If you have any questions or require any additional documentation, please do not hesitate to contact me at 914-333-0700.

Snyder & Snyder, LLP

By:

Robert D. Gaudioso

RDG/djk Enclosures

cc: F

Homeland Towers

Verizon Wireless

Planning Board

Z:\SSDATA\WPDATA\SS3\RDG\Homelandtowers\Mount Kisco\NY172\ZBA Letter 11.3.20.ntf

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HOMELAND TOWERS, LLC

9 Harmony st, 2nd floor Danbury, CT 06810

WELLS FARGO BANK, NA 51-110/211

5592

October 28, 2020

PAY TO THE Village of Mt. Kisco

750.00

5592

Village of Mt. Kisco 104 Main Street Mt. Kisco, NY 19549

NY172 Zoning Application Fee

"005592" ::02110110B: 27164761441

HOMELAND TOWERS, LLC Village of Mt. Kisco

October 28, 2020

\$750.00

Ck# 5592

Invoice Number Invoice Date Job Number Open Amount Discount > Amount Paid ZONINGAPPFEE 10/28/2020 NY172 750.00

750.00

Date: Case No.:
Fee: Date Filed:
Village/Town of Mount Kisco Municipal Building 104 Main Street, Mt. Kisco, NY 10549
Zoning Board of Appeals <u>Application</u>
Appellant: Homeland Towers, LLC and Verizon Wireless
Address: c/o Snyder & Snyder, LLP 94 White Plains Road Tarrytown, NY
Address of subject property (if different): 180 S. Bedford Road, Mt. Kisco, NY
Appellant's relationship to subject property: Owner x Lessee Other Property owner (if different): Skull Island Partners, LLC
Address: C/O David Seldin 1571 Oceanview Drive Tierra Verde, FL 33715-2538
TO THE CHAIRMAN, ZONING BOARD OF APPEALS: An appeal is hereby taken from the decision of the Building Inspector, Peter Miley
dated October 6, 2020 . Application is hereby made for the following:
Variation or request for Interpretation of Section See Memo in Support of the Code of the Village/Town of Mount Kisco,
to permit the: X Erection; Alteration; Conversion; Maintenance of A wireless telecommunications facility
in accordance with plans filed on (date) with the Application
for Property ID # located in the CD Zamina District
The subject premises is situated on the south side of (street) S. Bedford Road
in the Village/Town of Mount Kisco, County of Westchester, NV
Does property face on two different public streets? Yes/No No (If on two streets, give both street names)
Type of Variance sought:Use x Area See Memo in Support

I submit the following attached documents, drawings, photographs and any other items listed as evidence and support and to be part of this application:

The following items **MUST** be submitted:

- a) Attached hereto is a copy of the order or decision (Notice of Denial) issued by the Building Inspector or duly authorized administrative official issued on _____ upon which this application is based.
- Copy of notice to the administrative official that I have appealed, setting forth the grounds of appeal and have requested the application to be scheduled for a public hearing.
- c) A typewritten statement of the principal points (facts and circumstances) on which I base my application with a description of the proposed work.
- d) Ten (10) sets of site plans, plat or as-built survey drawings professionally signed and sealed (as may be required).
- e) A block diagram with street names, block and lot numbers, and street frontage showing all property affected within 300' of the subject property, with a North point of the compass indicated.
- f) A full list of names and addresses of the owners of all property shown on the above noted block diagram that lie within or tangent to the 300' radius from the subject property.
- g) A copy of the Public Notice for the public hearing of this application.
- h) A sworn Affidavit of Mailing, duly notarized, that a true copy of said Public Notice has been sent by mail to all property owners within 300 feet of this premises at least 10 days prior to the public hearing.

NOTE: APPLICANT MUST CAUSE A TRUE COPY OF THE PUBLIC NOTICE TO BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE VILLAGE <u>AT LEAST 15 DAYS</u> PRIOR TO THE PUBLIC HEARING.

- A true copy of the filed deed and/or signed lease or contract for the use of the subject property.
- *j) At least two sets of unmounted photographs, 4" by 6" in size, showing actual conditions on both sides of street, between intersecting streets. Print street names and mark premises in question.
- *k) A floor plan of the subject building with all the necessary measurements.
- *l) A longitudinal section of the subject building and heights marked thereon as well as front elevations.

^{*} Optional - As Needed

I hereby depose & say that all the above state papers submitted herewith are true.	ments and the statements contained in the
300	Appellant to sign here)
Sworn to before me this day of: Nowev	mber, 2020
Notary Public, West Chester	, County, NY
Joseph	David James Kenny NOTARY PUBLIC, STATE OF NEW YORI Registration No. 02KE6343903 Qualified in Westchester County Commission Expires June 20, 2028
[TO BE COMPLETED IF APPELLANT IS N State of New York } County of Westchester } ss	OT THE PROPERTY OWNER IN FEE]
Being duly sworn, deposes and say that he resi County of Westchester, in the State of New Yo certain lot, piece or parcel of land situated, lyir Kisco, County of Westchester aforesaid and kr and that he hereby aut	ork, that he is the owner in fee of all that ng and being in the Village of Mount nown and designated as number
the annexed application in his behalf and that t are true.	he statements contained in said application
	(sign here)

PLANNING BOARD AND
ZONING BOARD OF APPEALS
TOWN/VILLAGE OF MOUNT KISCO
-----X
In the matter of the Application of

HOMELAND TOWERS, LLC and VERIZON WIRELESS
Premises: 180 S. Bedford Road
Mount Kisco, NY 10594

S-B-L: 80.44 – 1 – 1

MEMORANDUM IN SUPPORT OF APPLICATIONS FOR SPECIAL PERMIT, SITE PLAN APPROVAL, STEEP SLOPE PERMIT, AND APPEAL OF BUILDING INSPECTOR INTERPRETATION, OR IN THE ALTERNATIVE A REQUEST FOR AREA VARIANCES, BY HOMELAND TOWERS, LLC AND VERIZON WIRELESS TO LOCATE A WIRELESS TELECOMMUNICATIONS FACILITY AT 180 S. BEDFORD ROAD

I. Introduction

Homeland Towers, LLC ("Homeland Towers") and Verizon Wireless (together "Applicants") respectfully submit this memorandum in support of the applications filed ("Application") for a wireless telecommunications facility ("Facility") located at 180 South Bedford Road, Mount Kisco, NY 10594 ("Property").

II. Statement of Facts

The Property is identified by SBL 80.44 - 1 - 1 on the Town/Village of Mount Kisco ("Village") Tax Map, with a postal address of 180 South Bedford Road, Mount Kisco, NY 10594 and is located in the Conservation Development ("CD") Zoning District.

The proposed Facility will be used to provide federally licensed wireless communication services to the Village and surrounding area. The Facility will include a 140-foot monopole (145 feet to the top of the branches), designed to resemble a tree ("Monopine") to support the antennas of Verizon Wireless, while providing collocation space for similar federally licensed wireless carriers and emergency communications equipment, with related equipment installed within a fenced equipment compound at the base thereof.

The Facility is proposed to be located on a Property outside of the Personal Wireless Service Facilities Overlay District ("Overlay District") because the significant gap in service could not be remedied from within the Town's Overlay District. See Radio Frequency Justification Report prepared by V-COMM, L.L.C dated August 17, 2020, and as supplemented on October 28, 2020 ("RF Report"); See also, Alternatives Site Analysis prepared by Klaus Wimmer of Homeland Towers dated August 14, 2020, and as supplemented on October 29, 2020 ("ASA").

III. Public Utility Status

Under the laws of the State of New York Verizon Wireless is qualified as a public utility for zoning purposes. See Cellular One v. Rosenberg, 82 N.Y.2d 364 (1993) (hereinafter referred to as "Rosenberg"), Cellular One v. Meyer, 607 N.Y.S. 2d 81 (2nd Dept. 1994) and Sprint Spectrum, L.P. v. Town of West Seneca, (Index No. 1996/9106 Feb 25, 1997, Sup. Ct. Erie County). In Rosenberg, supra, the Court of Appeals, New York's highest court, held that federally licensed wireless carriers (such as Verizon Wireless) provide an essential public service and are public utilities in the State of New York. Public utilities should be accorded favored treatment in zoning matters. See Rosenberg.

Verizon Wireless's status as a public utility is underscored by the fact that its services are an important part of the national telecommunications infrastructure and will be offered to all persons that require advanced digital wireless communications services, including local businesses, public safety entities, and the general public.

In addition to its status as a public utility, Verizon Wireless is licensed by the Federal Communications Commission ("FCC").

There is also a public need for Verizon Wireless's service, as evidenced by the granting of licenses to Verizon Wireless by the FCC. This grant constitutes a finding that the public interest will be served by the Verizon Wireless's service and is consistent with the public policy of the United States "to make available so far as possible, to all people of the United States a rapid, efficient, nationwide and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication . . . [.]" 47 U.S.C. §151.

The instant application is filed in furtherance of the goals and objectives established by Congress under the federal Telecommunications Act of 1996 ("TCA"). The TCA is "an unusually important legislative enactment," establishing national public policy in favor of encouraging "rapid deployment of new telecommunications technologies (emphasis supplied)." Reno v. ACLU, 521 U.S. 844, 857 (1997).

In fact, in 1999, Congress expanded further upon this policy by enacting the Wireless Communications and Public Safety Act of 1999, Pub.L. 106-81, 113 Stat. 1286 (the "911 Act"). The "911 Act," empowered the FCC to develop regulations to make wireless 911 services available to all Americans. The express purpose of the Act, as articulated by Congress, was "to encourage and facilitate the prompt deployment throughout the United

States of seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs" (emphasis added).

A state or local government's authority to regulate "the placement, construction, and modification of personal wireless service facilities," is limited by the federal requirements set forth in Section 332(c)(7)(B) of the TCA. 47 U.S.C. § 332(c)(7)(a). The Facility is a "personal wireless service facility" as defined by the TCA. 47 U.S.C. § 332(c)(7)(c). Pursuant to Section 332(c)(7)(B) the zoning authority of a State or local government, or instrumentality thereof, with regards to personal wireless service facilities is limited as follows:

- 1) No zoning decision or action shall "unreasonably discriminate among providers of functionally equivalent services," or "prohibit or have the effect of prohibiting the provision of personal wireless services." 47 U.S.C. §332(c)(7)(B)(i);
- 2) Decisions and actions on zoning and construction applications must be made "within a reasonable period of time." 47 U.S.C. §332(c)(7)(B)(ii);
- 3) Any "decision shall be in writing and supported by substantial evidence contained in a written record." 47 U.S.C. §332(c)(7)(B)(iii); and
- 4) No action or decision shall be made "on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." 47 U.S.C. §332(c)(7)(B)(iv).

Please further note that on November 18, 2009, the FCC issued a Declaratory Ruling regarding timely review of applications for siting of wireless facilities, WT Docket NO. 08-165 (the "Shot Clock Order"). The Shot Clock Order finds that a "reasonable period of time" for a local government to act on this type of application, an application for a new tower, is presumptively 150 days. The FCC again clarified the 150 day "Shot Clock" (2018 Third Report and Order) and in the implementing regulations contained in 47 C.F.R. § 1.6003. According to the Shot Clock Order and 47 C.F.R. § 1.6003(c)(1)(iv), if the Village fails to act within 150 days of filing a complete application, the applicant may commence an action in court for "failure to act" under Section 332(c)(7)(B)(v) of the TCA.

IV. The Zoning Approvals Required for the Proposed Facility Being Located Outside of the Overlay District

The Applicants respectfully appeal the Building Inspector's interpretation contained in the Building Inspector Memo dated October 6, 2020 ("Building Inspector Memo") that the conditions of the Overlay District apply to the Facility located outside of the Overlay District.

Section 110-27.1(H) of the Zoning Code states as follows:

Special permits for sites outside the Personal Wireless Service Facilities Overlay District. Personal wireless service facilities at sites outside the Personal Wireless Service Facilities Overlay District shall require a special permit from the Village Board if the site is located on Village-owned property and the Planning Board if the site is located on any other property, and shall be permitted only if a New York State-licensed professional engineer specializing in electrical engineering with expertise in radiocommunication facilities establishes to the satisfaction of the approving agency all of the following:

- (1) That the personal wireless service facility is needed to provide coverage to an area of the Village that currently has inadequate coverage and is of the minimum height and aesthetic intrusion necessary to provide that coverage;
- (2) That coverage cannot be provided by a personal wireless service facility located within the Personal Wireless Service Facilities Overlay District;
- (3) That all reasonable measures in siting the personal wireless service facility within the Personal Wireless Service Facilities Overlay District have been exhausted; and
- (4) That technical and space limitations prevent location or colocation in the Personal Wireless Service Facilities Overlay District.

As clearly stated in the above code section because the Facility is to be located on a Property "outside the Personal Wireless Service Facilities Overlay District," and the Property is not "Village-owned," the Facility shall be approved by special permit from the Planning Board, if the Applicants meet the four above listed criteria. The standards set by the Village Zoning Code for personal wireless service facilities within the Overlay District do not apply to the proposed Facility, instead the Zoning Code requires that only the four above listed criteria be satisfied for special permit approval.

It is important to note that the Village has previously determined that the requirements of the Overlay District do not apply to properties outside of the Overlay District. In fact, the Village made this exact determination approximately one year ago for a facility located on Village owned property at 1 Mountain Avenue. See Memo from Village Attorney dated May 20, 2019 ("Village Attorney 2019 Memo").

By implication, the local law states that applications exempted by § 110-27.1 H do not have to comply or be "in accordance with the criteria set forth in this section [§ 110-27.1] and in § 110-46 of the Zoning Law." In fact, § 110-27.1 H sets forth a completely different set of criteria by which to evaluate such applications. [§ 110-27.1 H(1)-(4)].

¹ A copy of the Village Attorney 2019 Memo has been annexed hereto for your convenience.

See Village Attorney 2019 Memo.

Ultimately the Applicants must be afforded the same legal interpretation of the Zoning Code as was given for the Village's own property, and the Village must be bound by its own precedent. To do otherwise would be arbitrary, capricious, and discriminatory. See Knight v Amelkin, 68 N.Y.2d 975, 978 (1986) ("because petitioners have shown earlier determinations of the Board reaching contrary results on essentially the same facts, an explanation or, in the alternative, a conforming determination, is required."); See also Town of New Castle v. Kaufmann, 72 N.Y.2d 684, 686 (1988) ("[w]hen such a construction would thwart the settled purposes of the statute, however, literal and narrow interpretations should be avoided."); See also 47 U.S.C. § 332(c)(7)(B)(i)(I).

Therefore, the Applicants respectfully appeal the Building Inspector's interpretation contained in the Building Inspector Memo that the standards for the Overlay District apply to this Facility, as both the clear language of the Village Zoning Code, and the past precedents set by the Village, demonstrate that the Overlay District requirements do not apply to this Facility on this Property. As such a height variance and setback variances are not required.

In addition, the Applicants also appeal the Building Inspector's interpretation that a height variance is required pursuant to §110-27.1(E)(3). See Building Inspector Memo. For the reasons set forth above, §110-27.1(E)(3) does not apply to the Facility because it is located outside of the Overlay District. However, even if it were found that §110-27.1(E)(3) applied to the Facility located outside of the Overlay District, §110-27.1(E)(3) does not require the Applicants to seek a variance because the language of the Zoning Code clearly and unambiguously authorized the Planning Board to approve any height as long as the height is proven necessary. Section 110-27.1(E)(3) states as follows:

Maximum height. Unless the FCC promulgates rules to the contrary or the applicant demonstrates to the satisfaction of the board granting the special permit that a greater height is necessary, the maximum height for a tower or monopole shall be 80 feet above ground level or the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Village, whichever is less.

As the Code clearly states, the 80-foot maximum height limitation does not apply if "the applicant demonstrates to the satisfaction of the board granting the special permit that a greater height is necessary." Therefore, since the Applicants have submitted an RF Justification Report that demonstrates the proposed height of 140 feet (145 to the top of faux branches) is necessary, a variance from §110-27.1(E)(3) is not required. See RF Justification Report.

The Building Inspector Memo also states that a variance from §110-7(C)(3)(a) could be required as the solar project proposed on the Property would not meet the minimum lot area requirement. Section 110-7(C)(3)(a) only sets a minimum lot area for the solar project.

Therefore, as the proposed Facility is an entirely separate and distinct use, the Applicants cannot be required to obtain a variance from this Zoning Code requirement for Tier 3 solar energy facilities. Moreover, the Property meets the requirements for the minimum lot size for both §110-7(C)(3)(a) and §110-27.1(E)(4), as the property is 25 acres in size. See Site Plan Sheet SP-1. The addition of the Facility will not reduce the size of the Property. Minimum lot size is a requirement for the size of the property and not a requirement for the amount of building or development coverage on a property. In fact, the Village Code sets separate and distinct requirements for the amount of development coverage for the solar facility. See Village Code §110-7(C)(3)(c). However, the conditions within §110-7(C)(3) only apply to the proposed solar facility and there are no maximum development coverage limitations in the Code for the Facility.

Based on all of the aforementioned it is respectfully requested that the Zoning Board of Appeals find that: (1) the standards for facilities within the Overlay District do not apply to this Facility located outside of the Overlay District; (2) there is no requirement for a variance for the height of the Facility if "the applicant demonstrates to the satisfaction of the board granting the special permit that a greater height is necessary"; (3) no setback variances are required; and (4) no variance from §110-7(C)(3)(a) is required for this Facility as that Zoning Code section only applies to "Tier 3 solar energy facilities."

V. The Proposed Facility Meets the Special Use Permit Standards

A special use permit is permitted as of right when the applicant has demonstrated compliance with the applicable standards. See Matter of North Shore Steak House v. Board of Appeals of Inc. Vil. of Thomaston, 30 N.Y.2d 238 (1972).

In reviewing the Application, the following factors are offered for consideration in accordance with the Zoning Code. Please note that the following sections in **bold** face type are the actual quotes from the Zoning Code, and the response to each section is noted below.

Special permits for sites outside the Personal Wireless Service Facilities Overlay District. Personal wireless service facilities at sites outside the Personal Wireless Service Facilities Overlay District shall require a special permit from the Village Board if the site is located on Village-owned property and the Planning Board if the site is located on any other property, and shall be permitted only if a New York State-licensed professional engineer specializing in electrical engineering with expertise in radiocommunication facilities establishes to the satisfaction of the approving agency all of the following:

As noted above the Property is located outside the Overlay District and is not on Village-owned property, therefore the Applicants have requested special permit approval from the Planning Board. The RF Report submitted with the Application has been signed and sealed by Peter Longo, P.E. a professional engineer licensed in the state of New York. <u>See</u> RF Report.

(1) That the personal wireless service facility is needed to provide coverage to an area of the Village that currently has inadequate coverage and is of the minimum height and aesthetic intrusion necessary to provide that coverage; The RF Report demonstrates that there is "a significant gap in coverage for Verizon Wireless," and that "a new wireless facility is needed." The RF Report also demonstrates that the proposed height "is the minimum height needed to provide the capacity and coverage required." Furthermore, the Visual Resource Assessment prepared by Saratoga Associates, dated July 29, 2020, and as supplemented on September 28, 2020 ("VRA") demonstrates that the Facility has been strategically located on the Property so that it is not visible from a vast majority of the Village. Moreover, the Applicants have proposed a stealth design Monopine to camouflage the Facility, and further reduce any visibility. The Facility is the least intrusive means available to fill the significant gap in coverage identified in the areas surrounding the Property.

(2) That coverage cannot be provided by a personal wireless service facility located within the Personal Wireless Service Facilities Overlay District;

As demonstrated in the RF Report "[t]he Overlay District is approximately 5,500 feet away from the proposed location and is outside of the coverage gap area, therefore it will not provide the required coverage to this intended area for this proposed site."

(3) That all reasonable measures in siting the personal wireless service facility within the Personal Wireless Service Facilities Overlay District have been exhausted; and

As noted above, and in the RF Report, it would be futile for the Applicants to attempt to locate the Facility within the Overlay District because it is too far away from the coverage gap area and a facility in the Overlay District "will not provide the required coverage to this intended area for this proposed site." See RF Report.

(4) That technical and space limitations prevent location or colocation in the Personal Wireless Service Facilities Overlay District.

As noted above, and in the RF Report, the technical limitations of where the coverage is needed prevents Verizon from filling the identified significant gap in coverage by locating equipment in the Overlay District. See RF Report. Neither collocation on an existing facility or constructing a new facility within the Overlay District will allow the Applicants to address the significant gap in coverage identified in the areas surrounding the Property. See RF Report. The Overlay District is too far, and "will not provide the required coverage to this intended area for this proposed site." The RF Report also states that "[a] review of the surrounding area reveals absence of existing tall structures, towers, or water tanks that meet all the requirements for a wireless facility," which demonstrates that collocation outside the Overlay District on an existing structure is also not possible, and that the proposed Facility is necessary to cure the significant gap in coverage. Additional information on the Applicants' efforts to locate a facility on an existing tall structure is included in the ASA, which further demonstrates that there are no available tall structures that could support a facility and remedy the significant gap in coverage identified in the RF Report. See ASA.

Section 110-46 of the Village Zoning Code contains general requirements for special permit approvals, which the Applicants have also satisfied.

A. Notice and public hearing. The Planning Board shall not decide on any application for a special permit without first holding a public hearing, notice of which hearing,

including the substance of the application, shall be given by publication in the official newspaper of the Village at least 15 days before the date of such hearing. In addition to such published notice, the applicant shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lies within 300 feet of the property for which approval is sought and to such other owners and by such other means of notification as the Planning Board may deem advisable.

The Applicants have submitted an Application to request such a public hearing and will comply with above listed public notice requirements.

- B. In approving special permits, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives:
- (1) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

As demonstrated in the Application materials submitted herewith, including the VRA, the Facility has been strategically located and designed so as to fill the identified significant gap in service. The Facility will be in harmony with the appropriate and orderly development of the district, and will not be detrimental to the orderly development of adjacent properties. See VRA. The Facility is minimally visible and has incorporated a stealth monopine design to further blend the Facility into its surroundings and camouflage views of the Facility from the public. See VRA.

(2) That, in addition to the above, in the case of any use located in or directly adjacent to either a residence district or a district in which residential uses are permitted, the location and size of such use, the nature and intensity of operations involved or those conducted in connection therewith and its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the residential uses or conflict with the normal traffic of the neighborhood.

The Facility is unmanned and only requires infrequent (approximately one technician per month) service visits. Therefore, the Facility will have a negligible impact on traffic, and "will not be hazardous or inconvenient to or incongruous with the residential uses or conflict with normal traffic of the neighborhood." See EAF. An existing access drive will be utilized. The Facility has been placed on the Property and has been limited in sized and properly designed to resemble a tree so as to "not be hazardous or inconvenient to or incongruous with the residential uses or conflict with the normal traffic of the neighborhood."

C. Each application for a special permit shall be accompanied by a proposed plan showing the size and location of the lot and the location of all existing and proposed buildings and facilities, including access drives, parking areas and all streets within 200 feet of the lot.

The Applicants have submitted a Site Plan with their application that shows "the size and location of the lot and the location of all existing and proposed buildings and facilities, including access drives, parking areas and all streets within 200 feet of the lot." See Site Plan.

D. Each application for a special permit shall be accompanied by a fee as set forth in Chapter A112, Fees, of this Code. In addition thereto, and in order to ensure that the cost to the Village of any engineering, planning, legal or other expert consultations required in connection with the review of any application for a special permit shall be borne by the applicant, the applicant shall, upon the submission of an application pursuant to this section, deposit with the Treasurer of the Village/Town of Mount Kisco a sum in the amount set forth in § A112-110C of this Code; provided, however, that upon a resolution of the Planning Board, adopted by a vote of not less than 2/3 of the membership of such Board, finding that a deposit in a lesser amount will be sufficient to satisfy the anticipated cost of reviewing the application, the applicant may satisfy its obligation under this section to make an initial deposit by depositing such lesser amount. The Planning Board shall not consider any application for which a deposit is required under this section until the Treasurer has certified that the required deposit has been made. The sum deposited shall be held by the Treasurer in a separate trust and agency account for the benefit of the applicant and will be disbursed by the Treasurer for the payment of such engineering, planning, legal or other expert consultations as are required by the Board of Trustees, Planning Board or Village Manager for the review of the application for a special permit or other application related thereto, in accordance with the usual requirements of the Village for the payment of bills. In the event that, prior to the completion of the review of the application, the sum deposited is depleted to the amount set forth in column B of § A112-110C, the applicant shall deposit an additional amount as set forth in column C of § A112-110C. Review of the application shall be suspended until the applicant makes the additional required deposit. After the final action of the Planning Board with respect to the application, and upon payment of all of the fees for the reviews contemplated herein, the balance remaining in the trust and agency account shall be returned to the applicant. The requirements of this section shall be strictly enforced by the Planning Board and the Building Inspector, and no certificate of occupancy shall be granted until all of the fees required to be paid pursuant to this section have been paid.

The Applicants have paid the required application fees and have submitted escrow funds as required by the Planning Board.

E. In cases where a parcel of land for which a special permit has been requested is located within 500 feet of the boundary of another municipality, the Secretary of the Planning Board shall transmit a copy of the official notice of hearing to the Municipal Clerk of the affected municipality. Said notice shall also be submitted to the

Westchester County Planning Board when so required by the Westchester County Administrative Code.

The Property is within 500 feet of the Town of Bedford, and the Applicants request that the Village direct the Secretary of the Planning Board to make the above noted referrals as required by GML §239-M and the Westchester County Administrative Code.

F. The Planning Board may review any previously granted special permit for compliance with conditions imposed. Such review shall follow public notice given 15 days before a public hearing held thereon. Personal service of the notice of such hearing shall be made upon the owner of the property 15 days before the public hearing held thereon. Said special permit may be revoked following said hearing only upon a determination by the Planning Board to the effect that such conditions as may have been prescribed previously by the Planning Board in conjunction with the issuance of the special permit have not been or are no longer being complied with. The Planning Board shall set forth, in writing, said conditions that are no longer being met, following which a period of 60 days shall be granted for the applicant to comply with such conditions. If the applicant fails to comply within said sixty-day period, the special permit may be revoked.

The Application herein is an initial request for a new special permit and therefore the above subsection is not applicable.

As noted above because the Facility is located outside of the Overlay District, meets the criteria for being located outside the Overlay District and meets the general special permit requirements, the Planning Board shall approve the Applicants' requested special use permit. See North Shore Steak House, N.Y.2d 238. Therefore, the Applicants respectfully request that the Planning Board approve the requested special permit for the Facility.

In the event that the Applicants' appeal regarding the applicability of the conditions contained in §110-27.1 is denied, the Applicants offer the following statements in support of the requested special permit.

§110-27.1

B. Permitted uses. Except as specified in § 110-27H (Special permits for sites outside the Personal Wireless Service Facilities Overlay District), all new personal wireless service facilities, and all additions and/or modifications to currently existing personal wireless service facilities, shall be allowed only in the Personal Wireless Service Facilities Overlay District and only pursuant to a special permit issued by the Planning Board in accordance with the criteria set forth in this section and in § 110-46 of the Zoning Law.

The Application includes a request for a special permit from the Planning Board.

C. Underlying zoning regulations. The requirements of the underlying zoning districts shall apply within the Personal Wireless Service Facilities Overlay District unless the provisions set forth in this section are deemed more stringent than the underlying requirements. All structures and facilities accessory to personal wireless service

facilities, including but not limited to equipment sheds, parking areas, anchors, bases and pads, shall comply with the existing setback and dimensional regulations established for principal structures in the underlying zoning district, except for the height of a proposed tower or monopole.

The Facility has been located so as to meet all of the required setbacks for the underlying Conservation Development District. See Site Plan Sheet SP-1. Please note that the setback and bulk requirements contained in §110-7(C)(3) for the proposed solar facility does not apply to this Application.

D. Data requirements. Applicants for special permits shall file with the Village Clerk 3 copies and with the Planning Board 11 copies, of the following documents:

The Applicants have submitted the required number of copies to the Village.

(1) Site plan. A site plan, in conformance with applicable site plan submission requirements contained in § 110-45 of the Zoning Law. The site plan shall show elevations, height, width, depth, type of materials, color schemes and other relevant information for all existing and proposed structures, equipment, parking and other improvements. The site plan shall also include a description of the proposed personal wireless service facility and such other information that the Planning Board requires.

The Site Plan submitted with the Application includes the elevations, height, width, depth, type of materials, color schemes and other relevant information for all existing and proposed structures, equipment, parking and other improvements. See Site Plan.

(2) Environmental Assessment Form. A completed Environmental Assessment Form ("EAF"), including the Visual EAF Addendum. Particular attention shall be given to visibility from key viewpoints identified in the Visual EAF Addendum, existing treelines and proposed elevations.

An EAF with the Visual EAF addendum has been submitted with the Applications. See EAF. The Applications have also submitted a Visual Resource Assessment with additional information regarding the limited visibility of the Facility. See VRA.

(3) Landscape plan. A landscape plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, buffers, screening elevations of fences and materials used. For towers or monopoles, the landscape plan shall address the criteria set forth in § 110-27.1F(3).

A landscape plan has been included on Sheet LS-1 of the Site Plan.

(4) Documentation of proposed height. Documentation sufficient to demonstrate that the proposed height is the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Village.

The RF Report demonstrates the proposed height is the minimum height necessary. <u>See</u> RF Report.

(5) Statement regarding colocation. For new personal wireless service facilities, a statement by the applicant as to whether construction of the facility will accommodate colocation of additional facilities for future users.

Homeland Towers has submitted a letter dated October 27, 2020 stating that it will accommodate collocation of additional facilities for future users, including future municipal communications equipment ("Collocation Commitment Letter"). See also, Site Plan Sheets AP-1 and AP-2.

(6) Structural engineering report. A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the personal wireless service facility. In the case of a tower or monopole, the structural engineering report shall describe the structure's height and design, including a cross section of the structure, demonstrate the structure's compliance with applicable structural standards and describes the structure's capacity, including the number of antennas it can accommodate and the precise point at which the antenna shall be mounted. In the case of an antenna mounted on an existing structure, the structural engineering report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure and the precise point at which the antenna shall be mounted.

Submitted with this Application is a Structural Letter dated September 16, 2020 ("Structural Letter"), certifying that the 140-foot-tall Facility (145 feet top of faux branches) will be designed in compliance with all applicable federal, state, and local structural requirements for loading, including wind and ice load. See Structural Letter. The Structural Letter also states that the Facility "will be designed to support at least four (4) antenna arrays." In addition, the Structural Letter also certifies that "the proposed tower will be designed with a 'hinge-point' at elevation 31' AGL (closest property line distance is 109' +/-) so that in the unlikely event of a catastrophic failure occurring, the tower fall zone will be contained within the subject parcel." The Site Plan also includes cross sections of the Tower. See Site Plan.

(7) Engineering analysis of radio emissions. An engineering analysis of the radio emissions and a propagation map for the proposed personal wireless service facility. The analysis shall be prepared and signed by a New York State-licensed professional engineer specializing in electrical engineering with expertise in radio-communication facilities. The results from the analysis must clearly show that the power density levels of the electromagnetic energy generated from the proposed facility are within the allowable limits established by the FCC which are in effect at the time of the application. If the proposed personal wireless service facility would be colocated with an existing facility, the cumulative effects of the facilities must also be analyzed. The power density analysis shall be based on the assumption that all antennas mounted on the proposed facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.

Submitted with this Application is an Antenna Site FCC RF Compliance Assessment and Report prepared by Pinnacle Telecom Group, dated August 11, 2020 ("FCC Compliance Report") that certifies the Facility will comply with the FCC rules and regulations regarding radio frequency emissions. The FCC Compliance report demonstrates that under worst-case conditions "the conservatively calculated maximum RF level caused by the combination of antenna operations is 2.0130 percent of the FCC general population MPE limit." Therefore, the Facility is more than 45 times below the FCC limit and is in compliance. See FCC Compliance Report.

(8) Map of proposed coverage and existing facilities. A map showing the area of coverage of the proposed facility and listing all existing personal wireless service facilities in the Village and bordering municipalities containing personal wireless service facilities used by the applicant, and a detailed report indicating why the proposed personal wireless service facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are located within and outside the Village, by colocation and otherwise.

The RF Report includes the above noted coverage maps and information regarding existing facilities. The RF Report demonstrates that there is a significant gap in coverage in the areas surrounding the Property and that the Facility is of the minimum height necessary to fill the gap in coverage. See RF Report.

- E. Criteria for special permit applications. Applicants for special permits for establishment or construction of personal wireless service facilities shall meet all of the following criteria:
- (1) Necessity. The proposed personal wireless service facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are located within and outside the Village, by colocation and otherwise.

The Applicants have demonstrated that the proposed Facility is necessary and that existing facilities do not provide reliable service to the area in question resulting in the existing significant gap in coverage identified in the RF Report. See RF Report and ASA.

(2) Colocation. The colocation of existing personal wireless service facilities only within the Personal Wireless Service Facilities Overlay District shall be strongly preferred to the construction of new personal wireless service facilities. If a new site for a personal wireless service facility is proposed, the applicant shall submit a report setting forth in detail an inventory of existing personal wireless service facilities within the Personal Wireless Service Facilities Overlay District which are within a reasonable distance from the proposed facility with respect to coverage, an inventory of existing personal wireless service facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve and a report on the possibilities and opportunities for colocation as an alternative to a new site. The applicant must demonstrate that the proposed personal wireless service facility cannot be accommodated on an existing facility within the Personal Wireless Service Facilities Overlay District or on an existing facility in another municipality due to one or more of the following reasons:

- (a) The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved personal wireless service facilities within the Personal Wireless Service Facilities Overlay District, considering existing and planned use for those facilities.
- (b) The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.
- (c) Existing or approved personal wireless service facilities within the Personal Wireless Service Facilities Overlay District or in neighboring municipalities do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good-faith effort, to reach an agreement with the owners of such facilities.
- (d) Other reasons make it impracticable to place the proposed equipment on existing and approved personal wireless service facilities within the Personal Wireless Service Facilities Overlay District on existing facilities in other municipalities.
- (e) Service to the locations to which the applicant seeks to provide service cannot be provided by existing facilities within or outside the Village.

The RF Report demonstrates that the significant gap in coverage cannot be remedied by locating a facility within the Overlay District, as the Overlay District is too far away from the gap in coverage. See RF Report. The ASA also demonstrates that collocation at an existing facility outside of the Overlay District or outside of the Village is also not feasible. See ASA.

(3) Maximum height. Unless the FCC promulgates rules to the contrary or the applicant demonstrates to the satisfaction of the board granting the special permit that a greater height is necessary, the maximum height for a tower or monopole shall be 80 feet above ground level or the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Village, whichever is less.

The RF Report demonstrates that the proposed height is the minimum height necessary, and that this "greater height" is therefore necessary to fill the significant gap in coverage. See RF Report. We therefore respectfully request that the Planning Board approve the Facility with its proposed height, without the need for an area variance, as the proposed height is necessary.

(4) Minimum lot size. The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.

The CD district requires a minimum lot size of 25 acres and the Property is at least 25 acres in size. See Site Plan Sheet SP-1.

(5) Setbacks. Unless the FCC promulgates rules to the contrary, all personal wireless service facilities shall be separated from all residential dwellings by a distance of no less than 500 feet. In no case shall a setback be less than 20 feet or the minimum setback required by the underlying zoning district, whichever is greater. The setback shall increase 100 feet for each 10 feet that the personal wireless service facility exceeds the

maximum height set forth in the underlying zoning district. Setbacks from towers or monopoles shall be measured from the base of the structure.

This would require a setback of 1,600 feet, and the Sheet TR-1 of the Site Plan demonstrates that there is no location on the Property where this setback can be met. In the event the Applicants' appeal of the Building Inspector's interpretation is denied, and it is determined that the setback requirement for facilities within the Overlay District applies to this Facility, which is located outside of the Overlay District, a variance will be sought from the Zoning Board of Appeals.

(6) Security fencing. Security fencing, showing the location, materials and height, shall be provided around each tower or monopole to secure the site and provide an opaque banner. Access to the structure shall be through a locked gate.

Details on the 6 foot proposed fence is included on Sheet C-3 of the Site Plan. The access gate will be locked.

. . .

- F. Design guidelines. The proposed personal wireless service facility shall meet the following applicable design guidelines:
- (1) Finish/colors. Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted gray or blue-gray above the surrounding treeline and gray, green or tannish brown below the surrounding treeline.

There are no markings or painting required by the FAA. <u>See</u> FAA Determination of No Hazard to Air Navigation ("FAA Determination"). The Tower is proposed with a stealth monopine design as an alternative to painting the Facility.

(2) Illumination. No signals, lights or illumination shall be permitted on personal wireless service facilities unless required by the FAA or other federal, state or local authority.

There is no light on top of the Facility and no light required by the FAA. See FAA Determination.

(3) Landscaping for towers or monopoles. For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen shrubs or evergreen trees capable of forming a continuous hedge at least five feet in height within two years of planting. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All landscaping shall be properly maintained to ensure good health and viability.

. Existing vegetation will be preserved to the maximum extent practicable and will be used in supplement toward meeting landscaping requirements. A landscaping plan has been included with the Site Plan to provide further screening. <u>See</u> Sheet LS-1 of the Site Plan

(4) Visibility. All personal wireless service facilities shall be sited to have minimum adverse visual effect on residential areas, parks or major roadways.

The Facility has been strategically located and designed with a stealth monopine design to present minimum visibility. See VRA. By locating the Facility off of the ridgeline and away from a majority of the residences, and incorporating a stealth design, the Facility will be the least intrusive means to remedy the significant gap in coverage.

(5) Signage. Signage shall be prohibited on personal wireless service facilities except for signage to identify the facility which is located along the right-of-way frontage and is approved by the Architectural Review Board. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment mounting structures or antennas.

No signs are proposed on the tower and the only signs proposed are the site identification sign and the FCC required signage. See Site Plan Sheet C-3.

Therefore, based on all the aforementioned reasons, the Applicants have met all of the applicable criteria for special permit approval and respectfully request that the Planning Board issue the special permit for the Facility.

VI. The Facility Meets the Requirements for Site Plan Approval

The instant application also involves a request for site plan approval pursuant to §110-45 of the Zoning Code. A site plan is permitted as of right when the applicant has demonstrated compliance with the applicable standards.

In reviewing the application, the following factors are offered for consideration in accordance with the Zoning Code. Please note that the following sections in **bold** face type are the actual quotes from the Zoning Code, and the response to each section is noted below.

A. General requirements.

(1) Site plan approval shall be required for all uses other than one-family residences and the buildings accessory thereto.

As the Facility is not a one-family residential use the Applicants respectfully request Site Plan Approval from the Planning Board.

B. Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development,

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if any, and of the immediate area in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the extent possible, further the expressed purposes of this chapter and the accomplishment of the following objectives in particular:

(1) Pedestrian and vehicular access and safety: that all proposed accessways are adequate but not excessive in number, adequate in width, grade, alignment and visibility and not located too near to street corners or other places of public assembly; and other similar safety considerations.

The Facility is unmanned and will have a negligible impact on traffic. <u>See</u> EAF. The FCC licensed services provided from the Facility will also improve pedestrian and traffic safety in the area, as wireless services are routinely used to report traffic accidents.

(2) Circulation and parking: that adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.

The Facility is unmanned and only requires infrequent (once a month) visits by a site technician, and therefore the use will not result in an increase on parking in the surrounding public streets. Adequate parking has been provided for the proposed unmanned use. <u>See</u> Site Plan.

(3) Landscaping and screening: that all areas where landscaping is required are reasonably screened at all seasons of the year, particularly from the view of adjacent residential lots and streets.

Landscaping has been proposed and can be seen on Sheet LS-1 of the Site Plan. The Facility has also been strategically located so that views from nearby residential properties in the Village are screened by vegetation or limited by topography. See VRA.

(4) Drainage and utilities: that all facilities for water, sanitary and storm sewer and other utility services are adequately designed and that the site drainage system affords the best practical solution to on- and off-site drainage problems.

The Facility presents a minimal addition of impervious surface to a large undeveloped property, does not use potable water, and does not produce waste. See EAF. Soil erosion and sediment control plans are shown on the Site Plan. See Site Plan Sheets EC-1 and EC-2. The Facility will use a gravel access drive and most areas within the equipment compound (other than foundation for tower and concrete slabs for equipment cabinets) will also be gravel, which will help capture stormwater runoff and groundwater percolation.

(5) Character and appearance: that the site layout of the proposed use, buildings, structures, freestanding signs and lighting shall be in general harmony with the character and appearance of the surrounding area and that of the Village as a whole.

As noted in the VRA, views of the Facility are limited and the Facility also includes a stealth monopine design to camouflage any potential views of the Facility. Therefore, the Facility will be consistent with the character and appearance of the surrounding area.

(6) Environmental preservation: that the proposed development or use is designed so as to minimize any adverse environmental effects; that all water bodies, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, significant geological features and other areas of scenic or ecological value are preserved to the extent possible; that soil erosion is prevented to the extent possible; and that flood hazards are minimized.

The Application also involves a request for a Steep Slope permit, and as demonstrated in the Application materials, including the EAF, the Facility will not present any significant adverse environmental effects. The Facility has been strategically located off of the ridgeline. The Facility is unmanned, does not produce waste, odors or vibrations. There are no impacts to the water table or wetlands. Only minimal tree removal is presented and the Applicants are planting trees for landscaping. In addition, the Applicants have received a concurrence that no historic properties are within the areas of potential effects from New York State Historic Preservation Office dated October 29, 2020 ("SHPO Concurrence"). The Site Plan includes soil erosion and control measures and there are no flood areas within the project site.

(7) Fire protection: that all proposed structures, equipment and materials and the design of all sites are readily accessible for fire protection.

The Facility will be constructed to comply with all applicable fire protection and fire safety codes required.

(8) Master Plan: that the proposed site plan is in general conformance with the applicable provisions of the Master Plan of the Village of Mount Kisco, as may be in existence from time to time.

The Facility will be reasonably accessible for fire protection.

(9) Illumination: that the proposed development or use is designed so as to prevent misdirected or excessive artificial light, caused by inappropriate or misaligned light fixtures that produce glare, light trespass, and/or unnecessary sky glow, to discourage the waste of electricity, and to improve or maintain nighttime public safety, utility and security.

There is no light proposed on the tower and no light is to be installed other than a maintenance light at ground level only to be used by a technician in the event they are visiting the site during night hours. See FAA Determination. The Facility does not produce glare or sky glow. See EAF. Again, the FCC licensed services provided from the Facility will promote public safety in the area.

- C. Procedure. The Planning Board shall approve or disapprove site plans in accordance with the following procedure:
- (1) Prior to the submission of a formal site plan application, the applicant shall request the Planning Board to conduct a conceptual review of the proposed site plan. The request for such review shall be accompanied by the fee therefor set forth in Chapter A112 of this Code. The purpose of the conceptual review shall be to discuss the proposed site plan and the procedures and requirements of this section so that the

necessary subsequent steps may be taken with a clear understanding of the Planning Board requirements in matters relating to the development of the site.

The Applicants filed for a conceptual review meeting but no conceptual review meeting was conducted.

(2) Within six months following the presubmission conference and at least 15 days prior to the Planning Board meeting at which the plan is initially submitted to the Planning Board for review, 10 copies of the site plan and any related information, including a letter of application, shall be submitted to the Building Inspector. The fifteen-day requirement may be reduced to a minimum of 10 days at the discretion of the Planning Board, provided that said Board finds that such reduction will not preclude a thorough review of the site plan by appropriate Village officials prior to its presentation at the Planning Board meeting at which approval is requested. Subsequent submissions, data and material as deemed necessary and so requested by the Planning Board shall be submitted to the Building Inspector at least seven days prior to the meeting during which such data or material will be reviewed, unless specifically waived by the Planning Board.

The Applicants have submitted the necessary copies to the Village Planning Department for the requested approvals from the Planning Board.

(3) Each application for site plan approval, and each application for amendment to a site plan, shall be accompanied by the fee for approval of a site plan set forth in Chapter A112 of this Code, the purpose of which shall be to help defray the administrative costs related to the review of such site plan application. In the case of an application for amendment to a site plan, the Village Manager may waive the fee required herein, in whole or in part, where the proposed amendment is minor in character and will, in the judgment of the Village Manager, require minimal review by the Planning Board and staff.

The Applicants have paid the required application fees and submitted the required escrow submissions.

(4) The Building Inspector and Village Engineer shall review each proposed site plan or amended site plan for compliance with the Village Code. The Building Inspector shall present the site plan or amended site plan to the Planning Board only after he is satisfied that it does so comply with the Village Code. The application shall be deemed submitted to the Planning Board upon its presentation to the Board by the Building Inspector at a regular meeting. In the event that the Village Code is amended during the pendency of the application in any respect which may apply to the proposed site plan or amended site plan, the Planning Board shall suspend its review of the application and take no action with respect thereto until the Building Inspector has reviewed the site plan or amended site plan for compliance with the Village Code as amended. If the Building Inspector determines that the site plan does not comply with the Village Code as amended, the Building Inspector shall so report to the Planning Board, which shall thereupon deny the application for approval of the site plan or amended site plan.

The Applicants respectfully submit that the application for Site Plan approval is complete and the Facility complies with the Village Code. It is also respectfully submitted that the time period and methods for deeming the Application complete are superseded by federal law. See Shot Clock Order and 47 C.F.R. § 1.6003.

(5) When deemed appropriate by the Planning Board, the Fire Department shall be requested to review a site plan for fire access and safety considerations.

The Fire Department has reviewed the project.

(6) Applications for amendments to an approved site plan shall be made and acted upon in the same manner with the procedure set forth above. The Planning Board may refuse to consider an application for a new site plan or amendment to an approved site plan if the Building Inspector determines that the site is not in compliance with its current approved site plan by reason of the failure of the applicant or property owner to satisfy any of the conditions imposed upon the approval of such site plan.

The Application is for original site plan approval and there are no current approved site plans applicable to the proposed Facility.

(7) Superseding Subdivision 2 of § 7-725 of the Village Law insofar as it imposes a limitation upon the time within which the Planning Board must decide upon an application for site plan approval and anything to the contrary contained therein notwithstanding, the Planning Board shall decide upon an application for approval of a site plan within six months of its submission or any public hearing held thereon, whichever shall be later, and shall not be required to decide sooner.

This code section is inapplicable as the Application must be reviewed in accordance with the reasonable period of time as interpreted by the FCC, which for the instant application is 150 days from filing a complete application. <u>See</u> 47 C.F.R. § 1.6003.

(8) In order to ensure that the cost to the Village of any engineering, planning, legal or other expert consultations required in connection with the review of any application for approval of a site plan or amendment to an approved site plan shall be borne by the applicant, the applicant shall, upon the submission of an application pursuant to this section, deposit with the Treasurer of the Village/Town of Mount Kisco a sum in the amount set forth in § A112-110C of this Code; provided, however, that upon a resolution of the Planning Board, adopted by a vote of not less than 2/3 of the membership of such Board, finding that a deposit in a lesser amount will be sufficient to satisfy the anticipated cost of reviewing the application, the applicant may satisfy its obligation under this section to make an initial deposit by depositing such lesser amount. The Planning Board shall not consider any application for which a deposit is required under this section until the Treasurer has certified that the required deposit has been made. The sum deposited shall be held by the Treasurer in a separate trust and agency account for the benefit of the applicant and will be disbursed by the Treasurer for the payment of such engineering, planning, legal or other expert consultations as are required by the Board of Trustees, Planning Board or Village

Manager for the review of the application for approval of the site plan or amendment to an approved site plan or other application related thereto, in accordance with the usual requirements of the Village for the payment of bills. In the event that, prior to the completion of the review of the application, the sum deposited is depleted to the amount set forth in Column B of § A112-110C, the applicant shall deposit an additional amount as set forth in Column C of § A112-110C. Review of the application shall be suspended until the applicant makes the additional required deposit. After the final action of the Planning Board with respect to the application and upon payment of all of the fees for the reviews contemplated herein, the balance remaining in the trust and agency account shall be returned to the applicant. The requirements of this section shall be strictly enforced by the Planning Board and the Building Inspector, and no certificate of occupancy shall be granted until all of the fees required to be paid pursuant to this section have been paid.

The Applicants have submitted the required fees and escrow funds.

- D. Site plan elements. The applicant shall submit a site plan signed and sealed by the registered architect or professional engineer responsible for the preparation of said site plan. The site plan shall include those elements hereinafter listed or as indicated by the Planning Board in the presubmission conference. This information, in total, shall constitute the site plan. Unless specifically modified by the Planning Board, the site plan shall be prepared at a scale of one inch equals 30 feet.
- (1) Legal data.
- (a) The section block and lot number of the property, taken from the latest tax records. The section block and lot is 80.44-1-1 and can be found on Sheet T-1 of the Site Plan.
- (b) The name and address of the owner of record and applicant if not the same.

The Property Owner is Skull Island Partners LLC, and the Applicants are Homeland Towers, LLP and Verizon Wireless. This information is listed on Sheet T-1 of the Site Plan.

(c) The name and address of the person, firm or organization preparing the plan.

The Site Plan has been prepared by Scott M. Chasse P.E. of APT Engineering with offices located at 567 Vauxhall Street Extension- Suite 311, Waterford, CT 06385.

(d) The date, North arrow and graphic scale.

The Site Plan includes a date, compass arrow pointing north and a graphic scale on each plan sheet.

(e) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.

The boundary information has been included in the Site Plan which includes a survey.

- (f) A vicinity map identifying the location of the site in context to the surrounding area. Sheets R-1 and SP-1 of the Site Plan include such a Map.
- (g) The location, names and existing widths of adjacent streets and curblines.

The locations, names and existing widths of adjacent streets and curblines are shown on Sheets R-1 and SP-1 of the Site Plan.

- (h) The locations and owners of all adjoining lands, as shown on the latest tax records. The locations and owners of all adjoining lands are displayed on Sheet R-1 of the Site Plan.
- (i) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.

There are no areas dedicated to public use as this is a public utility telecommunications facility. The information regarding easements can be found on the Survey included with the Site Plan and the setback information has been detailed on Sheet SP-1 of the Site Plan.

(j) A complete outline of existing deed restrictions or covenants applying to the property.

A copy of the Deed has been submitted with the Application.

(k) Existing zoning district boundaries.

This information can be found on Sheet SP-1 of the Site Plan.

- (2) Natural features.
- (a) Existing contours with intervals of two feet or less, referred to a datum satisfactory to the Village Engineer.

The Survey and Sheet SP-3 of the Site Plan contain this information.

(b) The location of existing watercourses, wetlands, wooded areas, rock outcrops, areas of slope in excess of 20%, trees with a diameter of eight inches or more, measured three feet above the base of the trunk, and other significant environmental features.

There are no watercourses, wetlands or rock outcrops near the project area. Wooded areas, steep slopes, and trees to be protected and trees to be removed are shown on the Site Plan. See Site Plan Sheet LS-1.

- (3) Existing structures and utilities.
- (a) The location of uses and outlines of structures, drawn to scale, on and within 50 feet of the lot.

Sheet SP-1 of the Site Plan displays this information.

(b) Paved areas, sidewalks and vehicular access between the site and public streets.

The access drive has been included on the Site Plan, but there are no proposed sidewalks or other paved areas for vehicles or pedestrians.

(c) Locations, dimensions, grades and flow directions of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.

Information regarding aboveground utilities can be found on sheets SP-2 and SP3. The Facility does not use potable water or produce wastewater, and therefore no waterlines, sewers or culverts are required.

(d) Other existing development, including fences, landscaping and screening.

Landscaping is proposed and can be seen on Sheet SP-3 and information regarding the eight-foot tall chainlink fence for the equipment compound can be found on Sheet CP-1.

- (4) Proposed development.
- (a) The location of proposed buildings or structural improvements.

The proposed Facility and equipment compound are shown on the Site Plan.

(b) The location and design of all uses not requiring structures, including off-street parking and loading areas.

The Facility is unmanned and the access drive provides sufficient parking for the infrequent technician visits.

(c) The location, direction, power and time of use for any proposed outdoor lighting or public-address systems.

The only light proposed would be a downward facing maintenance light only to be used in the event a technician is at the site during night hours. See Site Plan Sheet C-4.

(d) The location and plans for any freestanding signs.

No freestanding signs are proposed.

(e) The location and arrangement of proposed means of pedestrian and vehicular access, including curbs, sidewalks, driveways or other paved areas, and profiles indicating grading and cross sections showing the width of roadways and the location and width of sidewalks and curbs.

The access drive is shown on the Site Plan but there are no means for public access as the Facility is a public utility and not open to the public. However, the driveway has been widened to provide access to local emergency services in the event access to the Facility is necessary for those purposes. See Site Plan.

(f) Any proposed screening and other landscaping, including types and locations of proposed street trees, on a landscape plan prepared by a licensed architect or landscape architect.

Landscaping is proposed and has been detailed on Sheet LS-1 of the Site Plan.

(g) The location of all proposed waterlines, valves and hydrants, the location of storm sewers and drainage facilities and the location of all sewer lines and appurtenances or the location of alternate means of water supply and sewage disposal and treatment.

The Facility does not use water and does not produce sewage, therefore none of the above waterlines or sewer lines are proposed. See EAF.

(h) An outline of any proposed easements, deed restrictions or covenants.

The access drive is shown on the Site Plan and there are no relevant deed restrictions or covenants to be shown. See Survey on Site Plan and Sheet SP-2 of Site Plan.

- (i) A quantitative summary of proposed site plan features, to include the gross lot area, net lot area, site development coverage, building coverage and building square footages. This information is detailed on Sheet SP-1 of the Site Plan.
- (j) Any contemplated public improvements on adjoining properties.

There are no contemplated public improvements on adjoining properties.

(k) Any proposed new grades, indicating clearly how such grades will meet existing grades.

All proposed grading information can be found on Sheet SP-3 of the Site Plan.

(1) An illumination plan in accordance with § 110-32C of this chapter.

As the only lighting proposed is a downward facing maintenance light only to be used in the event of a technician working at night. An illumination plan can be found on Sheet C-4 of the Site Plan. There is no light proposed on the tower. See FAA Determination.

(5) If the site plan encompasses a large tract with several principal buildings, the applicant may submit a staging plan for the entire tract, or the Planning Board may require an overall plan for said tract in accordance with existing zoning controls, assuming the first-stage use encompasses the entire tract. Such a plan shall indicate an overall illustrated design for the entire site, plus detailed information for the first stage or stages. The Planning Board shall review the stage presented in accordance with the provisions of this section and also with reference to the overall development planned for the site.

This project is not being proposed in stages.

(6) The submission shall also include a completed site plan application checklist, copies of which are available from the Building Inspector.

The Applicants have submitted the Site Plan Application Checklist.

(7) Upon findings of the Planning Board that, due to special conditions peculiar to a site, certain of the information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive the provision of such information, provided that such waiver will not have detrimental effects on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the site plan submission, Official Map, Village Comprehensive Plan or this chapter.

The Applicants respectfully request the waivers as noted in this Memo.

(8) A stormwater pollution prevention plan consistent with the requirements of Article XIV of this chapter and Chapter 92A shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article XIV of this chapter. The approved site plan shall be consistent with the provisions of Article XIV of this chapter and Chapter 92A. [Added 1-7-2008 by L.L. No. 1-2008]

The Site Plan includes the necessary stormwater pollution prevention plan details.

Therefore, based on all the aforementioned reasons, the Applicants have met all of the applicable criteria for site plan approval and respectfully request that the Planning Board issue site plan approval for the Facility.

VII. The Facility Meets the Statutory Requirements for the Area Variances Requested and is a Public Utility

In the event Applicants' appeal of the Building Inspector's Interpretation is denied, the Applicants respectfully request in the alternative area variance relief from the variances noted in the Building Inspector Memo, and as stated with more specificity below.

- 1) Relief from setback of 1,600 feet from all residential dwellings contained in §110-27.1(E)(4); and
- 2) Relief from maximum height set by §110-27.1(E)(3).

Where a zoning board is considering an application involving a public utility, such as in the instant case, there is a relaxed standard for the requested variances. The Court in Rosenberg, supra, held that the traditional test for a variance does not apply to public utilities, such as Verizon Wireless, and that public utilities are entitled to a public utility variance exception. The Court held that the test for a variance for a public utility only requires the utility to show that the application is necessary "to render safe and adequate service and that

there are compelling reasons economic or otherwise," for the Facility at the Property. <u>Id.</u> at 372. The Court further found that "where the intrusion or burden on the community is minimal, the showing required by the utility shall be correspondingly reduced." <u>Id.</u> at 372. The Court also made clear that a zoning board may not exclude a utility from a community where the utility has shown a need for its facilities. <u>Id.</u> "This has been interpreted in the context of zoning decisions for telecommunications facilities to require that '[a] telecommunications provider that is seeking a variance for a proposed facility need only establish [1] that there are gaps in service, [2] that the location of the proposed facility will remedy those gaps and [3] that the facility presents a minimal intrusion on the community." New York SMSA Ltd. Partnership v. Vil. of Floral Park Bd. of Trustees, 812 F.Supp.2d 143, 154 (EDNY 2011), quoting Site Acquisitions, Inc. v. Town of New Scotland, 2A.D.3d 1135, 770 N.Y.S.2d 157 (3d Dep't 2003); <u>See also, Decarr v. Zoning Bd. of Appeals for Town of Verona</u>, 62 N.Y.S.3d 244, 247 (4th Dept 2017); <u>See also, Omnipoint Commc'ns, Inc. v. City of White Plains</u>, 430 F.3d 529, 535 (2d Cir. 2005).

As demonstrated in the RF Report, the proposed Facility is necessary to fill a significant gap in service for Verizon Wireless. See RF Report. The service provided by the Facility will fill the identified significant gap in, and enhance reliable wireless coverage to public and private users, including police, fire, ambulance and emergency response personnel. In addition, the Facility will be designed to support future municipal emergency communications equipment. See Site Plan Sheets CP-1, A-1, and A-2. This Facility also offers the ability for collocation of additional carriers in the area. Thus, by approving the requested variances the Zoning Board will further the Applicants' goal to provide those living, working, and traveling within the areas surrounding the Facility with reliable personal wireless services.

The Facility on the Property in the instant case is ideally located to remedy the gap in service. The size, location, height, bulk, use and appearance of the Facility is such that the Facility will be in harmony with the character of the neighborhood for a number of reasons. First, due to its location in a less densely populated area of the Village, on a property containing and surrounded by tall trees, the Facility will fill the significant gap in wireless services while providing a Facility that is minimally visible to the surrounding public. See VRA. Second, the Facility will comply with all applicable laws and standards, and will not adversely affect the public health, safety or the general welfare, as demonstrated by the FCC Compliance Report and EAF. Third, the Facility has been designed to include a hinge point that will reduce the fall zone. See Structural Letter. With the closest Property line being approximately 109 feet away the Facility has been designed to fall well within the Property lines in the unlikely event of a collapse. See Structural Letter. Fourth, the Facility will serve the neighborhood and benefit the entire community by filling a significant gap in wireless telecommunications services, which is particularly well suited for responding to accidents, lost hikers, natural disasters, and for reporting medical emergencies and other dangers such as potential criminal activity. Fifth, the Facility is the minimum height necessary to remedy the gap in service. See RF Report. Sixth, the Facility includes a stealth Monopine design to further reduce the visibility of the Facility. See VRA and Site Plan.

Furthermore, the project will not adversely affect the environment. <u>See</u> EAF. The project will have no impact on pedestrian or vehicular traffic, since the proposed Facility is

unmanned requiring infrequent maintenance visits of approximately once per month. The nature of the operations in connection with the project will not be objectionable to nearby properties or the environment since the Facility will not produce any smoke, odor, heat, dust, or fumes. See EAF. In addition, the Facility will be unmanned, will not generate solid waste, waste water or sewage, and will not require water supply or waste disposal, and will not attract insects, vermin or other vectors. Also, the Applicants have submitted a letter from APT Engineering dated October 29, 2020 ("Generator Letter") confirming that the generator proposed at the Facility will still be compliant with the Village Code Requirements. See Generator Letter. The Facility will have no impact on historic or scenic resources. See SHPO Concurrence. Therefore, based on all of the aforementioned reasons the Facility will not have an adverse environmental impact.

With respect to health and safety, the FCC Compliance Report previously submitted, establishes that RF emissions from the Facility, even under worst case conditions, will be in compliance with all safety criteria specified by the FCC as required by the TCA. In fact, the emissions from the Facility under worst case scenarios are still less than 2.02% of the FCC limit or approximately 45 times below the applicable limit. See FCC Compliance Report.

Finally, there are no other means feasible for the Applicants to pursue, other than the area variance(s) since there are no locations on the Property that allow for the Facility to be located to at least 1,600 feet from all residences and the height proposed is the minimum height necessary. See Site Plan Sheet TR-1 and RF Report. However, the proposed location for the Facility on the Property does provide at least a 197-foot setback from the nearest existing residential dwelling (care-taker cottage on Marsh Sanctuary property), which is over the height of the Facility plus 50 feet. See Site Plan Sheet TR-1. It should also be noted that the next closest residence, that is not on the Marsh Sanctuary property, is located approximately 388 feet away from the tower, which is over two-and one-half times the height of the Facility. See Site Plan Sheet TR-1. The Facility includes a stealth design to further reduce visibility of the Facility. See VRA. Also, the Facility has been designed so as to fall completely within the Property lines in the unlikely event of a collapse. See Structural Letter.

Based on the foregoing, it is respectfully submitted that the Applicants have complied with the requirements for the grant of the requested area variances pursuant to the Rosenberg standard applicable to public utilities. As stated above because the FCC licensed carriers are public utilities for zoning purposes and the area variances requested are reviewed under the public utility exception standard. See Decarr, at 247 ("[m]oreover, inasmuch as the Applicants include a public utility, the ZBA was further limited in its discretion to deny the area variance"). Therefore, based on the aforementioned, the Applicants have complied with the requirements for the grant of area variances pursuant to the public utility exception standard. See Rosenberg. See also, Decarr.

However, in additional support of the request for area variances the Applicants offer the following:

1) The Facility on the Property will not produce an undesirable change in the character of the neighborhood as shown in the VRA. <u>See</u> VRA. The Facility will also not produce a detriment to nearby properties as the Facility will not produce any smoke,

odor, heat, dust, or fumes. <u>See</u> EAF. The Facility includes a stealth design Monopine. <u>See</u> VRA. In addition, the Facility will be unmanned, will not generate solid waste, waste water or sewage, and will not require water supply or waste disposal, and will not attract insects, vermin or other vectors;

- 2) As demonstrated on Sheet TR-1 of the Site Plan there is no area on the Property that would allow the Facility to meet the 1,600 foot setback from residential dwellings. See Site Plan. The Structural Letter also certifies that the Facility would fall well within the property lines in the unlikely event of a collapse. The Facility is needed to fill the significant gap in coverage identified in the areas surrounding the Property. See RF Report;
- 3) The requested relief is not substantial. The Facility meets all of the other setback and height requirements (see RF Report) and all other criteria for the special permit and site plan approvals requested. See Site Plan. The Facility has been strategically located so that the Facility is less visible to residential properties. See VRA. The Facility will also, in the unlikely event of a collapse, still fall within the property lines. See Structural Letter;
- 4) The Facility will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood as demonstrated in the EAF, the Generator Letter, the FCC Compliance Report and the VRA; and
- 5) The alleged difficulty is not self-created but is rather a result of the size of the Property, and the location of off-site residential dwellings. The location of the Facility is also dictated by the number of users in the area, topography, availability of obtaining a lease for the property, and the coverage needs of the area. The RF Report demonstrates that there is a significant gap in service in the areas surrounding the proposed Facility, and that the proposed Facility is of the minimum height necessary to fill this significant gap in service. Furthermore, this particular factor does not preclude the granting of the area variance. See Town Law §267-b(3)(b)(5).

Based on the above the Applicants have demonstrated that the Facility meets all of the applicable criteria for issuance of the following area variances:

- 1) Relief from setback of 1,600 feet from all residential dwellings contained in §110-27.1(E)(4); and
- 2) Relief from maximum height set by §110-27.1(E)(3).

Please note that although the Building Inspector's Memo noted a variance was needed for relief from §110-31 for a fence height of 8 feet where a maximum fence height of 6 feet 6 inches is required, the Applicants have revised the plans to propose a 6-foot fence. See Site Plan Sheet C-3. As the fence now complies with the Zoning Code no relief is necessary.

Also, although the Building Inspector's Memo noted this proposed Facility may impact the minimum lot area for the solar project on the same property, the minimum lot area

requirement does not apply to the wireless facility, and therefore no relief is required for this Application. Whether this creates an additional variance for the solar project is for the Building Inspector to decide, but this code section cannot be applied to this Facility. Out of an abundance of caution, to the extent that a variance is deemed required, the Applicants respectfully request same for all of the reasons set forth above.

VIII. Steep Slope Permit and Compliance with §110-33.1(A) of the Zoning Code

The Application also includes a request for a Steep Slope Permit in accordance with §110-33.1(A) of the Zoning Code. A letter from the Applicants' project engineer has been submitted herewith detailing compliance with the requirements for a Steep Slope Permit.

Conclusion

By granting the approvals requested herein the Planning Board and Zoning Board of Appeals will permit Verizon Wireless to improve its network and provide local businesses, residents and public service entities with a safe and reliable wireless communications alternative. There will be no significant adverse effects from the project.

WHEREFORE, for all of the foregoing reasons, the Applicants respectfully pray that the Planning Board issue a Negative Declaration, and issue the site plan approval, special permit and Steep Slope permit, and the Zoning Board of Appeals grant the Applicants' appeal of the Building Inspector's determination or in the alternative issue the area variances requested.

Dated: November 3, 2020 Tarrytown, New York

Respectfully submitted,

/s/ Robert D. Gaudioso
Robert D. Gaudioso, Esq.
SNYDER & SNYDER, LLP
94 White Plains Road
Tarrytown, NY 10591

Village Attorney 2019 Memo

ATTORNEYS AT LAW

THOMAS J. SINGLETON, 1930-2015 ROBERT F. DAVIS WHITNEY W. SINGLETON* ALEXANDER D. SALVATO

* ALSO MEMBER CONNECTICUT & FLORIDA BARS

120 EAST MAIN STREET MOUNT KISCO, NY 10549

> 914.666.4400 FAX: 914.666.6442 WWW.SDSLAWNY.COM

May 20, 2019

Mayor Gina Picinich **Board of Trustees** Village/Town of Mount Kisco 104 Main Street Mount Kisco, New York 10549

Hon. Douglas Hertz, Chairman Mount Kisco Planning Board Village/Town of Mount Kisco 104 Main Street Mount Kisco, New York 10549

> **Crown Castle Cell Tower Replacement** Re:

> > 1 Mountain Road

Section 69.56, Block 4, Lot 6 & 7

Dear Mayor Picinich, Chairman Hertz and Members of the Boards:

With respect to the above referenced application, both the Village Planner and Building Inspector have requested input as to the proper application and interpretation of certain state and local laws. Accordingly, I am setting forth below the inquiries that have been made and my responses, but please keep in mind that under our Code and Village Law §7-712-a the Building Inspector is charged in the first instance with rendering interpretations. Accordingly, this is merely my suggested analysis.

First, Mr. Johannessen's May 9th, 2019 memo makes the following comment in Paragraph #6:

"We defer to the Building Inspector and Village Attorney regarding zoning compliance, specifically as it relates to zoning tower height, setbacks, and minimum lot size, as specified within Section 110-27.1."

The statement above emanates from earlier discussions that the Building Inspector, Planner and I have had regarding the requisite procedures and development criteria relating to applications "outside" the Personal Wireless Facilities Overlay District.

Section 110-27.1, entitled "PWSF Personal Wireless Service Facilities Overlay District" was adopted on 10-21-1996 by Local Law No. 3-1996 to (a) create an Overlay District to provide suitable choice of locations for wireless service facilities, and b) address the potential scenario where the most ideal locations are either not within the Overlay District or where Overlay District was incapable of providing a site that could provide the requisite coverage. Under § 110-27.1 H, the Planning Board is the permitting agency for special permits that are either within the Overlay District or outside the Overlay District on non-Village-owned land. Conversely, the Board of Trustees has retained jurisdiction to review and determine such special permit applications that are outside of the Overlay District and on Village-owned lands.

The Board of Trustees has enacted local law criteria or standards by which the Planning Board must evaluate and act upon its applications, as more thoroughly set forth in § 110-27.1 and § 110-46 (See §110-27.1 B). However, as the legislative body within the Village that adopts and repeals local zoning laws, the Village Board did not and does not have to subject itself to the same requirements for special permit applications before the Village Board (e.g. on Villageowned properties), affording it greater flexibility and discretion. This is specifically set forth in § 110-27.1 B which provides:

"Except as s specified in § 110-27H (Special permits for sites outside the Personal Wireless Service Facilities Overlay District), all new personal wireless service facilities, and all additions and/or modifications to currently existing personal wireless service facilities, shall be allowed only in the Personal Wireless Service Facilities Overlay District and only pursuant to a special permit issued by the Planning Board in accordance with the criteria set forth in this section and in § 110-46 of the Zoning Law." (emphasis supplied)

By implication, the local law states that applications exempted by § 110-27.1 H do not have to comply or be "in accordance with the criteria set forth in this section [§ 110-27.1] and in § 110-46 of the Zoning Law." In fact, § 110-27.1 H sets forth a completely different set of criteria by which to evaluate such applications. [§ 110-27.1 H(1)-(4)].

Section 110-27.1 H only permits exemption from the mandates of the balance of § 110-27.1 and § 110-46 where:

- "a New York State-licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities establishes to the satisfaction of the approving agency all of the following:
 - (1) That the personal wireless service facility is needed to provide coverage to an area of the Village that currently has inadequate coverage and is of the minimum height and aesthetic intrusion necessary to provide that coverage;
 - (2) That coverage cannot be provided by a personal wireless service facility located within the Personal Wireless Service Facilities Overlay District;

- (3) That all reasonable measures in siting the personal wireless service facility within the Personal Wireless Service Facilities Overlay District have been exhausted; and
- (4) That technical and space limitations prevent location or colocation in the Personal Wireless Service Facilities Overlay District.

Based upon the above and the submissions made to date, it seems clear that (a) the applicant's special permit application is for a facility outside of the PWSF Overlay District and (b) is on Village-owned property. Accordingly, if the applicant's RF Engineer submits documentation to sufficiently establish to the Board of Trustees' satisfaction that the four (4) criterion set forth above have been met, then the special permit application shall be deemed exempt from the other provisions of §§ 110-27.1 and 110-46. By way of example and not limitation, maximum height, setbacks, minimum lot size and other similar criteria shall not be requirements of applications on Village-owned land being reviewed by the Board of Trustees.

Notwithstanding the aforesaid, I hasten to point out that nothing within § 110-27.1 speaks to the issue of exempting any such special permit application from the requirements of § 110-45 (Site Plan Approval). Since, § 110-45 A(1) expressly provides that "site plan approval shall be required for all uses other than one-family residences and buildings accessory thereto" the Planning Board retains its site plan review authority.

In concluding the above analysis, I want to clear up a bit of confusion that seems to persist regarding the local regulation to which this site and application are subject. Having been the subject of past zoning variances and associated litigations, there seems to be some question as to how zoning regulations applied before but not now. First, zoning regulations do still apply, as evidenced by the fact that the Planning Board still possesses site plan review authority. Second, there was a legislative change in the Village's zoning as of October 21, 1996, whereby the PWSF Overlay District was created and the requirements and procedures were modified. As relates to this particular property, it was exempted from the application of many of the underlying requirements of § 110-27.1 if the mandates of § 110-27.1 H were met. The prior zoning variance applications and (and litigation) as well as Planning Board approvals all predated the adoption of the PWSF Overlay District regulations. Since the enactment of § 110-27.1, the Village Board has been the sole permitting authority for special permits and the Planning Board has solely retained jurisdiction for site plan approval (PB-2007-12, adopted 4-28-2009). Expressly within the Planning Board's resolution of Site Plan Approval, the following was recited:

"WHEREAS, the Planning Board determined that a special permit approval was required from the Village Board because the property is Village owned and is owned and is located outside the personal wireless communication facilities overlay district; and

WHEREAS, the applicant received special permit approval from the Village Board and was referred back to the Planning Board to obtain site plan approval;"

Regarding the inquiry as to whether or not the visual addendum to the EAF should be included (Paragraph #8), I concur with the Planner's position that it should be included as irrespective of the statutory form prepared by DEC, it is a requirement of the Village Zoning Code for wireless applications.

As to Paragraph #10 (whether any additional variances or modification to prior zoning board decisions needs to be made), I do not believe that any such actions need be undertaken provided that the Applicant has satisfied the four criteria necessary to be exempted from the provisions of § 110-27.1 by § 110-27.1 H. Provided that this application is exempt from § 110-27.1 it need not meet the requirements of such section or § 110-46.

Sincerely,

Uhitney Singleton
Whitney Singleton

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



531553080DED002U

Westchester County Recording & Endorsement Page							
Submitter Information							
Name: Attorney's Title Insurance Agency, Inc. Address 1: 126 Barker Street Address 2: City/State/Zip: Mount Kisco NY 10549	Phone: 914-244-3738 Fax: 914-244-3814 Email: patrick@attorneystitle.biz Reference for Submitter: AT13-11231W / 182-13W						
	nt Details						
Control Number: 531553080 Document	Type: Deed (DED)						
1st PARTY	ies Additional Parties on Continuation page						
1: REALIS DEVELOPMENT LLC - Other	1: SKULL ISLAND PARTNERS LLC - Other						
2: BAINLARDI JOHN R - Individual	2:						
Street Address: 180 SOUTH BEDFORD ROAD	Tax Designation: 80.44-1-1						
City/Town: MOUNT KISCO	Village: Additional Cross-Refs on Continuation page						
1: Cross- Re	3: 4:						
1: RP-5217 2: TP-584	Documents						
Recording Fees	Mortgage Taxes						
Statutory Recording Fee: \$40.00	Document Date:						
Page Fee: \$25.00	Mortgage Amount:						
Cross-Reference Fee: \$0.00							
Mortgage Affidavit Filing Fee: \$0.00	Basic: \$0.00						
RP-5217 Filing Fee: \$250.00	Westchester: \$0.00 Additional: \$0.00						
TP-584 Filing Fee: \$5.00	Additional: \$0.00 MTA: \$0.00						
Total Recording Fees Paid: \$320.00	Special: \$0.00						
Transfer Taxes	Yonkers: \$0.00						
Consideration: \$1,500,000.00	Total Mortgage Tax: \$0.00						
Transfer Tax: \$6,000.00	_						
Mansion Tax: \$0.00	Dwelling Type: Exempt:						
Transfer Tax Number: 22396	Serial #:						
RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK Recorded: 07/01/2013 at 03:27 PM Control Number: 531553080 Witness my hand and official seal Timothy C.Idoni Westchester County Clerk	Record and Return To Pick-up at County Clerk's office Attorney's Title Insurance Agency, Inc. 126 Barker Street Mount Kisco, NY 10549 Attn: Recording Dept.						

Form 8002 — Bargain and Sale Deed, with Covenant against Grantor's Acts — Individual or Corporation (Single Sheet)

CONSULT YOUR LAWYER SEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 14th day of June, in the year 2013

BETWEEN

REALIS DEVELOPMENT, LLC, a New York limited liability company having an office at 356 Manville Road, Pleasantville, New York 10570,

party of the first part, and

SKULL ISLAND PARTNERS LLC., a Florida limited liability company having an office at 263 13th Avenue South, Suite 340, St. Petersburg, Florida 33701,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of ONE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$1,500,000) dollars paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village of Mount Kisco, Town of Mount Kisco, County of Westchester and State of New York known as 180 South Bedford Road, Mount Kisco, New York, as more fully described on Schedule "A" attached hereto and made a part hereof.

Section 80.44; Block 1: Lot 1 (Town and Village of Mount Kisco)

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

REALIS DEVELOPMENT, LLC

ohn R. Bainlardi, Member

STATE OF NEW YORK, COUNTY OF WESTCHESTER On the \(\frac{\lambda{V}^{\text{TM}}}{\text{day}} \) day of June in the year 2013, before me, the undersigned, personally appeared JOHN R. BAINLARDI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

OHQ

Patrick F. Clowry

Public State of New York

No. 01CL6037849

Test in Dutchess County

pression Expires 2-28-207914

STATE OF

, COUNTY OF

On the day of

in the year

before me, the undersigned, a Notary Public in and for said State, personally appeared

, the

subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

[add the following if the acknowledgment is taken outside NY State] and that said subscribing witness made such appearance before the undersigned in the (insen the city or other political subdivision and the State or country or other place the proof was taken).

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE NO. 4513-1123W

REALIS DEVELOPMENT, LLC

TO

SKULL ISLAND PARTNERS LLC

STATE OF

On the day of

in the year

before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument

[add the following if the acknowledgment is taken outside NY State] and that said individual made such appearance before the undersigned in the (insert the city or other political subdivision and the State or country or other place the acknowledgment was taken).

STATE OF

, COUNTY OF

On the day of

in the year

before me personally came

to me known, who, being by me duly swom, did depose and say

that he resides at

that he is the

0

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed homes thereto by like order.

SECTION 80.44
BLOCK I
LOT I
TOWN/VILLAGE: MOUNT KISCO

RETURN BY MAIL TO:

Attorney's Title Insurance Agency, inc. 126 Barker Street Mount Kisco, New York 10549



OWNER'S POLICY Schedule A Continued (page 2) Title No. AT13-11231W, Policy No. 7230632-88962048

(DESCRIPTION)

ALL that certain plot, piece or parcel of land situate, lying and being in the Village and Town of Mount Kisco, County of Westchester, and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point on the westerly boundary line of Sarles Street at its intersection with the premises herein described on the South and property now or formerly belonging to R. & J. Coogan on the North, said point being distant 345.33 feet from the southerly boundary line of South Bedford Road as measured in a southerly direction along said westerly boundary line of Sarles Street;

RUNNING THENCE in a southerly direction along the westerly boundary line of Sarles Street and along the division line between the Village and Town of Mount Kisco on the West and the Town of Bedford on the East, the following courses and distances:

South 0° 28' 20" West 24.00 feet, South 17° 32' 20" East 50.77 feet, South 1° 17" 30" East 186.00 feet, South 2° 38' 30" West 192.35 feet, South 0° 52' 30" East 116.81 feet, South 0° 48' 50" East 277.68 feet; South 3° 44' 50" West 112.34 feet and South 0° 54' 40" West 68.83 feet to a point;

THENCE in a westerly and northerly direction along the northerly boundary line of other property now or formerly belonging to William J. Green North 83° 56' 49" West 1104.37 feet and North 7° 29' 40" East 147.07 feet to a point;

THENCE continuing in a northerly, easterly and northerly direction along the easterly boundary line of property now or formerly belonging to Wildlife Preserves, Inc. the following courses and distances:

North 7° 29' 40" East 291.06 feet, North 12° 52' 40" East 218.31 feet, North 20° 02' 40" East 172.00 feet, South 76° 54' 20" East 54.75 feet, North 89° 18' 40" East 229.00 feet and North 0° 12' 20" West 364.98 feet to a point;

OWNER'S POLICY Schedule A Continued (page 3) Title No. AT13-11231W, Policy No. 7230632-88962048

THENCE in an easterly direction along the southerly boundary line of South Bedford Road the following courses and distances:

North 68° 33' 40" East 97.37 feet, North 74° 09' 40" East 101.36 feet, South 88° 46' 59" East 60.96 feet, North 88° 13' 00" East 101.03 feet, North 84° 00' 00" East 26.36 feet and North 85° 06' 10" East 51.32 feet to a point;

THENCE in a generally southerly, westerly and easterly direction along the westerly boundary line of property now or formerly belonging to R. & J. Coogan the following courses and distances:

South 4° 53' 50" East 61.79 feet, on a curve to the right having a radius of 49.00 feet, a central angle of 40° 43' 40" for a length of 34.83 feet, on a curve to the right having a radius of 161.00 feet, a central angle of 28° 53' 20" for a length of 81.18 feet, South 64° 43' 10" West 108.00 feet, on a curve to the left having a radius of 25.00 feet, a central angle of 159°13' 50" for a length of 69.48 feet; North 85° 29' 20" East 98.48 feet, on a curve to the right having a radius of 100.00 feet, a central angle of 78° 43' 00" for a length of 137.39 feet, on a curve to the right having a radius of 527.00 feet, a central angle of 2° 24' 46" for a length of 22.19 feet, and South 89° 31' 40" East 160.08 feet per survey (160.00 feet per deed) to the point or place of BEGINNING.

This Indenture,

Made the -- - 5

__ day of __ April

ninctecn

hundred and thirty eight

Metworn HUDACRES, INC., a corporation of the State of New York, having its office at 4 Valley Road, Bronxville, New York,

, party of the first part, and

HARRIET P. PARK, residing at State Road, Bedford Village,
N. Y.

, party of the second part,

Willinesseth, that the party of the first part, in consideration of

TEN and no/100 (\$10.00) -

Influre

bauful money of the linited States, and other good and valuable con-

sideration

paid by the party

her heirs -

of the second part,

does hereby grant and release unto the part $_{
m y}$ - of the second part. -

____ and assigns forever,

All that certain plot, piece, or parcel of land together with the buildings and improvements thereon situate in the Town of Bedford, county of Westchester and State of New York, more particularly bounded and described as follows:

BEGINNING at the point formed by the intersection of the southerly side of South Bedford Road and the westerly side of Sarles Street which point of beginning is the north-easterly corner of the parcel hereby described, running thence along the westerly side of Sarles Street south 80 13' 40" east 67.52 feet; thence south 30 54' 40" east 94.57 Feet; thence south 10 52' 40" west 183.24 feet to a corner; running thence north 880 07' 20" west 160.08 feet to a corner; running thence on a curve to the left having a radius of 527 feet a distance of 22.19 feet; thence continuing on a curve to the left having a radius of 100 feet a distance of 137.39 feet running thence south 860 53' 40" west a distance of 98.48 feet to a point of curve; running thence on a curve to the right having a radius of 25 feet a distance of 69.48 feet; running thence north 660 7' 30" east a distance of 108 feet to a point of curve; running thence on a curve to the left having a radius 161 feet a distance of 81.18 feet; thence continuing on a curve to the left having a radius of 49 feet a distance of 34.83 feet; running thence north 30 29' 30" west a distance of 61.79 feet to a point in the southerly line of Sarles Street; running thence along said southerly line of Sarles Street north 860 30' 30" east a distance of 199.50 feet to the point or place of beginning.

TOGETHER with all right, title and interest of the party of the first part of, in and to that part of South Bedford Road or Sarles Street

above mentioned, lying in front of and adjacent to the above described premises.

THE ABOVE premises are conveyed subject to an easement for the water lines and the maintenance thereof running from the pump house on the north side of South Bedford Road (Route 172) across the above described property to the adjoining property also belonging to the party of the first part hereto. For this easement the party of the first part agrees to furnish water to the herein described property in sufficient quantity to adequately supply the normal demands for such a property, but not for such purposes as a swimming pool or large water consumers, at a charge of Ten Dollars (\$10.00) per quarter or Forty Dollars (\$40.00) per annum. The party of the first part at its option may be relieved of supplying water to the party of the second part herein by any one of the following methods:

- (1) Deeding to the party of the second part all right, title and interest of the party of the first part to the plot on the north side of Bedford Road on which the existing well is located, together with all connections pertaining thereto.
- (2) Building an artesian well with a sufficient capacity for a normal supply of water to the premises hereby conveyed.
- (3) By connecting the premises hereby conveyed to a town water supply. THE PARTY of the first part shall release said easement sixty days after receipt of notice in writing from the party of the second part signifying her intention to discontinue the water supply.

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Together with the appartenances and all the estate and rights of the party of the first part in and to said premises.

To-have and to hold the premises herein granted unto the party of the second part, ... her heirs ____ and assigns forever

And the party of the first part covenants as follows:

First. That the party of the first part is seized of the said premises in fee simple, and has good right to convey the same;

Second. That the party of the second part shall quietly enjoy the said premises;

Third. That the said memises are free from incumbrances; except as herein stated.

Fourth. That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

Bitth. That the party of the first part will forever warrant the title to the said premises.

<u>Sixth</u>. The grantor, in compliance with Section 15 of the Lieu Law, covenants as follows: That it will receive the consideration for this conveyance as a trust fund to be applied first for the purpose of paying the cost of improvement, and that it will apply the same first to the payment of the cost of improvement before using any part of the total of the same for any other purpose.

In Whitness Wilhereof, the party of the first part has caused its corporate seal to be becaunto affixed and these presents to be signed by its duly authorized officer the day and year first above written.

HUDACRES, INC.

By Holda Secondity





1807.3663 PAGE 180

İ	State of NEW YORK
	County of Testchester
٠	On the day of _April nineteen hundred and
ł	thirty-eight , before me personally came HILDA SECCOMB FOX LAWRENCE.
	to me known, who, being by me duly sworn, did depose and say that she resides
Ì	th at 28 East 70th Street, New York, N.Y.
	that she is the Vice-President of HUDACRES, INC.
	the corporation described in, and which executed, the foregoing instrument; that
ì	she knows the seat of said corporation; that the seal affixed to said instrument
	is such corporate seal; that it was so offixed by order of the board of Directors
	of said corporation; and that she signed her name thereto
	by like order. Alexander Notary Public Westchester County
ı	The foregoing instrument was endorsed for second as follows: The property affected by this instrument is situate in the TOWN OF BEDFORD
	is situate in the TOWN OF BEDFORD County of Westchoster, N.Y. A true copy of the original DEED RECORDED APR. 7, 1938, at 3 PM . at request of ROGER SHERMAN
	FEE: \$ 3.00 No. 7039 WILLIAM F. CONDON, Register.
	27934-C
A ser ample for a series of the series of th	HUDAGRES, ING. The ploperty afficient by this In is situate in the Town of Bed in County of Vertains Roser Shear. 4 P. 2 Dy A. RYE, N. Y.
The state of the s	RESERVE THIS SWACE FOR TISE OF RECORDING OFFICE. W. Jan. 12. 12. 13. 17. 17. 17. 17. 17. 17. 17. 17. 17. 17

Full Environmental Assessment Form Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project:			
Homeland Towers - Mount Kisco (NY172)			
Project Location (describe, and attach a general location map):			
180 South Bedford Road, Mount Kisco, Westchester County, NY (Parcel ID 80.44-1-1)	Location Map Attached.		
Brief Description of Proposed Action (include purpose or need):			
The project includes a 3,312+/- square foot land area for the construction of a proposed monopole type tower with antennas, access driveway, together with related equipment w	wireless telecommunications fa vithin a 2,300+/- square foot fer	acility, consisting of a 140 foot need compound.	
Name of Applicant/Sponsor:	Telephone: 203-297-63	345	
Homeland Towers, LLC (Attn. Klaus Wimmer, Regional Manager)		E-Mail: KW@homelandtowers.us	
Address: 9 Harmony Street, 2nd Floor			
City/PO: Danbury	State: CT	Zip Code: 06810	
Project Contact (if not same as sponsor; give name and title/role):	Telephone:	Telephone:	
Same as above	E-Mail:	E-Mail:	
Address:			
City/PO:	State:	Zip Code:	
Property Owner (if not same as sponsor):	Telephone:	Telephone:	
Skull Island Partners, LLC	E-Mail:		
Address: c/o David Seldin, 1571 Oceanview Dr	- 1		
City/PO: Tierra Verde	State: FL	Zip Code: 33715-2538	

B. Government Approvals

B. Government Approvals, Funding, or Spot assistance.)	nsorship. ("Funding" includes grants, loans, to	ax relief, and any oth	er forms of financial		
Government Entity	If Yes: Identify Agency and Approval(s) Required		tion Date projected)		
a. City Counsel, Town Board, ☐ Yes☐No or Village Board of Trustees					
b. City, Town or Village ☑Yes□No Planning Board or Commission	Village PB - Site Plan Approval; Special Permit				
c. City, Town or ✓Yes□No Village Zoning Board of Appeals	Village ZBA - Variances				
d. Other local agencies □Yes□No					
e. County agencies					
f. Regional agencies Yes No					
g. State agencies ☐Yes☐No h. Federal agencies ☐Yes☐No					
h. Federal agencies ☐Yes☐No i. Coastal Resources.					
<i>i.</i> Is the project site within a Coastal Area, o	aterway?	□Yes ☑ No			
ii. Is the project site located in a communityiii. Is the project site within a Coastal Erosion	☐ Yes ✓ No ☐ Yes ✓ No				
C. Planning and Zoning					
C.1. Planning and zoning actions.					
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ■ If Yes, complete sections C, F and G. ■ If No, proceed to question C.2 and complete all remaining sections and questions in Part 1					
C.2. Adopted land use plans.					
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?					
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?					
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) If Yes, identify the plan(s): WYC Watershed Boundary					
	vay Compact County; Mount Kisco is a Compact Commur	nity.			
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? If Yes, identify the plan(s):					

C.3. Zoning	
a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. If Yes, what is the zoning classification(s) including any applicable overlay district? CD - Conservation Development District	☑ Yes□No
b. Is the use permitted or allowed by a special or conditional use permit?	✓ Yes□No
c. Is a zoning change requested as part of the proposed action? If Yes, i. What is the proposed new zoning for the site?	☐ Yes Z No
C.4. Existing community services. a. In what school district is the project site located? Bedford Central	
Mt Kisco FD, Westchester County PD Mt Kisco FD, Westchester County PD	
c. Which fire protection and emergency medical services serve the project site? Mt Kisco FD, Mt Kisco EMS	
d. What parks serve the project site? Leonard Park is approx. 0.5 mi SW of site; Guard Hill Park is approx. 0.6 mi NE of site	
D. Project Details	
D. Project Details D.1. Proposed and Potential Development	
D.1. Proposed and Potential Development a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if m components)? Proposed action is a commercial communications tower and personal wireless service facility b. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned	· · · · · · · · · · · · · · · · · · ·
D.1. Proposed and Potential Development a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if m components)? Proposed action is a commercial communications tower and personal wireless service facility b. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned	to be leased.
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D.1. Proposed and Potential Development a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if m components)? Proposed action is a commercial communications tower and personal wireless service facility b. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? c. Is the proposed action an expansion of an existing project or use? i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, m	to be leased. Yes No niles, housing units,
D.1. Proposed and Potential Development a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if m components)? Proposed action is a commercial communications tower and personal wireless service facility b. a. Total acreage of the site of the proposed action? c. Total acreage to be physically disturbed? d. D.20 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? d. Is the proposed action an expansion of an existing project or use? i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, m square feet)? M. Units: L. Is the proposed action a subdivision, or does it include a subdivision? f Yes, i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) ii. Is a cluster/conservation layout proposed? iii. Number of lots proposed?	to be leased. Yes No niles, housing units,
D.1. Proposed and Potential Development What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if m components)? Proposed action is a commercial communications tower and personal wireless service facility a. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? d. Is the proposed action an expansion of an existing project or use? i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, m square feet)? i. Is the proposed action a subdivision, or does it include a subdivision? f Yes, i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) ii. Is a cluster/conservation layout proposed? iii. Number of lots proposed? iv. Minimum and maximum proposed lot sizes? Minimum Maximum	to be leased. Yes No niles, housing units, Yes No
D.1. Proposed and Potential Development What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if m components)? Proposed action is a commercial communications tower and personal wireless service facility a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? d. Is the proposed action an expansion of an existing project or use? i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, m square feet)? Wints: Is the proposed action a subdivision, or does it include a subdivision? Yes, i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) ii. Is a cluster/conservation layout proposed? iii. Number of lots proposed?	to be leased. ☐ Yes No niles, housing units, ☐ Yes No

f Dees the music	at imply do many must d	I4:-10			
	ct include new residates of units propo				☐Yes ☑ No
11 1 es, show hun	One Family	Two Family	Three Family	Multiple Family (four or more)	
T 1.1.1.701	<u> </u>	1 110 Tuning	Tinoo I tililiy	wampie rammy (tour or more)	
Initial Phase		-			
At completion					
of all phases					
g. Does the propo	osed action include	new non-residentia	al construction (inclu	iding expansions)?	Z Yes □ No
If Yes,			`	<i>B</i> (************************************	
i. Total number		1			
ii. Dimensions (in feet) of largest pr	roposed structure:	140_height;	N/A width; and N/A length	Monopole, 140' in ht.
iii. Approximate	extent of building s	space to be heated	or cooled:	N/A square feet	
h. Does the propo	sed action include	construction or oth	er activities that will	result in the impoundment of any	☐ Yes ☐ No
	s creation of a water	r supply, reservoir,	, pond, lake, waste la	goon or other storage?	
If Yes,	inan assa dan ant.				
i. Purpose of the	oundment, the princ	cinal source of the	water:	Ground water Surface water str	ooms DOther specific
ii. II a water hiip	oundment, the princ	ipai source of the	water.	_ Ground waterSurface water str	samsOther specify.
iii. If other than w	vater, identify the ty	pe of impounded/o	contained liquids and	I their source.	
		_	~		
iv. Approximate	size of the proposed	l impoundment.	Volume:	million gallons; surface area: height; length ucture (e.g., earth fill, rock, wood, co	acres
v. Dimensions of	the proposed dam	or impounding str	ucture:	height;length	
vi. Construction i	method/materials to	or the proposed da	m or impounding str	ucture (e.g., earth fill, rock, wood, co	ncrete):
-					
D.2. Project Ope	erations				
		ny exception mi	ning or dradging du	nring construction, operations, or both	h? Yes No
(Not including	peneral site prepara	tion grading or in	anng, or dredging, do	or foundations where all excavated	Ti Les Nuo
materials will re		mon, grading or m	ourieron or anninos	or roundations where the excuvated	
If Yes:	,				
	rpose of the excavat				
			s, etc.) is proposed to	be removed from the site?	
	(specify tons or cub	, ,			
	at duration of time?		. 1 1 1		
iii. Describe natur	e and characteristics	s of materials to be	e excavated or dredge	ed, and plans to use, manage or dispo	ose of them.
_					
iv. Will there be	onsite dewatering or	r processing of exc	cavated materials?		Yes No
If yes, describ					
	al area to be dredge			acres	
	ximum area to be v			acres	
vii. What would be	e the maximum dep	th of excavation of	r dredging?	feet	
	vation require blasti				∐Yes _No
ix. Summarize site	reclamation goals	and plan:			
b. Would the prope	osed action cause or	r result in alteration	n of, increase or dec	rease in size of, or encroachment	Yes No
	g wetland, waterboo			and in size of, or enerogenment	[] I C2 [] IAO
If Yes:			v		
	etland or waterbody	which would be a	ffected (by name, wa	ater index number, wetland map num	ber or geographic
description):				-	

10 to	
ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, p. alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions	lacement of structures, or s in square feet or acres:
iii. Will the proposed action cause or result in disturbance to bottom sediments? If Yes, describe:	☐Yes ☐No
iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? If Yes:	☐ Yes☐No
 acres of aquatic vegetation proposed to be removed: 	
expected acreage of aquatic vegetation remaining after project completion:	
• purpose of proposed removal (e.g. beach clearing, invasive species control, boat access):	
• proposed method of plant removal:	
if chemical/herbicide treatment will be used, specify product(s): v. Describe any proposed reclamation/mitigation following disturbance:	
v. Describe any proposed reciamation/initigation following disturbance.	
c. Will the proposed action use, or create a new demand for water?	☐Yes Z No
If Yes:	T res Mino
i. Total anticipated water usage/demand per day: gallons/day	
ii. Will the proposed action obtain water from an existing public water supply?	☐Yes ☐No
If Yes: Name of district or service area:	
Does the existing public water supply have capacity to serve the proposal?	☐ Yes ☐ No
Is the project site in the existing district?	☐ Yes ☐ No
Is expansion of the district needed?	☐ Yes ☐ No
Do existing lines serve the project site?	☐ Yes ☐ No
iii. Will line extension within an existing district be necessary to supply the project? If Yes:	☐Yes ☐No
Describe extensions or capacity expansions proposed to serve this project:	
Source(s) of supply for the district:	
<i>iv.</i> Is a new water supply district or service area proposed to be formed to serve the project site? If, Yes:	☐ Yes☐No
Applicant/sponsor for new district:	
Proposed source(s) of supply for new district:	
v. If a public water supply will not be used, describe plans to provide water supply for the project:	
vi. If water supply will be from wells (public or private), what is the maximum pumping capacity:	gallons/minute.
d. Will the proposed action generate liquid wastes?	☐ Yes Z No
If Yes:	
i. Total anticipated liquid waste generation per day: gallons/day	
ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, descri approximate volumes or proportions of each):	
approximate volumes or proportions of each):	
iii. Will the proposed action use any existing public wastewater treatment facilities? If Yes:	☐ Yes ☐No
Name of wastewater treatment plant to be used:	
Name of district:	
Does the existing wastewater treatment plant have capacity to serve the project?	□Yes □No
• Is the project site in the existing district?	☐ Yes ☐ No
Is expansion of the district needed?	☐ Yes ☐ No

De quisting groups lines are the graphest site?	
Do existing sewer lines serve the project site?	☐Yes ☐No
Will a line extension within an existing district be necessary to serve the project?	☐Yes ☐No
If Yes:	
Describe extensions or capacity expansions proposed to serve this project:	
iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?	□Yes□No
If Yes:	
Applicant/sponsor for new district:	
Date application submitted or anticipated:	
What is the receiving water for the wastewater discharge?	
v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including spec	if in a managed
receiving water (name and classification if surface discharge or describe subsurface disposal plans):	arying proposed
receiving water (name and elassification if surface discharge of describe subsurface disposal plans).	
vi. Describe any plans or designs to capture, recycle or reuse liquid waste:	
a Will the managed action disturb many theorems and the state of the Co. 14 Co.	
e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point	☐Yes Z No
sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point	
source (i.e. sheet flow) during construction or post construction?	
If Yes:	
i. How much impervious surface will the project create in relation to total size of project parcel?	
Square feet or acres (impervious surface)	
Square feet or acres (parcel size)	
ii. Describe types of new point sources.	
iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent p	roperties,
groundwater, on-site surface water or off-site surface waters)?	
If to surface waters, identify receiving water bodies or wetlands:	
Will stormwater runoff flow to adjacent properties?	□Yes□No
iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater?	☐ Yes☐No
f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel	Z Yes □No
combustion, waste incineration, or other processes or operations?	
If Yes, identify:	
i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)	
ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)	
iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)	
Site will contain an emergency backup generator for use during temporary power outages, subject to final carrier specifications	
g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit,	☐Yes ZNo
or Federal Clean Air Act Title IV or Title V Permit?	
If Yes:	
i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet	□Yes□No
ambient air quality standards for all or some parts of the year)	
ii. In addition to emissions as calculated in the application, the project will generate:	
•Tons/year (short tons) of Carbon Dioxide (CO ₂)	
• Tons/year (short tons) of Nitrous Oxide (N ₂ O)	
•Tons/year (short tons) of Perfluorocarbons (PFCs)	
•Tons/year (short tons) of Sulfur Hexafluoride (SF ₆)	
 Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs) 	
 Tons/year (short tons) of Hazardous Air Pollutants (HAPs) 	

h. Will the proposed action generate or emit methane (inclu landfills, composting facilities)? If Yes:	ding, but not limited to, sewage treatment plants,	☐Yes ☑ No
 i. Estimate methane generation in tons/year (metric): ii. Describe any methane capture, control or elimination me electricity, flaring): 	easures included in project design (e.g., combustion to g	generate heat or
 i. Will the proposed action result in the release of air polluta quarry or landfill operations? If Yes: Describe operations and nature of emissions (e.g., di 		∏Yes √ No
 j. Will the proposed action result in a substantial increase in new demand for transportation facilities or services? If Yes: i. When is the peak traffic expected (Check all that apply): \(\subseteq Randomly between hours of to	: ☐ Morning ☐ Evening ☐ Weekend	□Yes☑No
 iii. Parking spaces: Existing	exting roads, creation of new roads or change in existing examination wailable within ½ mile of the proposed site? Ortation or accommodations for use of hybrid, electric	☐Yes☐No access, describe: ☐Yes☐No ☐Yes☐No ☐Yes☐No ☐Yes☐No
 k. Will the proposed action (for commercial or industrial profor energy? If Yes: i. Estimate annual electricity demand during operation of the 800 Amps: Energy uses associated with the operation of a commercial. Anticipated sources/suppliers of electricity for the project other): Supplier will be local utility grid iii. Will the proposed action require a new, or an upgrade, to 	ne proposed action:	Yes No ty including electricity. ocal utility, or Yes No
I. Hours of operation. Answer all items which apply. i. During Construction: Monday - Friday: Saturday: Sunday: Holidays:	 ii. During Operations: Monday - Friday: Facility is unmanned are operate 24/7 after the cormological of construction. Sunday: of construction. Holidays: 	npletion

 m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? If yes: i. Provide details including sources, time of day and duration: The proposed action will temporarily produce noise associated with general site construction activities during construction 	☑ Yes □No only.
ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Describe: Trees will be removed within the vicinity of the leased area for the construction of the compound.	☑ Yes □No
n. Will the proposed action have outdoor lighting? If yes: i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structure. Security light on equipment will be installed per carrier's specifications. Light will face the ground and only be used infrequently site during night hours.	
ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Describe: Trees will be removed within the vicinity of the leased area for the construction of the compound.	☑ Yes □No
o. Does the proposed action have the potential to produce odors for more than one hour per day? If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to near occupied structures:	☐ Yes ☑ No est
p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? If Yes: i. Product(s) to be stored ii. Volume(s) per unit time (e.g., month, year) iii. Generally, describe the proposed storage facilities:	□ Yes ☑ No
 q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides insecticides) during construction or operation? If Yes: i. Describe proposed treatment(s): 	s, ☐ Yes ☑No
 ii. Will the proposed action use Integrated Pest Management Practices? r. Will the proposed action (commercial or industrial projects only) involve or require the management or dispos of solid waste (excluding hazardous materials)? If Yes: i. Describe any solid waste(s) to be generated during construction or operation of the facility: 	☐ Yes ☐No sal ☐ Yes ☑No
 Construction: tons per (unit of time) Operation: tons per (unit of time) ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid was Construction:	
Operation: iii. Proposed disposal methods/facilities for solid waste generated on-site: Construction: Operation:	

s. Does the proposed action include construction or model of Yes:	dification of a solid waste m	anagement facility?	∐ Yes ✓ No
<i>i.</i> Type of management or handling of waste propose	d for the site (e.g., recycling	or transfer station, composting	ng. landfill. or
other disposal activities):		or manager country componen	15, randini, or
ii. Anticipated rate of disposal/processing:			
•Tons/month, if transfer or other non		ent, or	
• Tons/hour, if combustion or therma <i>iii</i> . If landfill, anticipated site life:	treatment years		
t. Will the proposed action at the site involve the comm		storage or dianogal of haran	doug Ves 7Ns
waste?	creiai generation, treatment,	storage, or disposar or nazare	ious [] Yes [] No
If Yes:			
i. Name(s) of all hazardous wastes or constituents to b	e generated, handled or mar	aged at facility:	
ii. Generally describe processes or activities involving	hazardous wastes or constitu	ients:	
iii. Specify amount to be handled or generated	tons/month		
iv. Describe any proposals for on-site minimization, re	cycling or reuse of hazardou	s constituents:	
			-
v. Will any hazardous wastes be disposed at an existin	g offsite hazardous waste fa	cility?	□Yes□No
If Yes: provide name and location of facility:	g offsite nazardous waste fa	cinty:	L I CSL IVO
VC21 1 11			
If No: describe proposed management of any hazardous	wastes which will not be se	nt to a hazardous waste facilit	ty:
E. Site and Setting of Proposed Action			
E.1. Land uses on and surrounding the project site			
a. Existing land uses.			
i. Check all uses that occur on, adjoining and near the	project site.		
☐ Urban ☐ Industrial ☐ Commercial ☑ Resid		al (non-farm)	
✓ Forest ☐ Agriculture ✓ Aquatic ☐ Othe <i>ii.</i> If mix of uses, generally describe:	r (specify):		
Suburban residential exists west of the site, with some office spa	ace and suburban commercial d	evelopment. Forested appear is a	porollil porth and south
of the site, with suburban residential and a lake (Howlands Lake)	east of the site.	evelopment. Polested space is ge	enerally north and south
b. Land uses and covertypes on the project site.			
Land use or	Current	Acreage After	Change
Covertype	Acreage	Project Completion	(Acres +/-)
Roads, buildings, and other paved or impervious	0.32	0.42	+0.10
• Forested			
Meadows, grasslands or brushlands (non-	22.94	22.84	-0.10
agricultural, including abandoned agricultural)	1.74	1.74	0
Agricultural	0	0	0
(includes active orchards, field, greenhouse etc.)	U	0	0
Surface water features	0	0	0
(lakes, ponds, streams, rivers, etc.)Wetlands (freshwater or tidal)			
	0	0	0
Non-vegetated (bare rock, earth or fill)	• 0	0	0
Other Describe:			
Describe.			

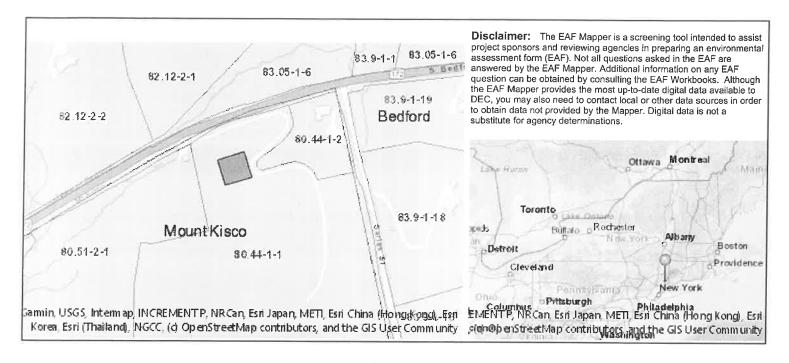
c. Is the project site presently used by members of the community for public recreation? i. If Yes: explain:	□Yes☑No
 d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? If Yes, i. Identify Facilities: Cisqua school - northeast of site 	☑ Yes □ No
e. Does the project site contain an existing dam? If Yes: i. Dimensions of the dam and impoundment: • Dam height: • Dam length: • Surface area: • Volume impounded: ii. Dam's existing hazard classification: iii. Provide date and summarize results of last inspection:	☐ Yes No
f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facil If Yes: i. Has the facility been formally closed? • If yes, cite sources/documentation: ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:	□Yes☑No lity? □Yes□ No
iii. Describe any development constraints due to the prior solid waste activities:	
 g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? If Yes: i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred 	□Yes☑No
h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? If Yes: i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes – Spills Incidents database Provide DEC ID number(s): Yes – Environmental Site Remediation database Provide DEC ID number(s):	☐Yes☑No☐Yes☑No
ii. If site has been subject of RCRA corrective activities, describe control measures:	
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? If yes, provide DEC ID number(s): iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):	Yes No

v. Is the project site subject to an institutional contro	l limiting property uses?	☐ Yes Z No
If yes, DEC site ID number:		
 Describe the type of institutional control (e.g Describe any use limitations: 	g., deed restriction or easement):	
Describe any use miniations. Describe any engineering controls:		
 Will the project affect the institutional or en 	gineering controls in place?	☐Yes☐No
Explain:		
E.2. Natural Resources On or Near Project Site		
a. What is the average depth to bedrock on the project	site? over 7 feet 80"+ per USDA NRC	S Soil Map
o. Are there bedrock outcroppings on the project site?		☐Yes☐No
f Yes, what proportion of the site is comprised of bed	rock outcroppings?7.5 %	
. Predominant soil type(s) present on project site:	CsD - Chatfield-Charlton complex 51.0 %	
	CrC - Chariton-Chatfield complex 33.4 %	
	HrF - Hollis-Rock Outcrop complex 7.5 %	
. What is the average depth to the water table on the p	project site? Average:over 7_feet 80"_per USDA NRCS Soi	I Мар
Drainage status of project site soils: Well Draine	d: 92.5 % of site	
☐ Moderately `		
✓ Poorly Drain		
Approximate proportion of proposed action site with	n slopes: ☑ 0-10%: 30.5 % of site	
	$\boxed{10-15\%}$: $\boxed{11}$ % of site	
	\square 15% or greater: 58.5 % of site	
Are there any unique geologic features on the project Yes, describe:	et site?	☐ Yes Z No
<u> </u>		
. Surface water features. i. Does any portion of the project site contain wetland	ls or other waterbodies (including streams, rivers.	□Yes ☑ No
ponds or lakes)?	oject site? No wetlands adjoin the project area - adjacent parcels only.	— — ∑ Yes□No
Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i.	DEC Environmental Resource Mapper results attached.	
Are any of the wetlands or waterbodies within or a state or local agency?	djoining the project site regulated by any federal,	✓ Yes □No
v. For each identified regulated wetland and waterbook	ly on the project site, provide the following information:	
• Streams: Name		
Lakes or Ponds: Name	Classification	
Wetlands: NameWetland No. (if regulated by DEC)	Approximate Size	
Are any of the above water bodies listed in the most		☐ Yes Z No
waterbodies?		
yes, name of impaired water body/bodies and basis f	or listing as impaired:	
Is the project site in a designated Floodway?		□Yes Z No
Is the project site in the 100-year Floodplain?		☐Yes Z No
Is the project site in the 500-year Floodplain?		☐Yes Z No
Is the project site located over, or immediately adjoin Yes:		□Yes Z No
i. Name of aquifer:		

m.	Identify the predominant wildlife species that occupy or use the project site: none of significance	
If Y	Does the project site contain a designated significant natural community? Yes: Describe the habitat/community (composition, function, and basis for designation):	□Yes √ No
22	Corrected of description on evaluations	
	Source(s) of description or evaluation:	
111.	Extent of community/habitat:	
	• Currently: acres	
	Following completion of project as proposed: acres	
	• Gain or loss (indicate + or -):	
er If Y	Does project site contain any species of plant or animal that is listed by the federal government or NYS as indangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species: Species and listing (endangered or threatened):	☐ Yes No ecies?
S	Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of pecial concern?	☐ Yes Z No
	Ves:	
i.	Species and listing:	
	the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? es, give a brief description of how the proposed action may affect that use:	□Yes Z No
E.3.	Designated Public Resources On or Near Project Site	
Α	the project site, or any portion of it, located in a designated agricultural district certified pursuant to griculture and Markets Law, Article 25-AA, Section 303 and 304? es, provide county plus district name/number:	□Yes Z No
h A	re agricultural lands consisting of highly productive soils present?	Yes Z No
	If Yes: acreage(s) on project site? Note: soils exist on 25-acre property (per USDA mapper), but not in project area.	1 c2 N 140
	Source(s) of soil rating(s): USDA NRCS Soil mapper	:
	Source(s) of soft fatting(s). God Antoo Soft mapper	<u> </u>
	ooes the project site contain all or part of, or is it substantially contiguous to, a registered National latural Landmark?	□Yes Z No
i.	Nature of the natural landmark: Biological Community Geological Feature	
ii.	Provide brief description of landmark, including values behind designation and approximate size/extent:	
If Ye	CEA name:	□Yes ☑ No
11.	Basis for designation:	
111.	Designating agency and date:	

e. Does the project site contain, or is it substantially contiguous to, a but which is listed on the National or State Register of Historic Places, of Office of Parks, Recreation and Historic Preservation to be eligible for If Yes: i. Nature of historic/archaeological resource: Archaeological Site ii. Name: iii. Brief description of attributes on which listing is based:	or that has been determined by the Commiss For listing on the State Register of Historic P NY SHPO CRIS N	
f. Is the project site, or any portion of it, located in or adjacent to an ar- archaeological sites on the NY State Historic Preservation Office (SF		✓ Yes □No
g. Have additional archaeological or historic site(s) or resources been in If Yes: i. Describe possible resource(s): ii. Basis for identification:	dentified on the project site?	∐Yes Z No
 h. Is the project site within fives miles of any officially designated and scenic or aesthetic resource? If Yes: i. Identify resource: See list below 	publicly accessible federal, state, or local	Z Yes □No
 ii. Nature of, or basis for, designation (e.g., established highway overleetc.): Local parks/sanctuaries/preserves iii. Distance between project and resource: Noted with each park, <5 m 		scenic byway,
 i. Is the project site located within a designated river corridor under the Program 6 NYCRR 666? If Yes: i. Identify the name of the river and its designation: 		☐ Yes No
F. Additional Information Attach any additional information which may be needed to clarify you If you have identified any adverse impacts which could be associated measures which you propose to avoid or minimize them.	•	□Yes□No
G. Verification I certify that the information provided is true to the best of my knowle Applicant/Sponsor Name Saratoga Associates Landscape Architects, Architects, Engineers and F	Date August 11, 2020	
SignatureMatthew W. Allen, RLA	Title Principal	
E3h: Parks within 5 miles: Leonard Park (0.4), Butler Preserve (0.9), Merestead (1.15), Westmoreland Sanctuary (Meyer Preserve (2.3), Gedney Brook Sanctuary (3.1), Wampus Pond Park (3.3), Bedfor		

Leonard Park (0.4), Butler Preserve (0.9), Merestead (1.15), Westmoreland Sanctuary (1.9), Whippoorwill Park (2), Bedford Hills Memorial Park (2.1), Meyer Preserve (2.3), Gedney Brook Sanctuary (3.1), Wampus Pond Park (3.3), Bedford Village Memorial Park (3.3), Beaver Dam Park (3.7), Kitchawan Preserve (3.9), Beaver Dam Sanctuary (4.2), Kathonah Memorial Park (4.2), Gedney Park (4.2), Cats Rock Park (4.3), Turner Swamp Sanctuary (4.4), Warburg Park (4.5), John Jay Homestead Park (4.5), Old Farm Hill Park (4.6), Indian Hill Park (5)



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYC Watershed Boundary
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.I. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

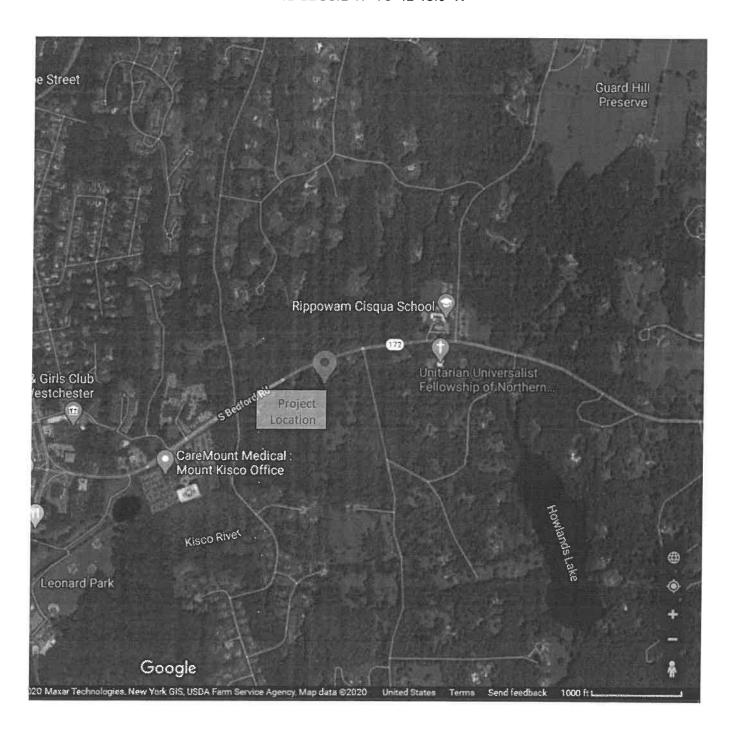
L.z.p. [ixare i lains of Allimass]	140
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Homeland Towers: NY172

Project Location Map

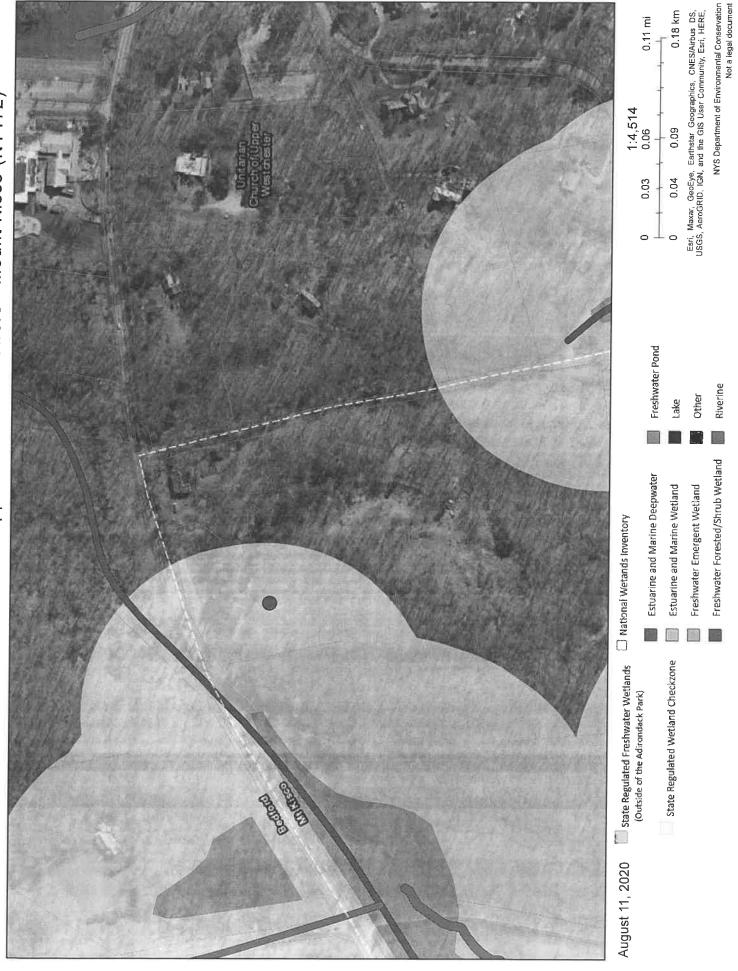
180 S Bedford Road, Mt Kisco, Westchester County, NY
Tax Parcel 80.44-1-1

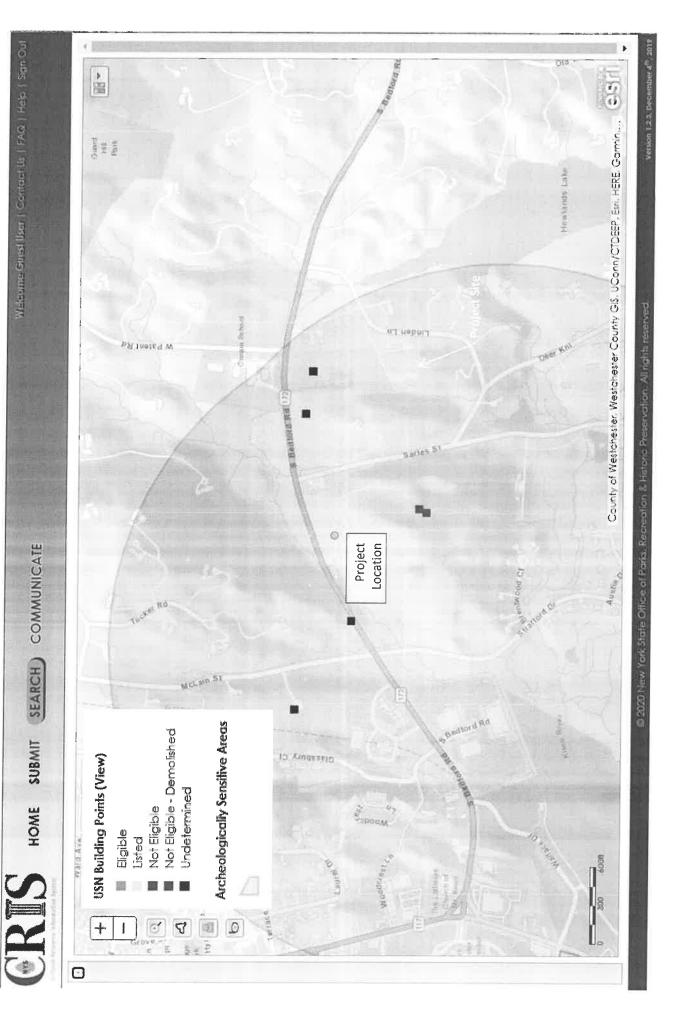
41°11'58.1"N 73°42'48.0"W





NYS DEC Environmental Resource Mapper: Homeland Towers - Mount Kisco (NY172)





617.20 Appendix B State Environmental Quality Review VISUAL EAF ADDENDUM

This form may be used to provide additional information relating to Question 11 of Part 2 of the Full EAF.

(To be completed by Lead Agency)								
Visib	ility		Proje	Distance Between Project and Resource (in Miles)				
1.	Would	the project be visible from:	O - ¼	½ - ½	1/2 - 3	3-5	5+	
	!	A parcel of land which is dedicated to and available to the public for the use, enjoyment and appreciation of natural or man-made scenic qualities?						
	I	An overlook or parcel of land dedicated to public observation, enjoyment and appreciation of natural or man-made scenic qualities?						
	I	A site or structure listed on the National or State Registers of Historic Places?						
	1	State Parks?						
	!	The State Forest Preserve?						
	I	National Wildlife Refuges and State Game Refuges?						
	I	National Natural Landmarks and other outstanding natural features?						
	!	National Park Service lands?						
	Į.	Rivers designated as National or State Wild, Scenic or Recreational?						
	I	Any transportation corridor of high exposure, such as part of the Interstate System, or Amtrak?						
	!	A governmentally established or designated interstate or inter-county foot trail, or one formally proposed for establishment or designation?						
	!	A site, area, lake, reservoir or highway designated as scenic?						
	1	Municipal park, or designated open space? Leonard Park		\checkmark				
	Į.	County road?						
	1	State road? NY Rte 117 (South Bedford Road)	\checkmark					
	!	Local road? Wallace Drive. Possible seasonal views through deciduous trees from Sarles Drive.			\checkmark			
2.	Is the vi	isibility of the project seasonal? (i.e., screened by summer foliage, but	visible du	ring other	seasons)		
		✓ Yes No						
3.	Are any	of the resources checked in question 1 used by the public during the	time of ye	ar during	which the	e project	will be visible?	
		✓ Yes						

DESCRIPTION OF EXISTING VISUAL ENVIRONI	VIEIV I				
4. From each item checked in question 1, ch	eck those	e which genera	ally describe the surre	ounding environm	ent.
				44.	Within
Essentially undeveloped				*¼ mile	*1 mile
Forested				$\overline{\checkmark}$	
Agricultural					
Suburban Residential				\checkmark	
Industrial					
Commerical				\checkmark	
Urban					
River, Lake, Pond					<u> </u>
Cliffs, Overlooks					
Designated Open Space				\checkmark	
Flat					
Hilly					\checkmark
Mountainous					
Other NOTE: add attachments as needed					
5. Are there visually similar projects within:					
*½ mile Yes No 1 mile	Yes	✓ No 2 mile	es 📝 Yes 🗌 No	3 miles] Yes 🔲 No
		- 304 Lexington	free-standing wireless a Ave, Mt Kisco - 1.3 mile t, I-684 & Rte 172, Bedi	es west	
*Distance from project site is prov	ided for a				9.
EXPOSURE 6. The daily number of viewers likely to obser	ve the pr	oposed project	is_16889		
NOTE: When user data is unavailable or unknown,	es per day (a	verage annual daily tra	ffic, https://www.dot.ny.gov/tdv)	on South Bedford Road n	ear site. Facility views will be limited to
CONTEXT traveli As the	ng in a moving tendency of i	g vehicle, it is probable motorists is to focus do	viewer recognition of the Facili wn the road peripheral views o	ity would be limited to a fra f the Facility may go largely	al stimuli encountered by motorists ction of the total available viewing time vunnoticed by most travelers.
7. The situation or activity in which the viewer	s are eng			ction is:	
		FRE	EQUENCY		
Activity	Daily	Weekly	Holidays/ Weekends	Seasonally	
Travel to and from work NY Rte 117 (South Bedford Road) Involved in recreational activities Leonard Park	••	0	0	0	
Routine travel by residents NY Rte 117 (South Bedford Road)	⊚	0	0	00000	
At a residence 2 Saries Street At Worksite Sound Seatled Bood businesses	© © O	0	0	0	
Other	ŏ	ŏ	ŏ	ō	
					Reset



Pinnacle Telecom Group

Professional and Technical Services

Antenna Site FCC RF Compliance Assessment and Report

Homeland Towers, LLC

Site "NY172 – Mt. Kisco" 180 South Bedford Road Mt. Kisco, NY

August 11, 2020

14 Ridgedale Avenue, Suite 260 • Cedar Knolls, NJ 07927 • 973-451-1630

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Compliance Analysis	7
Compliance Conclusion	12

CERTIFICATION

Appendix A. Background on the FCC MPE Limit

Introduction and Summary

At the request of Homeland Towers, LLC, Pinnacle Telecom Group has performed an independent expert assessment of radiofrequency (RF) levels and related FCC compliance for proposed wireless antenna operations on a new 140-foot monopole to be located at 180 South Bedford Road in Mt. Kisco, NY.

Homeland Towers refers to the prospective site as "NY172 – Mt. Kisco", and the proposed monopole will accommodate the directional panel antennas of up to three wireless carriers. At this time, Verizon Wireless plans to occupy the highest antenna mounting position on the monopole.

The FCC requires wireless antenna operators to perform an assessment of the RF levels from all the transmitting antennas at a site whenever antenna operations are added or modified, and ensure compliance with the FCC Maximum Permissible Exposure (MPE) limit in areas of unrestricted public access, i.e., at street level around the site.

In this case, the compliance assessment will include the RF effects of a worst-case hypothetical collocation of two wireless carriers' antennas. By worst case, we mean that the carriers whose maximum capacity relates to higher emitted power levels will be hypothetically assumed to occupy the lower mounting positions on the monopole, thus matching higher power and smaller distances to ground-level around the site.

The analysis will conservatively assume all the wireless carriers are operating at maximum capacity and maximum power in each of their FCC-licensed frequency bands. With that extreme degree of conservatism incorporated in the analysis, we can have great confidence that the actual RF effects from any combination of wireless operators, however they might actually be positioned on the monopole, would be in compliance with the FCC's MPE limit.

This assessment of antenna site compliance is based on the FCC limit for general population "maximum permissible exposure" (MPE), a limit established

as safe for continuous exposure to RF fields by humans of either sex, all ages and sizes, and under all conditions.

The result of an FCC compliance assessment can be described in layman's terms by expressing the calculated RF levels as simple percentages of the FCC MPE limit. In that way, the figure 100 percent serves as the reference for compliance, and calculated RF levels below 100 percent indicate compliance with the MPE limit. An equivalent way to describe the calculated results is to relate them to a "times-below-the-limit" factor. Here, we will apply both descriptions.

The result of the FCC compliance assessment in this case is as follows:

- At street level around the site, the conservatively calculated maximum RF level caused by the combination of antenna operations is 2.0130 percent of the FCC general population MPE limit, well below the 100-percent reference for compliance. In other words, even with calculations designed to significantly overstate the RF levels versus those that could actually occur at the site, the worst-case calculated RF level in this case is still more than 45 times below the limit defined by the federal government as safe for continuous exposure of the general public.
- □ The results of the calculations provide a clear demonstration that the RF levels from as many as three wireless carriers, even under worst-case collocation circumstances, would satisfy the FCC requirement for controlling potential human exposure to RF fields. Moreover, because of the conservative methodology and assumptions applied in this analysis, RF levels actually caused by any combination of wireless operators' antenna operations at this site will be even less significant than the calculation results here indicate.

The remainder of this report provides the following:

relevant technical data on the parameters for the three wireless carriers;

- a description of the applicable FCC mathematical model for assessing compliance with the MPE limit, and application of the relevant technical data to that model; and
- analysis of the results of the calculations, and the compliance conclusion for the proposed site.

In addition, Appendix A provides background on the FCC MPE limit, along with a list of key FCC references on MPE compliance.

Antenna and Transmission Data

As described, the proposed 140-foot monopole will be able to accommodate as many as three wireless carriers' antennas. Verizon Wireless proposes to occupy the highest mounting position on the monopole. This analysis will include an assumption of "worst-case" collocation by two other wireless carriers – AT&T and T-Mobile.

The worst-case collocation methodology basically involves taking the carriers with the most available spectrum and the opportunity for higher power levels and hypothetically positioning them at the lower points on the monopole – thus matching the most power with the shorter distances to the ground.

Typically, the vertical spacing between different wireless carriers' antennas on a monopole is 10 feet. In this case, the Verizon Wireless antennas will mount at a center line of 137 feet, and we will assign antenna centerline-heights to the two other assumed wireless collocators at 127 feet and 117 feet.

The transmission parameters for each of the wireless carriers are described below.

Verizon Wireless is licensed to operate in the 746 MHz, 869 MHz, 1900 MHz, 2100 MHz and 3.5 GHz frequency bands. In the 746 MHz band, Verizon uses four 40-watt channels per antenna sector. In the 869 MHz band, Verizon uses four 40-watt channels per sector. In the 1900 MHz band, Verizon uses four 40-watt channels per antenna sector. In the 2100 MHz band, Verizon uses four 40-watt channels per antenna sector. In the 2100 MHz band, Verizon uses four 40-

watt channels per sector. In the 3.5 GHZ band, Verizon uses two 0.622-watt

channels per sector.

AT&T is licensed to operate in the 700, 850, 1900, 2100, and 2300 MHz

frequency bands. In the 700 MHz band, AT&T uses two 80-watt RF channels and

two 105-watt channels per sector. In the 850 MHz band, AT&T uses four 40-watt

channels per sector. In the 1900 MHz band, AT&T uses four 40-watt channels

per sector. In the 2100 MHz band, AT&T uses four 40-watt channels per sector.

Lastly, in the 2300 MHz band, AT&T uses four 25-watt channels per sector.

T-Mobile is licensed to operate in the 600 MHz, 700 MHz, 1900 MHz, and 2100

MHz frequency bands. In the 600 MHz band, T-Mobile uses four 40-watt

channels per sector. In the 700 MHz band, T-Mobile uses one 40-watt channel

per sector. In the 1900 MHz band, T-Mobile uses five 30-watt channels per

sector. In the 2100 MHz band, T-Mobile uses one 40-watt channel and two 80-

watt channels per sector.

Based on the proposed mounting heights and then followed by overall available

power levels, we will hypothetically assign the mounting heights (to the centerline

of the antennas) as follows:

Verizon Wireless: 137 feet

T-Mobile: 127 feet

AT&T: 117 feet

The area below the antennas, at street level, is of interest in terms of potential

"uncontrolled" exposure of the general public, so the antenna's vertical-plane

emission characteristic is used in the calculations, as it is a key determinant in

the relative level of RF emissions in the "downward" direction.

By way of illustration, Figure 1, below, shows the vertical-plane pattern of a

typical 1900 MHz panel antenna. The antenna is effectively pointed at the three

o'clock position (the horizon) and the pattern at different angles is described

using decibel units. The use of a decibel scale in incidentally visually

6

understates the relative directionality characteristic of the antenna in the vertical plane. Where the antenna pattern reads 20 dB, the relative RF energy emitted at the corresponding downward angle is 1/100th of the maximum that occurs in the main beam (at 0 degrees); at 30 dB, the energy is 1/1000th of the maximum.

Note that the automatic pattern-scaling feature of our internal software may skew side-by-side visual comparisons of different antenna models, or even different parties' depictions of the same antenna model.

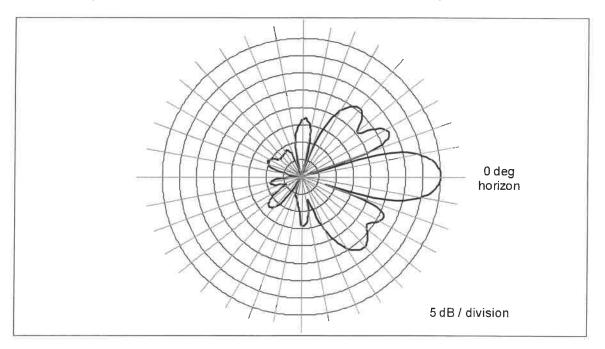


Figure 1. 1900 MHz Directional Panel Antenna – Vertical-plane Pattern

Compliance Analysis

FCC Office of Engineering and Technology Bulletin 65 ("OET Bulletin 65") provides guidelines for mathematical models to calculate potential RF exposure levels at various points around transmitting antennas.

Around an antenna site at ground level (in what is called the "far field" of the antennas), the RF levels are directly proportional to the total antenna input power and the relative antenna gain (focusing effect) in the downward direction of interest — and the levels are otherwise inversely proportional to the square of the

straight-line distance to the antenna. Conservative calculations also assume the potential RF exposure is enhanced by reflection of the RF energy from the intervening ground. Our calculations will assume a 100% "perfect", mirror-like reflection, which is the absolute worst-case approach.

The formula for ground-level MPE compliance assessment of any given wireless antenna operation is as follows:

MPE% = (100 * TxPower * 10
$$^{(Gmax\text{-Vdisc})/10}$$
 * 4) / (MPE * 4π * R^2) where

MPE%	=	RF level, expressed as a percentage of the FCC MPE limit applicable to continuous exposure of the general public
100	=	factor to convert the raw result to a percentage
TxPower	=	maximum net power into antenna sector, in milliwatts, a function of the number of channels per sector, the transmitter power per channel, and line loss
10 (Gmax-Vdisc)/10	=	numeric equivalent of the relative antenna gain in the direction of interest downward toward ground level
4	=	factor to account for a 100-percent-efficient energy reflection from the ground, and the squared relationship between RF field strength and power density $(2^2 = 4)$
MPE	=	FCC general population MPE limit
R	=	straight-line distance from the RF source to the point of interest, centimeters

The MPE% calculations are normally performed out to a distance of 500 feet from the facility to points 6.5 feet (approximately two meters, the FCC-recommended standing height) off the ground, as illustrated in Figure 2 on the next page.

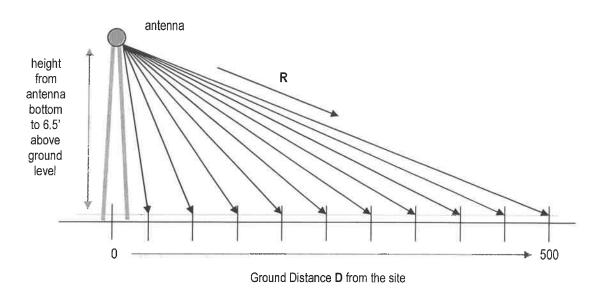


Figure 2. Street-level MPE% Calculation Geometry

It is popularly thought that the farther away one is from an antenna, the lower the RF level – which is generally but not universally correct. The results of MPE% calculations fairly close to the site will reflect the variations in the vertical-plane antenna pattern as well as the variation in straight-line distance to the antennas. Therefore, RF levels may actually increase slightly with increasing distance within the range of zero to 500 feet from the site. As the distance approaches 500 feet and beyond, though, the antenna pattern factor becomes less significant, the RF levels become primarily distance-controlled and, as a result, the RF levels generally decrease with increasing distance. In any case, the RF levels more than 500 feet from a wireless antenna site are well understood to be sufficiently low and always in compliance.

FCC compliance for a collocated antenna site is assessed in the following manner. At each distance point away from the site, an MPE% calculation is made for each antenna operation, including the individual components of dual-band operations. Then, at each point, the sum of the individual MPE% contributions is compared to 100 percent, where the latter figure serves as a normalized reference for compliance with the MPE limit. We refer to the sum of the individual MPE% contributions as "total MPE%", and any calculated total MPE% result exceeding 100 percent is, by definition, higher than the limit and

represent non-compliance and a need to take action to mitigate the RF levels. If all results are below 100 percent, that indicates compliance with the federal regulations on controlling exposure.

Note that the following conservative methodology and assumptions are incorporated into the MPE% calculations on a general basis:

- The antennas are assumed to be operating continuously at maximum RF power – i.e., with the maximum number of channels and the maximum transmitter power per channel.
- 2. The power-attenuation effects of any shadowing or visual obstruction to a line-of-sight path from the antennas to the points of interest at ground level are ignored.
- 3. The calculations intentionally minimize the distance factor (R) by assuming a 6'6" human and performing the calculations from the bottom (rather than the centerline) of the antenna.
- 4. The potential RF exposure at ground level is assumed to be 100-percent enhanced (increased) via a "perfect" field reflection from the intervening ground.

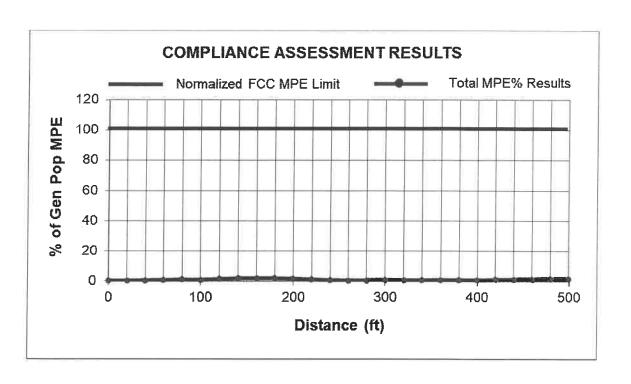
The net result of these assumptions is to intentionally and significantly overstate the calculated RF levels relative to the RF levels that will actually occur – and the purpose of this conservatism is to allow "safe-side" conclusions about compliance with the MPE limit.

The table that follows provides the results of the MPE% calculations for each antenna operation, with the worst-case overall result highlighted in bold in the last column.

Ground Distance (ft)	Verizon Wireless MPE%	AT&T MPE%	T-Mobile MPE%	Total MPE%
0	0.0416	0.1006	0.0044	0.1466
20	0.1445	0.1263	0.0074	0.2782
40	0.1266	0.2593	0.0680	0.4539
60	0.1849	0.4331	0.0811	0.6991
80	0.3614	0.5739	0.0976	1.0329
100	0.2482	0.4792	0.1942	0.9216
120	0.2120	0.7925	0.4599	1.4644
140	0.3864	1.0131	0.5513	1.9508
160	0.6643	1.0105	0.3382	2.0130
180	0.7193	1.1026	0.1229	1.9448
200	0.5304	1.1188	0.0840	1.7332
220	0.2359	0.8806	0.0894	1.2059
240	0.0650	0.5435	0.0703	0.6788
260	0.0751	0.3112	0.0455	0.4318
280	0.1527	0.2497	0.0785	0.4809
300	0.1883	0.2474	0.1232	0.5589
320	0.2279	0.2587	0.1693	0.6559
340	0.2064	0.3045	0.2028	0.7137
360	0.1754	0.4131	0.1811	0.7696
380	0.1483	0.6041	0.1336	0.8860
400	0.1401	0.5492	0.0837	0.7730
420	0.1595	0.7923	0.0623	1.0141
440	0.1465	1.0699	0.0552	1.2716
460	0.1995	0.9837	0.0796	1.2628
480	0.2928	1.2256	0.1339	1.6523
500	0.2713	1.1338	0.1240	1.5291

As indicated, the overall worst-case calculated result is 2.0130 percent of the FCC general population MPE limit – well below the 100-percent reference for compliance, particularly given the significant conservatism incorporated in the analysis.

A graph of the overall calculation results, provided on the next page, provides perhaps a clearer *visual* illustration of the relative compliance of the calculated RF levels. The line representing the overall calculation results shows an obviously clear, consistent margin to the FCC MPE limit.



Compliance Conclusion

The FCC MPE limit has been constructed in such a manner that continuous human exposure to RF fields up to and including 100 percent of the MPE limit is acceptable and completely safe.

The conservatively calculated maximum RF effect at street level from the assumed worst-case collocation of as many as three wireless carriers is 2.0130 percent of the FCC general population MPE limit. In other words, even with an extremely conservative analysis intended to dramatically overstate the RF effects of any wireless collocation scenario at the site, the calculated worst-case RF level is still more than 45 times below the FCC MPE limit.

The results of the calculations indicate clear compliance with the FCC regulations and the related MPE limit, even for a worst-case collocation scenario. Because of the conservative calculation methodology and operational assumptions applied in this analysis, the RF levels actually caused by any more realistic collocation of antennas at this site would be even less significant than the calculation results here indicate, and compliance would be achieved by an even larger margin.

CERTIFICATION

The undersigned certify as follows:

- 1. We have read and are familiar with the FCC regulations concerning RF safety and the control of human exposure to RF fields (47 CFR 1.1301 *et seq*).
- 2. To the best of our knowledge, the statements and information disclosed in this report are true, complete and accurate.
- 3. The analysis of site RF compliance provided herein is consistent with the applicable FCC regulations, additional guidelines issued by the FCC, and industry practice.
- 4. The results of the assessment indicate that the subject antenna operations are in full compliance with the FCC regulations concerning the control of potential RF exposure.

Daniel J. Collins
Chief Technical Office
RM. Logo, Particular Control of the Cont

Appendix A. Background on the FCC MPE Limit

As directed by the Telecommunications Act of 1996, the FCC has established limits for maximum continuous human exposure to RF fields.

The FCC maximum permissible exposure (MPE) limits represent the consensus of federal agencies and independent experts responsible for RF safety matters. Those agencies include the National Council on Radiation Protection and Measurements (NCRP), the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), the American National Standards Institute (ANSI), the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA). In formulating its guidelines, the FCC also considered input from the public and technical community – notably the Institute of Electrical and Electronics Engineers (IEEE).

The FCC's RF exposure guidelines are incorporated in Section 1.301 *et seq* of its Rules and Regulations (47 CFR 1.1301-1.1310). Those guidelines specify MPE limits for both occupational and general population exposure.

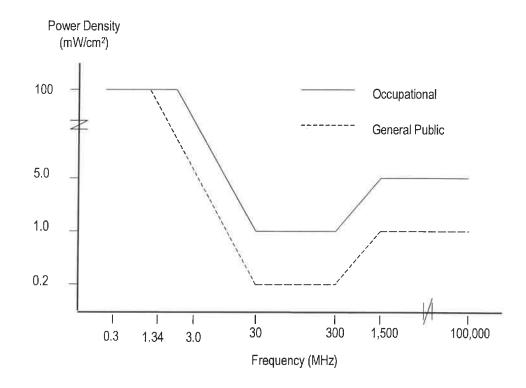
The specified continuous exposure MPE limits are based on known variation of human body susceptibility in different frequency ranges, and a Specific Absorption Rate (SAR) of 4 watts per kilogram, which is universally considered to accurately represent human capacity to dissipate incident RF energy (in the form of heat). The occupational MPE guidelines incorporate a safety factor of 10 or greater with respect to RF levels known to represent a health hazard, and an additional safety factor of five is applied to the MPE limits for general population exposure. Thus, the general population MPE limit has a built-in safety factor of more than 50. Continuous exposure at levels equal to or below the applicable MPE limits is considered to result in no adverse health effects on humans.

The reason for *two* tiers of MPE limits is based on an understanding and assumption that members of the general public are unlikely to have had appropriate RF safety training and may not be aware of the exposures they receive; occupational exposure in controlled environments, on the other hand, is assumed to involve individuals who have had such training, are aware of the exposures, and know how to maintain a safe personal work environment.

The FCC's RF exposure limits are expressed in two equivalent forms, using alternative units of field strength (expressed in volts per meter, or V/m), and power density (expressed in milliwatts per square centimeter, or mW/cm²). The table on the next page lists the FCC limits for both occupational and general population exposures, using the mW/cm² reference, for the different radio frequency ranges.

Frequency Range (F) (MHz)	Occupational Exposure (mW/cm²)	General Public Exposure (mW/cm²)
0.3 - 1.34	100	100
1.34 - 3.0	100	180 / F ²
3.0 - 30	900 / F ²	180 / F ²
30 - 300	1.0	0.2
300 - 1,500	F/300	F / 1500
1,500 - 100,000	5.0	1.0

The diagram below provides a graphical illustration of both the FCC's occupational and general population MPE limits.



Because the FCC's RF exposure limits are frequency-shaped, the exact MPE limits applicable to the instant situation depend on the frequency range used by the systems of interest.

The most appropriate method of determining RF compliance is to calculate the RF power density attributable to a particular system and compare that to the MPE limit applicable to the operating frequency in question. The result is usually expressed as a percentage of the MPE limit.

For potential exposure from multiple systems, the respective percentages of the MPE limits are added, and the total percentage compared to 100 (percent of the limit). If the result is less than 100, the total exposure is in compliance; if it is more than 100, exposure mitigation measures are necessary to achieve compliance.

References on FCC Compliance

47 CFR, FCC Rules and Regulations, Part 1 (Practice and Procedure), Section 1.1310 (Radiofrequency radiation exposure limits).

FCC Second Memorandum Opinion and Order and Notice of Proposed Rulemaking (FCC 97-303), In the Matter of Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934 (WT Docket 97-192), Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (ET Docket 93-62), and Petition for Rulemaking of the Cellular Telecommunications Industry Association Concerning Amendment of the Commission's Rule's to Preempt State and Local Regulation of Commercial Mobile Radio Service Transmitting Facilities, released August 25, 1997.

FCC First Memorandum Opinion and Order, ET Docket 93-62, *In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, released December 24, 1996.

FCC Report and Order, ET Docket 93-62, In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, released August 1, 1996.

FCC Report and Order, Notice of Proposed Rulemaking, Memorandum Opinion and Order (FCC 19-126), Proposed Changes in the Commission's Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields; Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies, released December 4, 2019.

FCC Office of Engineering and Technology (OET) Bulletin 65, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields", Edition 97-01, August 1997.

FCC Office of Engineering and Technology (OET) Bulletin 56, "Questions and Answers About Biological Effects and Potential Hazards of RF Radiation", edition 4, August 1999.

"RF Field Measurements for Antenna Sites", (video), Richard Tell Associates Inc., 1997.

"EME Awareness for Antenna Site Safety", (video), Motorola (produced in association with Richard Tell Associates Inc.), 1997.



HOMELAND TOWERS, LLC

NY172 MOUNT KISCO 4 SITE

180 S BEDFORD ROAD
MOUNT KISCO
WESTCHESTER COUNTY, NY

AUGUST 17, 2020

DOMINIC C. VILLECCO DAVID K. STERN





V-COMM, L.L.C. has been retained by Homeland Towers, LLC to provide expert analysis in association with Verizon Wireless for its proposed wireless communications facility located at 180 S Bedford Road, Mount Kisco, NY.

QUALIFICATIONS

V-COMM, L.L.C. is a telecommunications engineering firm primarily focused on providing engineering and related business services to network operators in the telecommunication industry as well as municipalities. V-COMM was founded in late 1995 with the intent of providing services to the emerging wireless and wired segments of the telecommunication industry. V-COMM's client base includes PCS operators, cellular, paging, ESMR and microwave operators, utility/telecommunications cooperatives, cable TV operators and Competitive Local Exchange Carriers (CLECs) and Local Governments. Services performed for these clients over the past twenty years include:

- Business and Strategic Planning
- Capital and Operational Expenditure Modeling
- Infrastructure Requests for Proposal (RFPs) and Analysis
- Infrastructure Contract Negotiation
- Technical and Financial Support in Obtaining Vendor and Equity Financing
- Interconnect Contract Negotiation
- RF Network Design, Implementation and Optimization
- Interconnect Network Design, Implementation and Optimization
- Telephony Signaling (SS-7) and Vertical Systems Design and Implementation
- Local Government Communication Systems
- Project Management of Network Implementation
- Expert Witness Zoning Testimony
- License Tender/Bid Technical Support

(Please see Mr. Villecco's and Mr. Stern's resumes at the end of the report)





VERIZON WIRELESS EXISTING AND PROPOSED SITES IN AND AROUND MOUNT KISCO

V-COMM has identified Verizon Wireless' existing antenna support structures that provide coverage to Town/Village of Mount Kisco. The structures are listed in Table 1 below and depicted in the attached Maps.

TABLE 1 – VERIZON WIRELESS EXISTING AND PROPOSED SITES IN AND AROUND MOUNT KISCO. NY

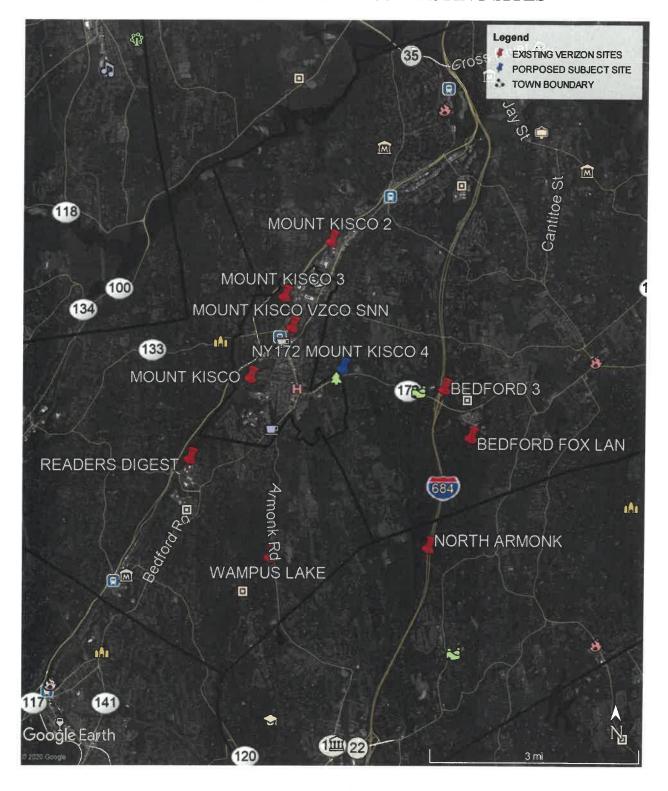
MOUNI RISCO, NI			
Cell No.	Cell Name	Address	Antenna C/L in Ft.
Subject Site	NY172 Mount Kisco 4	180 S Bedford Road Mount Kisco	137
56	Bedford 3	I-684 & Route 172 Mount Kisco	127
174	North Armonk	Baldwin Road At Route 684 Mount Kisco	110.03
185	Mount Kisco 2	5 Green Lane Bedford Hills	137.54
230	Bedford Fox Lane	Bedford Fox Lane School Bedford	49.21
234	Readers Digest	Readers Digest Road Chappaqua	50.91
266	Mount Kisco	304 Lexington Avenue Mount Kisco	149
313	Wampus Lake	620 Armonk Road Mount Kisco	128.03
663 (Proposed)	Mount Kisco VZCO SNN	45 East Main Street Mount Kisco	97
900 (Zoning Approved)	Mount Kisco 3	1 Mountain Ave Mount Kisco	94

Map 1 below depicts the surrounding sites with red dots, and the subject site is depicted with a blue dot.



verizon/

MAP 1 - VERIZON WIRELESS EXISTING SITES







VERIZON WIRELESS SERVICE

RF Coverage Deficiency

V-COMM analyzed whether there was sufficient RF coverage and found that there was a significant gap in coverage for Verizon Wireless in the 700 MHz and 2100 MHz frequency bands in the Town/Village of Mount Kisco. Therefore, as in cases where the existing coverage in the 2100 MHz frequency band, or 700 MHz band, is not adequate, which is the case in this section of Mount Kisco, then a new wireless facility is needed.

The subject site was identified as a suitable location for a wireless communications facility and it also met Verizon Wireless' coverage objectives in the Town/Village of Mount Kisco. The proposed NY172 Mount Kisco 4 site will be located on a proposed 140 foot Monopole located at 180 S Bedford Road in Mount Kisco. Verizon Wireless proposes to install its antennas at a centerline of 137 feet Above Ground Level (AGL). It is the minimum height needed to provide the capacity and coverage required by Verizon. The height of the subject site places it above all of the vegetation in the targeted coverage area, increasing its site's capacity. Taking into account the coverage, capacity, and design requirements for a macrocell network in this part of Mount Kisco, the proposed site proved to be a suitable location.

The propagation map is drawn showing the region where the Reference Signal Received Power (RSRP) equates to the minimally acceptable received signal level for adequate service, as measured at the mobile's receiver. The RSRP of the surrounding environment includes the attenuation of In-Building and In-Vehicle use of service. The minimally acceptable signal level for adequate 4G LTE service in suburban in-building and in-vehicle usage is represented by the green shaded areas (-95 dBm or better).

The propagation map titled "Map 2 - Verizon Wireless Existing Sites Coverage at 700 MHz" depicts service from the closest existing sites. The areas that lack the minimum in-building coverage include. Rippowam Cisqua School, Unitarian Universalist Fellowship of Northern Westchester, and several homes along the Route 172. There is also lack of reliable in-vehicle coverage on Route 172. Marsh Sanctuary Inc. - Park along Route 172 between the existing Wireless sites Bedford 3 and Mount Kisco.

The existing coverage includes the Zoning Approved site Mount Kisco 3 as well as the proposed Small Network Node site, Mount Kisco VZCO SNN. The Mount Kisco VZCO Site provides additional capacity to the Verizon wireless network in the downtown commercial area of the Town/Village of Mount Kisco. Mount Kisco 3 site is located on the tower at Mountain Avenue in Mount Kisco and will cover portions of the village in the direction of Saw Mill Parkway and Guard Hill Road.

The propagation map titled "Map 3 - Verizon Wireless Coverage with "NY172 Mount Kisco 4" Site at 700 MHz" depicts the service from the closest existing sites along with coverage from the subject "NY172 Mount Kisco 4" site. The 700 MHz coverage from the proposed site combined with the existing sites will provide the required coverage and more capacity in this area of Mount Kisco. It will also provide better inbuilding coverage for facilities like CareMount Medical Mount Kisco Office and the necessary coverage on Route 172. Where there is inadequate signal coverage between the sites, an increased and unacceptable likelihood of dropped calls, missed calls, lost data and data connectivity will occur. S Bedford Road within the Mt Kisco Town has an average traffic volume of 7,311 vehicles travelling in a week¹.

Page 4 of 16

¹ Department of Public Works (DPW) Traffic Counts provided for Westchester County Municipalities. https://publicworks.westchestergov.com/road-information/traffic-counts V-COMM, L.L.C.





As the antenna center line (ACL) descends from the proposed 137 feet, it enters into a range where clutter becomes an increasingly problematic factor. Examples of clutter are trees, houses, buildings, soil, and other physical objects on the ground. Clutter attenuates or weakens and disperses, the RF energy necessary for wireless telecommunications.

The propagation map titled "Map 4 - Verizon Wireless Existing Sites Coverage at 2100 MHz" depicts service from the closest existing sites. The area of gap includes several residence, Route 172, S Bedford Rd near CareMount Medical Mount Kisco Office and The Ambulatory Surgery Center of Westchester - Surgical center, CVS pharmacy near the Route 172 and Route 117 intersection.

The propagation map titled "Map 5 - Verizon Wireless Coverage with "NY172 Mount Kisco 4" Site at 2100 MHz" depicts the service from the closest existing sites along with coverage from the subject "NY172 Mount Kisco 4" site. The high band provides the additional coverage and capacity needed in this area along with excellent in-building coverage for the residences and commercial buildings within the coverage gap area shown in Map 5. The high band frequency, 2100 MHz band, does not propagate as far, but provides important additional capacity to the broader low band coverage provided at 700 MHz band.

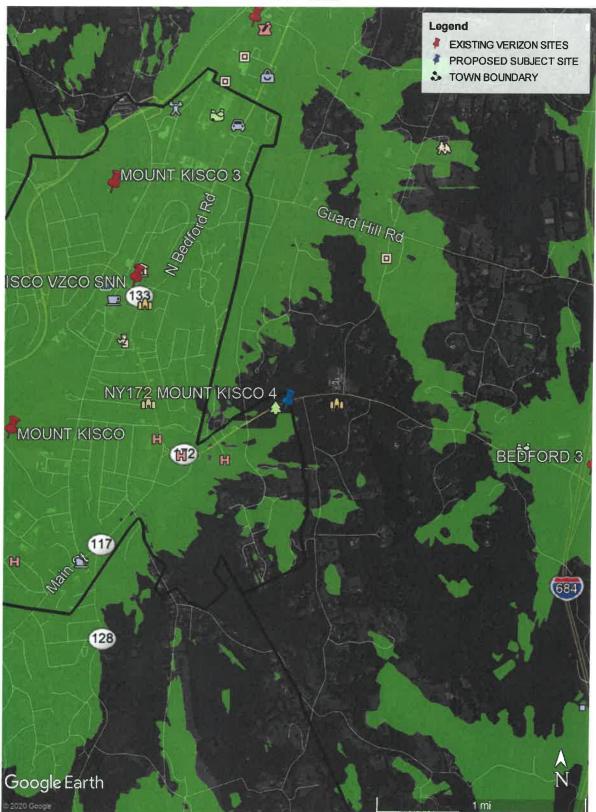
The Proposed Facility is the minimum height to provide the necessary coverage to remedy the significant gap in service and to provide for collocation and avoid the proliferation of additional towers."

V-COMM, L.L.C. Page 5 of 16





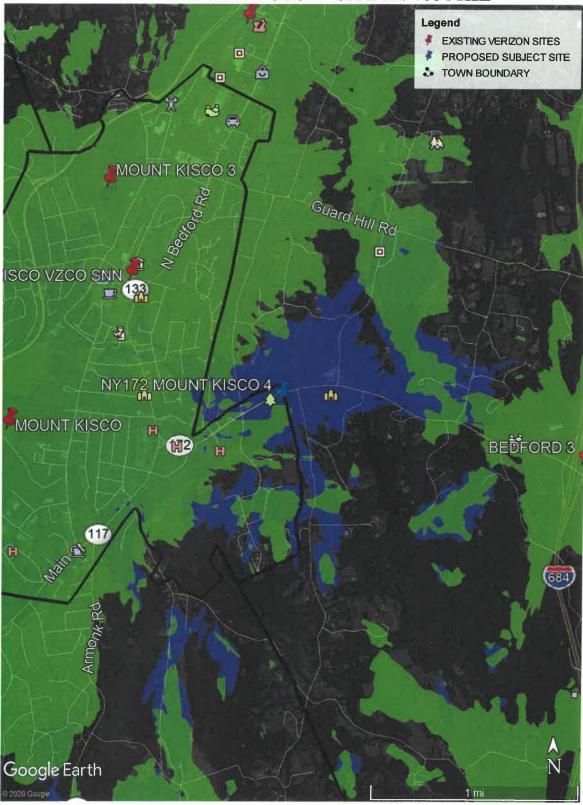
MAP 2 - VERIZON WIRELESS EXISTING SITE COVERAGE AT 700 MHZ



verizon/

NY172 Mount Kisco 4 Site Mount Kisco, NY August 17, 2020

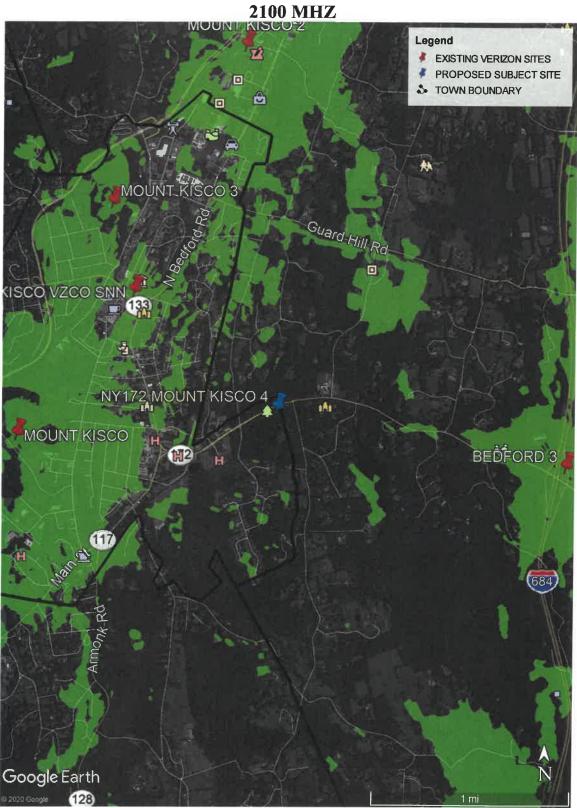
MAP 3 - VERIZON WIRELESS COVERAGE WITH "NY172 MOUNT KISCO 4" SITE AT 700 MHZ





verizon /

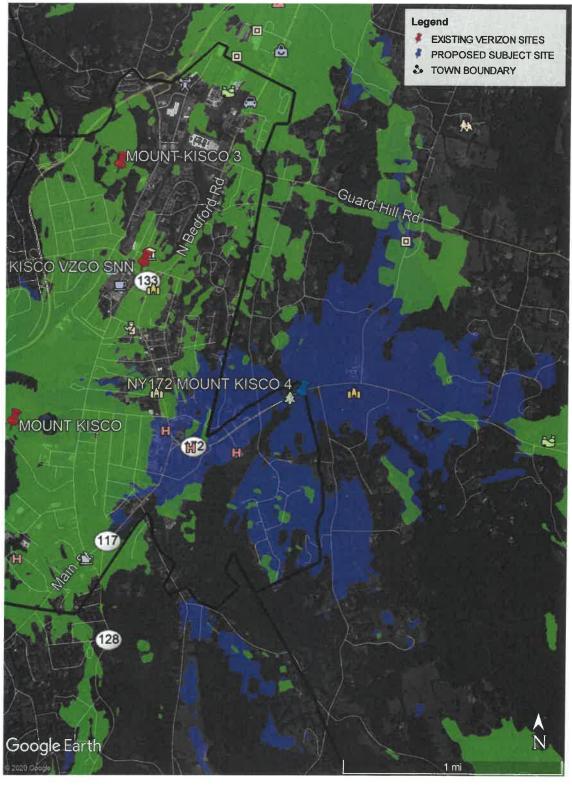
MAP 4 - VERIZON WIRELESS EXISTING SITE COVERAGE AT 2100 MHZ





verizon^v

MAP 5 - VERIZON WIRELESS COVERAGE WITH "NY172 MOUNT KISCO 4" SITE AT 2100 MHZ







ALTERNATIVE LOCATIONS

The subject site was identified as a suitable location for a wireless communications facility and it also met Verizon Wireless' coverage objectives. A thorough review was conducted to determine whether there were any existing structures of suitable height upon which Verizon Wireless could mount its antennas. A review of the surrounding area reveals absence of existing tall structures, towers, or water tanks that meet all the requirements for a wireless facility.

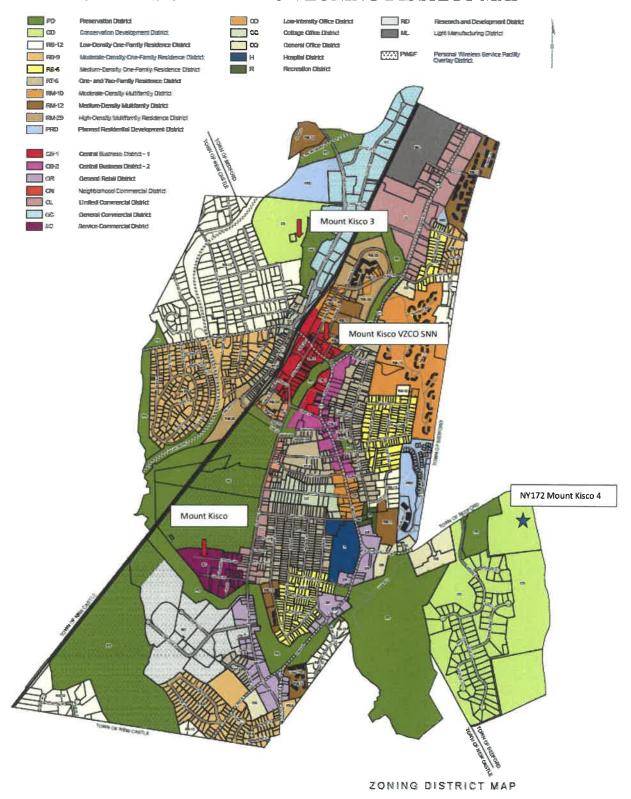
A review was conducted to see if a site within the Overlay District will be an alternate location to the proposed. The overlay district is approximately 5,500 feet away from the proposed location and is outside of the coverage gap area, therefore it will not provide the required coverage to this intended area for this proposed site. Map titled "Map 6 – Existing and Proposed Verizon Wireless Facilities Overlaid on Zoning District Map" depicts the location of the proposed and existing facilities over the Zoning district Map.

V-COMM, L.L.C. Page 10 of 16





MAP 6 – EXISTING AND PROPOSED VERIZON WIRELESS FACILITIES OVERLAID ON ZONING DISTRICT MAP







CONCLUSIONS

V-COMM reviewed the materials provided by Verizon Wireless and prepared an analysis of the existing cell sites and their respective RF coverage. With the existing sites, there is a significant gap in coverage which restricts Verizon Wireless customers from originating, maintaining or receiving calls from the "Public Switched Telephone Network" for VoLTE calls. It is our expert opinion that Verizon Wireless' subject site at the property located at 180 S Bedford Road in Mount Kisco, NY, will satisfy the coverage requirements of Verizon Wireless and its subscribers in this portion of Mount Kisco.

In addition, V-COMM has reviewed the overall system plan for Verizon Wireless in the Town/Village of Mount Kisco and finds that the plan is sound and consistent with industry standards and practices.

Dominic C. Villecco

President, V-COMM, L.L.C.

nine C VIlleces

8/17/2020

David K. Stern

Vice President, V-COMM, L.L.C.

Vair K. Sten

8/17/2020

Peter Longo, P.E.

NY Professional Engineer Licen

PML Consulting Engineers, LLC

Date

2020

Mr. Longo has reviewed the V-COMM, L.L.C. report for NY172 Mount Kisco 4 and concurs with the report conclusions



verizon

NY172 Mount Kisco 4 Site Mount Kisco, NY August 17, 2020

Dominic C. Villecco President and Founder V-COMM, L.L.C.

Dominic Villecco, President and founder of V-COMM, is a pioneer in wireless telecommunications engineering, with 36 years of executive-level experience and various engineering management positions previously. Under his leadership, V-COMM has grown from a start-up venture in 1996 to a highly respected full-service consulting telecommunications engineering firm.

In managing V-COMM's growth, Mr. Villecco has overseen expansion of the company's portfolio of consulting services, which today include a full range of RF and Network support, network design tools, measurement hardware, and database services as well as time-critical engineering-related services such as business planning, zoning hearing expert witness testimony, regulatory advisory assistance, and project management.

Before forming V-COMM, Mr. Villecco spent 10 years with Comcast Corporation, where he held management positions of increasing responsibility, his last being Vice President of Wireless Engineering for Comcast International Holdings, Inc. Focusing on the international marketplace, Mr. Villecco helped develop various technical and business requirements for directing Comcast's worldwide wireless venture utilizing current and emerging technologies (GSM, PCN, ESMR, paging, etc.).

Previously he was Vice President of Engineering and Operations for Comcast Cellular Communications, Inc. His responsibilities included overall system design, construction and operation, capital budget preparation and execution, interconnection negotiations, vendor contract negotiations, major account interface, new product implementation, and cellular market acquisition. Following Comcast's acquisition of Metrophone, Mr. Villecco successfully merged the two technical departments and managed the combined department of 140 engineers and support personnel.

Mr. Villecco served as Director of Engineering for American Cellular Network Corporation (AMCELL), where he managed all system implementation and engineering design issues. He was responsible for activating the first cellular system in the world utilizing proprietary automatic call delivery software between independent carriers in Wilmington, Delaware. He also had responsibility for filing all FCC and FAA applications for AMCELL before it was acquired by Comcast.

Prior to joining AMCELL, Mr. Villecco worked as a staff engineer at Sherman and Beverage (S&B), a broadcast consulting firm. He designed FM radio station broadcasting systems and studio-transmitter link systems, performed AM field studies and interference analysis and TV interference analysis, and helped build a sophisticated six-tower arrangement for a AM antenna phasing system. He also designed and wrote software to perform FM radio station allocations pursuant to FCC Rules Part 73.

Mr. Villecco started his career in telecommunications engineering as a wireless engineering consultant at Jubon Engineering, where he was responsible for the design of cellular systems, both domestic and international, radio paging systems, microwave radio systems, two-way radio systems, microwave multipoint distribution systems, and simulcast radio link systems, including the drafting of all FCC and FAA applications for these systems.

Mr. Villecco has a BSEE from Drexel University, in Philadelphia, and is an active member of IEEE. Mr. Villecco also serves as the Vice Chairman of the Advisory Council to the Drexel University Electrical and Computer Engineering (ECE) Department.





Relevant Expert Witness Testimony Experience

Over the past twenty years, Mr. Villecco had been previously qualified and provided expert witness testimony in the following venues:

Expert Witness Zoning Testimony

- Avalon Borough, NJ
- Belleville, NJ
- Belmar, NJ
- Berkeley Heights Township, NJ
- Bernards Township, NJ
- Bernardsville, NJ
- Branchburg, NJ
- Bridgewater Township, NJ
- Brielle, NJ
- Bushkill Township, PA
- Colts Neck Township, NJ
- Cranbury Township, NJ
- Cresskill, NJ
- Cross Village / Emmett County, MI
- Cumru Township, PA
- Exeter Township, PA
- Fair Haven, NJ
- Fanwood Borough, NJ
- Franklin, NJ
- Freehold, NJ
- · Garfield, NJ
- Glen Gardner, NJ
- Glen Rock, NJ
- Hampton Borough, NJ

- Hanover, NJ
- Hardyston Township, NJ
- Harrington Park, NJ
- Helmetta, NJ
- Hempstead, NY
- Highland Park, NJ
- Hoboken, NJ
- Holmdel Township, NJ
- Hopewell Borough, NJ
- Hopewell Township, NJ
- Howell Township, NJ
- Jackson Township, NJ
- Jersey City, NJ
- Kearny, NJ
- Kingston, NJ
- Lawrence Township, NJ
- Little Egg Harbor Twp., NJ
- Little Silver Borough, NJ
- Long Valley, NJ
- Lower Alsace Twp., PA
- Middletown Township, NJ
- Millstone Township, NJ
- Morris Township, NJ
- Neptune Township, NJ
- Newark, NJ
- New Castle County, DE

- New Providence, NJ
- N. Caldwell Township, NJ
- Orange, NJ
- Plainfield, NJ
- Princeton Township, NJ
- Reading Township, NJ
- Ridgefield, NJ
- · Rochelle Park, NJ
- Rutherford, NJ
- Saddle Brook Township, NJ
- Sayreville, NJ
- Somers Point, NJ
- Somerville, NJ
- South Brunswick, NJ
- South Coventry Twp., PA
- South Plainfield, NJ
- Stone Harbor, NJ
- Tenafly, NJ
- Upper Allen Township, PA
- Upper Freehold, NJ
- Wall Township, NJ
- Wallington, NJ
- Wantage Township, NJ
- Washington Township, NJ
- Wayne Township, NJ
- Weehawken Township, NJ

United States Bankruptcy Court

Nextwave Personal Communications, Inc. vs. Federal Communications Commission (FCC)*

Pocket Communications, Inc. vs. Federal Communications Commission (FCC)*

*In these cases, Mr. Villecco was retained by the FCC and the Department of Justice as a technical expert on their behalf, pertaining to matters of wireless network design, optimization and operation



verizon/

NY172 Mount Kisco 4 Site Mount Kisco, NY August 17, 2020

David K. Stern Vice President and Co-Founder V-COMM, L.L.C.

David Stern, Vice President and co-founder of V-COMM, has 35 years of hands-on operational and business experience in telecommunications engineering. While at V-COMM, Mr. Stern oversaw the design and implementation of several major Wireless markets in the Northeast United States, including T-Mobile - New York, Verizon Wireless, Unitel Cellular, West Virginia Wireless, South Canaan Cellular and Conestoga Wireless. In his position as Vice President, he has testified at a number of Zoning and Planning Boards in New Jersey, New York, Pennsylvania, West Virginia and Michigan, and qualified as an Expert Witness in US Federal District Court and Ocean County Superior Court, including:

- Bayonne, NJ
- Berkeley Township, NJ
- · Brick, NJ
- Bridgewater Township, NJ
- Byram Township, NJ
- Carteret, NJ
- Cedar Grove, NJ
- Charlevoix, MI
- Charleston, WV
- Chatham Borough, NJ
- Chatham Township, NJ
- Clinton Township, NJ
- Cranford, NJ
- Dumont, NJ
- East Brunswick, NJ
- East Hempfield, PA
- Edgewater, NJ
- Edison, NJ
- Elizabeth, NJ
- Elmwood Park, NJ
- Englewood Cliffs, NJ
- Fairfield, NJ
- Fairlawn, NJ
- Fanwood, NJ
- Fort Lee, NJ
- Franklin Township, NJ
- Freehold Township, NJ
- Galloway Township, NJ
- Hackensack, NJ
- · Haledon, NJ
- Hazlet, NJ
- Hempstead, NY
- Highland Park, NJ
- Hillsborough Township, NJ
- Hoboken, NJ
- Holmdel, NJ

- Hopatcong, NJ
- Hopewell Township, NJ
- Howell Township, NJ
- Huntington, NY
- Jackson Township, NJ
- Jersey City, NJ
- Keyport, NJ
- Kingwood Township, NJ
- Lakewood, NJ
- Lancaster, PA
- Lawrence Township, NJ
- Little Egg Harbor, NJ
- Livingston, NJ
- Lodi, NJ
- Long Branch, NJ
- Long Hill Township, NJ
- Lyndhurst, NJ
- Manchester Township, PA
- Manheim Township, PA
- Manalapan Township, NJ
- Marlboro Township, NJ
- Millstone Township, NJ
- Monroe Township, NJ
- Montgomery Township, NJ
- Montville Township, NJ
- Morris Township, NJ
- Mount Freedom, NJ
- Neptune, NJ
- Newark, NJ
- New Brunswick, NJ
- New Holland, PA
- Newton, NJ
- North Bergen, NJ
- North Brunswick, NJ
- Nutley, NJ

- Oakland, NJ
- Old Bridge, NJ
- Old Tappan, NJ
- Paramus, NJ
- Parsippany/Troy Hills, NJ
- · Patterson, NJ
- Peapack/Gladstone, NJ
- Perth Amboy, NJ
- Plainsboro, NJ
- · Piscataway, NJ
- Randolph Township, NJ
- Red Bank, NJ
- Rochelle Park, NJ
- Rockleigh, NJ
- Sayreville, NJ
- Shrewsbury, NJ
- South Plainfield, NJ
- South Brunswick, NJ
- Stafford Township, NJ
- Teaneck, NJ
- Tenafly, NJ
- Tewksbury, NJ
- Trenton, NJ
- Union, NJ
- Union City, NJ
- Vernon, NJ
- Wall Township, NJ
- Wantage Township, NJ
- Washington Township, NJ
- Wayne, NJ
- West Caldwell, NJ
- · West Milford, NJ
- West New York, NJ
- · West Orange, NJ
- Woodbridge, NJ





Mr. Stern has a formidable background in wireless technologies including CDMA, EVDO, LTE, GSM, EDGE, 3G, TDMA, Project 25, and Wi-Fi. As an expert witness, David represented major wireless carriers, which aided in the expansion of their networks. One of his major accomplishments at V-COMM was the design and project management for Madison, NJ's Public Safety Communication Center. David was also a key in New York City's first PCS network launch. He is a member of APCO Region 8 and Region 28 Regional Planning Committees, and is dedicated to creating standards for 700 MHz Public Safety and Commercial Wireless deployments.

Prior to joining V-COMM, Mr. Stern spent seven years with Comcast Cellular Communications, Inc., where he held several engineering management positions. As Director of Strategic Projects, he was responsible for all technical aspects of Comcast's wireless data business, including implementation of the CDPD Cellular Packet Data network. He also was responsible for bringing into commercial service the Cellular Data Gateway, a circuit switched data solution.

Also, Mr. Stern was the Director of Wireless System Engineering, charged with evaluating new digital technologies, including TDMA and CDMA, for possible adoption. He represented Comcast on several industry committees pertaining to CDMA digital cellular technology and served on the Technology Committee of a wireless company on behalf of Comcast. He helped to direct Comcast's participation in the A- and B-block PCS auctions and won high praise for his recommendations regarding the company's technology deployment in the PCS markets.

At the beginning of his tenure with Comcast, Mr. Stern was Director of Engineering at Comcast, managing a staff of 40 technical personnel. He had overall responsibility for a network that included 250 cell sites, three Switching offices, four Motorola EMX-2500 switches, IS-41 connections, SS-7 interconnection to NACN, and a fiber optic and microwave "disaster-resistant" interconnect network.

Mr. Stern began his career at Motorola as a Cellular Systems Engineer, where he developed his skills in RF engineering, frequency planning, and site acquisition activities. His promotion to Program Manager-Northeast for the rapidly growing New York, New Jersey, and Philadelphia markets gave him the responsibility for coordinating all activities and communications with Motorola's cellular infrastructure customers. He directed contract preparations, equipment orders and deliveries, project implementation schedules, and engineering support services.

Mr. Stern earned a BSEE from the University of Illinois, in Urbana, and is a member of IEEE.



August 14, 2020

Honorable Chairman Hertz and Members of the Planning Board Village of Mt Kisco 104 Main St Mount Kisco, NY 10549

RE: Alternate Site Report

Hon. Chairman Hertz and Members of the Planning Board:

I am the Regional Manager for Homeland Towers, LLC. I was responsible for identifying a suitable location for a telecommunications facility that would remedy Verizon Wireless' significant gap in reliable wireless service throughout this area of Mount Kisco specifically in this area of downtown Mt Kisco, Route 117 and along Route 172 and adjoining commercial and residential areas.

In consultation with Verizon Wireless based on coverage needs in the area, I began exploring the area for a facility location taking into account the Village's Zoning Code, collocation opportunities, land uses, potential environmental impacts, leasing and construction feasibility.

Zoning code Section 110-27.1 establishes an Overlay District (see Exhibit A) for Personal Wireless Service Facilities ("Overlay District)" and states as follows:

- A. Purpose and intent. The Personal Wireless Service Facilities Overlay District is an overlay district intended to provide a suitable choice of locations for establishment, construction and maintenance of personal wireless service facilities.
- B. Permitted uses. Except as specified in § 110-27H (Special permits for sites outside the Personal Wireless Service Facilities Overlay District), all new personal wireless service facilities, and all additions and/or modifications to currently existing personal wireless service facilities, shall be allowed only in the Personal Wireless Service Facilities Overlay District and only pursuant to a special permit issued by the Planning Board in accordance with the criteria set forth in this section and in § 110-46 of the Zoning Law.

Zoning code Section 110-27.1 E states as follows: Criteria for special permit applications. Applicants for special permits for establishment or construction of personal wireless service facilities shall meet all of the following criteria:

(1) Necessity. The proposed personal wireless service facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are located within and outside the Village, by colocation and otherwise.



(2) Colocation. The colocation of existing personal wireless service facilities only within the Personal Wireless Service Facilities Overlay District shall be strongly preferred to the construction of new personal wireless service facilities. If a new site for a personal wireless service facility is proposed, the applicant shall submit a report setting forth in detail an inventory of existing personal wireless service facilities within the Personal Wireless Service Facilities Overlay District which are within a reasonable distance from the proposed facility with respect to coverage, an inventory of existing personal wireless service facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve and a report on the possibilities and opportunities for colocation as an alternative to a new site. The applicant must demonstrate that the proposed personal wireless service facility cannot be accommodated on an existing facility within the Personal Wireless Service Facilities Overlay District or on an existing facility in another municipality due to one or more of the following reasons.

First, I performed a series of field visits to determine if there are any existing "personal wireless service facilities" in the Overlay District that would be suitable for co-location and that would provide adequate coverage for the service gap and found the following existing facilities. (see Exhibit A, existing site location map)

1. In the Overlay District, about 1.3 miles west of the proposed site at 304 Lexington Ave, Mt Kisco, is an approximately 150' tall tower. Verizon Wireless already has antennas on this tower and has determined that this site does not provide adequate coverage to the service gap area. Please see the RF Report prepared by V-Comm Telecommunications Engineers as part of this application.

Second, not having been able to find an existing facility in the Overlay District I tried to find an existing facility outside the Overlay District and / or other municipality that would be suitable for colocation and that would provide adequate coverage for the service gap and found the following existing facilities: (see Exhibit A, existing site location map)

- 2. Outside the Overlay District about 1.6 miles north west of the proposed site, at 1 Mountain Rd, Mt Kisco is an approximately 100' tall tower in the CD zone. Verizon already has antennas at this tower and has determined that this site does not provide adequate coverage to the service gap area. Please see the RF Report prepared by V-Comm Telecommunications Engineers as part of this application.
- 3. In an adjacent municipality, about 1.4 miles to the east of the proposed site at the Park & Ride, I-684 and Rte 172, Bedford is an approximately 150' tower. Verizon Wireless already has antennas at this tower and has determined that this site does not provide adequate coverage to the service gap area. Please see the RF Report prepared by V-Comm Telecommunications Engineers as part of this application.



4. In an adjacent municipality, about 0.75 miles to the north east of the proposed site at Guard Hill Park, Guard Hill Rd, Bedford, NY is an approximately 100' tower owned by Westchester County and Town of Bedford Emergency Communications Services. During the period of November 2018 to March 2019 Homeland Towers worked with the stakeholders and offered to re-enforce and rebuild this tower at its sole cost so that it could be available for private communications carriers to co-locate. This offer was not accepted.

Based on my findings there are no existing "personal wireless service facilities" in the Overlay District or another municipality suitable for colocation that would also meet the coverage objective.

Third, I determined that in order to meet the coverage objective for the service gap, a new wireless service facility would have to be built and that <u>due to the location and vicinity of the existing wireless service facility at 304 Lexington Ave, the elevation and topographic conditions a new personal wireless service facility within the Overlay District could not provide coverage to the existing service gap. Please see the RF Report prepared by V-Comm Telecommunications Engineers as part of this application.</u>

In accordance to Code Section 110-27.1 E 1 & 2 above and considering the existing facility locations, coverage objective, environmental impact, constructability and setback requirements, I evaluated and sent lease proposals to the following properties: (see Exhibit B for property location map and Exhibit C for copies of the proposal letters)

- Leonard Park, Main St, Mt Kisco, Parcels 80.66-1-1, 80.65-2-1 and 80.64-2-6. A proposal letter was sent by certified mail on 11/29/17 to the owner at Village of Mt Kisco, 104 Main St. Mount Kisco, NY 10594, Attn: Ed Brancati, Village Manager. These are Village of Mt Kisco owned properties. In follow up discussions with the Village it was determined to provide extensive due diligence materials, including visual analysis for Rolling Ridge Ct parcel 80.67-3-2.2, to help with the evaluations of these locations. In a public Village Board meeting on 11/19/18 the Village Trustees voted against our proposals.
- 2. Laurel Dr, Mt Kisco, Parcel 80.42-4-3. A proposal letter was sent by certified mail on 11/29/17 to the owner at Boys & Girls Club Northern Westchester, 351 E Main St, Mt Kisco, NY 10549, Attn: Alyzza C Ozer, CEO. We did receive an initial response, but the owner was subsequently not interested in our proposal.
- 3. 12 Mclain St, Bedford, NY Parcel 82.12-1-4. A proposal letter was sent by certified mail on 11/29/17 to the owner at Northern Westchester Professional Park II, 18 Black Swan Ct, Brookfield, CT 06804. We did not receive a response to our proposal.
- 4. 28 Mclain St, Bedford, NY Parcel 82.12-1-3. A proposal letter was sent by certified mail on 11/29/17 to the owner at McLean Street Associates, LLC, 485 Commerce St, Hawthorne, NY 10532. We did not receive a response to our proposal.



- 5. 103-105 South Bedford Rd, Mt Kisco, Parcel 82.12-1-5. A proposal letter was sent by certified mail on 11/29/17 to the owner at HMOB of Mt Kisco Owner LLC, 85 Harristown Rd, Glen Rock, NJ 07652 We did not receive a response to our proposal.
- Glassbury Court, Mt Kisco, Parcel 80.42-3-1.4. A proposal letter was sent by certified mail on 11/29/17 to the owner at Woodcrest at Leonard Park HOA, c/o McGrath Management Services, 444D Old Post Rd, Bedford, NY 10506, Attn: Greg Lewis, Manager We did not receive a response to our proposal.
- 7. 421 Main St, Mt Kisco, Parcel 80.50-4-3. A proposal letter was sent by certified mail on 2/13/19 to the owner at Roemer Betty, Roemer Stefanie, c/o CVS Health # 1997-01, 1 CVS Dr, Woosocket, RI 02895 We did not receive a response to our proposal.
- 8. 34 S Bedford Rd, Mt Kisco, Parcel 80.50-4-2. A proposal letter was sent by certified mail on 2/13/19 to the owner at IPERS 34 S Bedford Rd. Inc, c/o Ryan LLC Tax Compliance Dept 207, PO Box 4900, Scottsdale, AZ 85261-4900. We did not receive a response to our proposal.
- 9. 540 Main St, Mt Kisco, Parcel 80.57-4-5. A proposal letter was sent by certified mail on 2/13/19 to the owner at Nicholas David, PO Box 770, Mahopac, NY 10541. We did not receive a response to our proposal.
- 10. 489 Main St, Mt Kisco, Parcel 80.57-3-2. A proposal letter was sent by certified mail on 2/13/19 to the owner at Friendly Silverman Holding Corp, c/o Silverman Realty Group, 237 Mamaroneck Ave, White Plains, NY 10605-1319. We did not receive a response to our proposal.
- 11. 506 Main St, Mt Kisco, Parcel 80.57-2-11. A proposal letter was sent by certified mail on 2/13/19 to the owner at 506 Main Street LLC, c/o Larstrand Corporation, 500 Park Ave, 11th Floor, New York, NY 10022 We did not receive a response to our proposal.
- 12. 90 & 110 S Bedford Rd, Mt Kisco, Parcels 80.50-3-1 & 80.51-1-1. A proposal was submitted to Diamond Properties, Leasing Manager for the owner HP Mt Kisco 90 & 110 LLC and 100 South Bedford LLC in 4/19 by telephone & email. While there was initial tentative interest, the owner decided not to pursue our proposal.
- 13. 100 S Bedford Rd, Mt Kisco, Parcel 80.50-3-3 A proposal was submitted to Diamond Properties, Leasing Manager for the owner 100 South Bedford LLC in 4/19 by telephone & email. While there was initial tentative interest, the owner decided not to pursue our proposal.
 - 14. 180 S Bedford Rd, Mount Kisco, Parcel 80.44-1-1. A proposal letter was sent by certified mail on 2/13/19 to the owner at Skull Island Partners, LLC c/o David Seldin, 1571



Oceanview Dr., Tierra Verde, FL 33715-2538. This property is subject of the proposed wireless services facility.

The only property that was interested in leasing space and that also provides coverage for the Verizon Wireless service gap, is the proposed site.

Having identified a leasable property that also meets the coverage objectives, I evaluated the best location on the property to mitigate the visual impact and also maximize the setback requirements to residential dwellings, considering disturbance, environmental impact, constructability and availability. The proposed location meets these criteria as the existing trees will shield the wireless service facility and equipment compound from adjacent residential dwellings and along Route 172 through existing tree lines. Please see the Visual Assessment Report by Saratoga Associates as part of this application.

Additionally, and in order to mitigate the visual impact we are proposing that the facility be constructed using modern stealth tree technologies and antenna "socks" to maximize the integration of the facility with the surrounding mature trees.

Finally, for all the reasons above and given the limitation of siting possibilities and the environmental and visual impact the proposed facility would cause at another location on the property I determined that the proposed location would be best suited for the proposed personal wireless service facility.

Conclusion:

There are no existing "personal wireless service facilities" in or outside the Overlay District suitable for colocation that would also meet the coverage objective. Moreover, the proposed location is the only property interested in leasing space that also provides coverage for the service gap. Having researched all potential siting locations as required and since this location is approved by Verizon Wireless, Homeland Towers, LLC entered into an agreement with the property owner and is seeking approval for the facility.

Based on its location and the surrounding area, including the Zoning Code requirements, the proposed site is the most suitable and least intrusive to remedy Verizon Wireless' significant gap in service.

Respectfully,

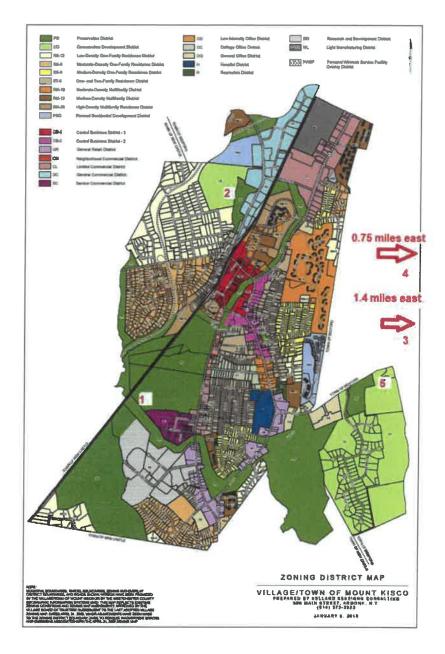
Klaus Wimmer

Klaus Wimmer Regional Manager Homeland Towers, LLC.



Exhibit A

Existing personal wireless service facilities suitable for co-location



- 1. Existing Site at 304 Lexington Ave, Mt Kisco in Overlay District
 - 2. Existing site at 1 Mountain Rd, Mt Kisco in CD zone
- 3. Existing site at Park & Ride I-684 & Rte 172, Bedford, 1.4 miles east
- 4. Existing site at Guard Hill Park, Guard Hill Rd, Bedford, 0.75 miles north east
 - 5. Proposed Site in CD zone



Exhibit B

Location map of properties contacted with proposals





Exhibit C

Copy of proposal letters



Via Certified Mail Village of Mt Kisco

Attn: Ed Brancati, Village Manager

104 Main St

Mt. Kisco, NY 10594

Re:

Homeland Towers Wireless Facility Proposal NY172 Mt Kisco

Main St, Mt Kisco, NY 80.66-1-1 583 Main St, Mt Kisco, NY 80.65-2-1 634 Main St, Mt Kisco, NY 80.64-2-6

Dear Mr. Brancati,

This proposal letter is being sent to your attention in hopes that the Village will be interested in leasing a small portion of one of its properties for the purpose of a wireless facility. Homeland Towers has identified these properties as potential wireless siting solutions that will create an additional revenue stream for the Village. In addition to enhanced cellular coverage in the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T, Verizon, Sprint and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit the Village.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely.

Klaus Wimmer 203-297-6345 cell# 201-289-6750



<u>Via Certified Mail</u>
Northern Westchester Professional Park II
18 Black Swan Ct,
Brookfield, CT 06804

Re:

Homeland Towers Wireless Facility Proposal (Parcel ID# 82.12-1-4) NY172 Mt Kisco

Dear Sir/Madam,

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a small portion of your property located at 12 Mc Lean Street, Mt. Kisco for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for your organization. In addition to enhanced cellular coverage in the area and along Mc Lean Street, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T, Verizon, Sprint and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit your organization.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely.

Klaus Wimmer 203-297-6345

cell# 201-289-6750



Via Certified Mail
McLean Street Associates, LLC
485 Commerce St
Hawthorne, NY 10532

Re:

Homeland Towers Wireless Facility Proposal (Parcel ID# 82.12-1-3) NY172 Mt Kisco

Dear Sir/Madam,

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a small portion of your property located at 28 Mc Lean Street, Mt. Kisco for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for your organization. In addition to enhanced cellular coverage in the area and along Mc Lean Street, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T, Verizon, Sprint and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit your organization.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer 203-297-6345

cell# 201-289-6750



Via Certified Mail HMOB of Mt Kisco Owner LLC 85 Harristown Rd Glen Rock, NJ 07652

Re:

Homeland Towers Wireless Facility Proposal (Parcel ID# 82.12-1-5) NY172 Mt Kisco

Dear Sir/Madam,

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a small portion of your property located at 103-105 South Bedford Rd, Mt. Kisco for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for your organization. In addition to enhanced cellular coverage in the area and along South Bedford Rd, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T, Verizon, Sprint and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit your organization.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer 203-297-6345

cell# 201-289-6750



Via Certified Mail
Boys & Girls Club Northern Westchester
Attn: Alyzza C Ozer, CEO
351 E Main Street
Mt. Kisco, NY 10549

Re: Homeland Towers Wireless Facility Proposal (Parcel ID# 80.42-4-3) NY172 Mt Kisco

Dear Ms. Ozer,

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a small portion of your property located at Laurel Drive, Mt. Kisco for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for your organization. In addition to enhanced cellular coverage in the area and along Laurel Drive, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T, Verizon, Sprint and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit your organization.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer 203-297-6345

cell# 201-289-6750



Via Certified Mail
Woodcrest at Leonard Park HOA
Attn: Greg Lewis, Manager
c/o McGrath Management Services
444D Old Post Rd
Bedford, NY 10506

Re: Homeland Towers Wireless Facility Proposal Glassbury Court (Parcel ID# 80.42-3-1.4) NY172 Mt Kisco

Dear Mr. Lewis,

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a small portion of your property located at Galssbury Court, Mt. Kisco for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for your organization. In addition to enhanced cellular coverage in the area and along Glassbury Court, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T, Verizon, Sprint and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit your organization.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely.

Klaus Wimmer 203-297-6345

cell# 201-289-6750



Via Certified Mail

Betty Roemer, Stefanie Roemer c/o CVS Health # 1997-01 1 CVS Dr Woonsocket, RI 02895

Re: Homeland Towers Wireless Facility Proposal 421 Main St, Mt Kisco (80.50-4-3) NY172 Mt. Kisco

Dear Ms. Betty and Ms. Stefanie Roemer:

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a portion of your property located at 421 Main St, Mt Kisco (80.50-4-3) for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for you. In addition to enhanced cellular coverage to the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

For the past 10 years, Homeland Towers has been successful in leasing, zoning and constructing sites throughout the Northeast in an effort to provide coverage to our customers such as Verizon, AT&T, T-Mobile and Sprint. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit you.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer Regional Manager

201-289-6750



Via Certified Mail

IPERS 34 S Bedford Rd. Inc c/o Ryan LLC Tax Compliance Dept 207 PO Box 4900 Scottsdale, AZ 85261-4900

Re:

Homeland Towers Wireless Facility Proposal 34 S Bedford Rd, Mt Kisco

(80.50-4-2) NY172 Mt. Kisco

Dear Sir or Madam:

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a portion of your property located at 34 S Bedford Rd, Mt Kisco (80.50-4-2) for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for you. In addition to enhanced cellular coverage to the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

For the past 10 years, Homeland Towers has been successful in leasing, zoning and constructing sites throughout the Northeast in an effort to provide coverage to our customers such as Verizon, AT&T, T-Mobile and Sprint. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit you.

All project costs associated with our proposal, including municipal and state approvals along with construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer Regional Manager

201-289-6750



Via Certified Mail

Nicholas David PO Box 770 Mahopac, NY 10541

Re:

Homeland Towers Wireless Facility Proposal 540 Main St, Mt Kisco (80.57-4-5) NY172 Mt. Kisco

Dear Mr. David:

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a portion of your property located at 540 Main St, Mt Kisco (80.57-4-5) for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for you. In addition to enhanced cellular coverage to the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

For the past 10 years, Homeland Towers has been successful in leasing, zoning and constructing sites throughout the Northeast in an effort to provide coverage to our customers such as Verizon, AT&T, T-Mobile and Sprint. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit you.

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Sincerely,

Klaus Wimmer Regional Manager

201-289-6750



Via Certified Mail

Friendly Silverman Holding Corp c/o Silverman Realty Group 237 Mamaroneck Ave White Plains, NY 10605-1319

Re: Ho

Homeland Towers Wireless Facility Proposal 489 Main St, Mt Kisco (80.57-3-2) NY172 Mt. Kisco

Dear Sir or Madam:

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a portion of your property located at 489 Main St, Mt Kisco (80.57-3-2) for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for you. In addition to enhanced cellular coverage to the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

For the past 10 years, Homeland Towers has been successful in leasing, zoning and constructing sites throughout the Northeast in an effort to provide coverage to our customers such as Verizon, AT&T, T-Mobile and Sprint. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit you.

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Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer Regional Manager

201-289-6750



Via Certified Mail

506 Main Street LLC c/o Larstrand Corporation 500 Park Ave, 11th Floor New York, NY 10022

Re:

Homeland Towers Wireless Facility Proposal 506 Main St. (80.57-2-11) NY172 Mt. Kisco

Dear Sir or Madam:

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a portion of your property located at 506 Main St, Mt Kisco (80.57-2-11) for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for you. In addition to enhanced cellular coverage to the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

For the past 10 years, Homeland Towers has been successful in leasing, zoning and constructing sites throughout the Northeast in an effort to provide coverage to our customers such as Verizon, AT&T, T-Mobile and Sprint. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit you.

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Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer Regional Manager 201-289-6750



Via Certified Mail

Skull Island Partners LLC c/o David Seldin 1571 Oceanview Dr. Tierra Verde, FL 33715-2538

Re:

Homeland Towers Wireless Facility Proposal 180 S Bedford Rd, Mount Kisco (Section Block Lot 80.44-1-1)

NY172 Mt. Kisco

Dear Mr. David Seldin:

This proposal letter is being sent to your attention in hopes that you will be interested in leasing a portion of your property located at 180 S Bedford Rd, Mount Kisco (Section Block Lot 80.44-1-1) s for the purpose of a wireless facility. Homeland Towers has identified this property as a potential wireless siting solution that will create an additional revenue stream for you. In addition to enhanced cellular coverage to the area, the proposed facility will provide critical infrastructure for public safety in this area of Mt. Kisco.

For the past 10 years, Homeland Towers has been successful in leasing, zoning and constructing sites throughout the Northeast in an effort to provide coverage to our customers such as Verizon, AT&T, T-Mobile and Sprint. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit you.

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Please contact me at your earliest convenience to discuss the above proposal. I look forward to speaking with you.

Sincerely,

Klaus Wimmer Regional Manager 201-289-6750



Landscape Architects, Architects, Engineers, and Planners, P.C.

July 29, 2020

Honorable Chairman and Members of the Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

Re: Visual Assessment

Proposed Wireless Telecommunications Facility

180 South Bedford Road

Dear Honorable Chairman and Planning Board Members:

Saratoga Associates is writing on behalf of Homeland Towers regarding a proposed telecommunications tower and associated equipment at the above referenced address. Saratoga Associates has been retained to address potential visual impacts associated with this project.

As you are aware, Homeland Towers has considered several potential locations within the Village to remedy a known gap in wireless telecommunication service. Potential tower sites previously considered are within Leonard Park (Parcel# 80.66-1-1) and the "Water Tank" site off of Rolling Ridge Court (Parcel# 80.67-3-2.2). A balloon visibility test was conducted at each of these sites on December 1, 2018 to assess the degree of potential tower visibility from the Rolling Ridge residential neighborhood and the Marsh Sanctuary.

In response to community concerns over potential visual impact a tower located at either of these locations Homeland Towers has identified an alternative site at 180 South Bedford Road (Parcel# 80.44-1-1) for consideration. This location was selected to take advantage of a wooded hill to the immediate south of the tower position to screen the Facility from vantage points within the Rolling Ridge residential neighborhood and Marsh Sanctuary. The attached viewshed map and line-of-sight profiles identify the effectiveness of this hill as a visual screen. The viewshed map and line-of-sight profiles account for all tree cumulative clearing created by the proposed SCS Sarles Street Community Solar Farm as shown on that project's site plan drawings dated June 9, 2020.



Village Board July 29, 2020 Page 2 of 6

<u>Viewshed Analysis</u> — A viewshed map was prepared to identify the geographic area within which there is a relatively high probability that some portion of the proposed facility may be visible above intervening landform, vegetation or built structures (refer to Figure 1).

Global Mapper 20.0 GIS software was used to generate viewshed areas based on publicly available topographic and land cover datasets. Using Global Mapper's viewshed analysis tool, the 180 South Bedford Road proposed tower location and height (140 feet above ground level) were input and a conservative offset of six feet was applied to account for the observer's eye level. The resulting viewshed identifies grid cells with a direct line-of-sight to the tower high point would exist. This viewshed analysis indicates that the intervening wooded hill will effectively screen views of the 140-foot-tall tower from all areas within the Rolling Ridge residential neighborhood and the Marsh Sanctuary.

<u>Line of sight Profiles</u> – To help visualize the results of the viewshed analysis line-of- sight profiles were developed for six locations within the area of interest (refer to Figures 2-4).

Two profiles were developed representing views from trail locations within the Marsh Sanctuary. Three profiles were developed representing views from locations with the Rolling Ridge neighborhood. Study points were selected to represent highpoints or other exposed areas (e.g., locations where views might be expected) within the areas of interests. These profiles confirm that the proposed 140-foot-tall tower will fall behind the wooded hill from each of these study points.

An additional profile is provided to illustrate potential tower visibility from the adjacent residential property at 2 Sarles Court. From this location the upper portion of the tower may be visible though intervening deciduous branches and stems during winter leaf-off-season. Such views will likely be substantially screened during summer leaf-on season.

This desktop viewshed and line-of-sight analysis demonstrates that a 140-foot-tall tower located at 180 Bedford Road South will not be visible from vantage points within the Rolling Ridge residential neighborhood and Marsh Sanctuary.

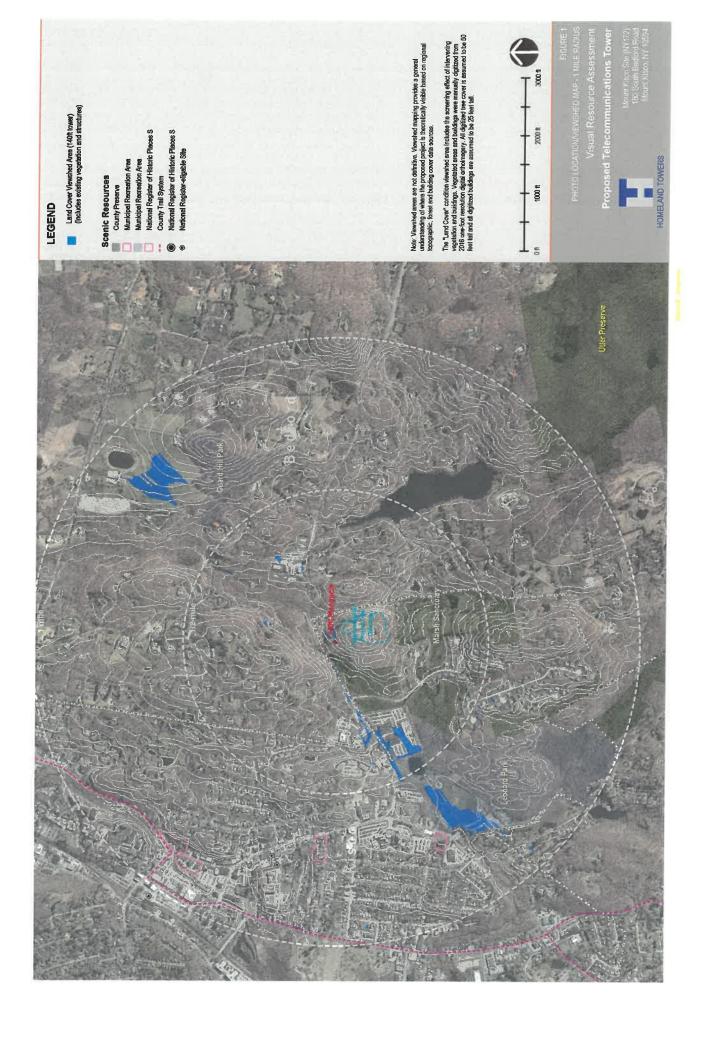
Thank you for your attention to this matter.

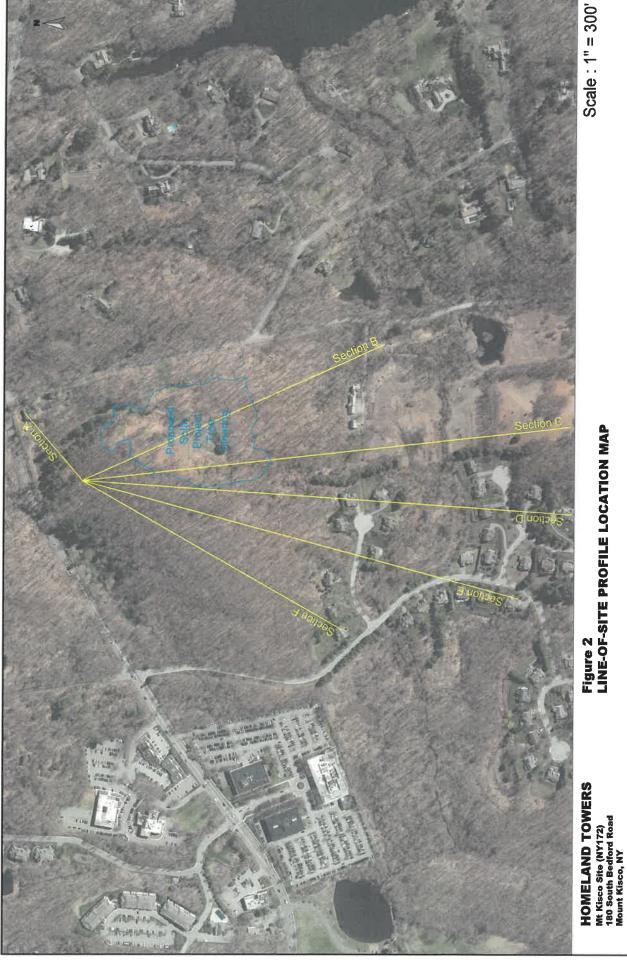
Matthew W. Allen, RLA

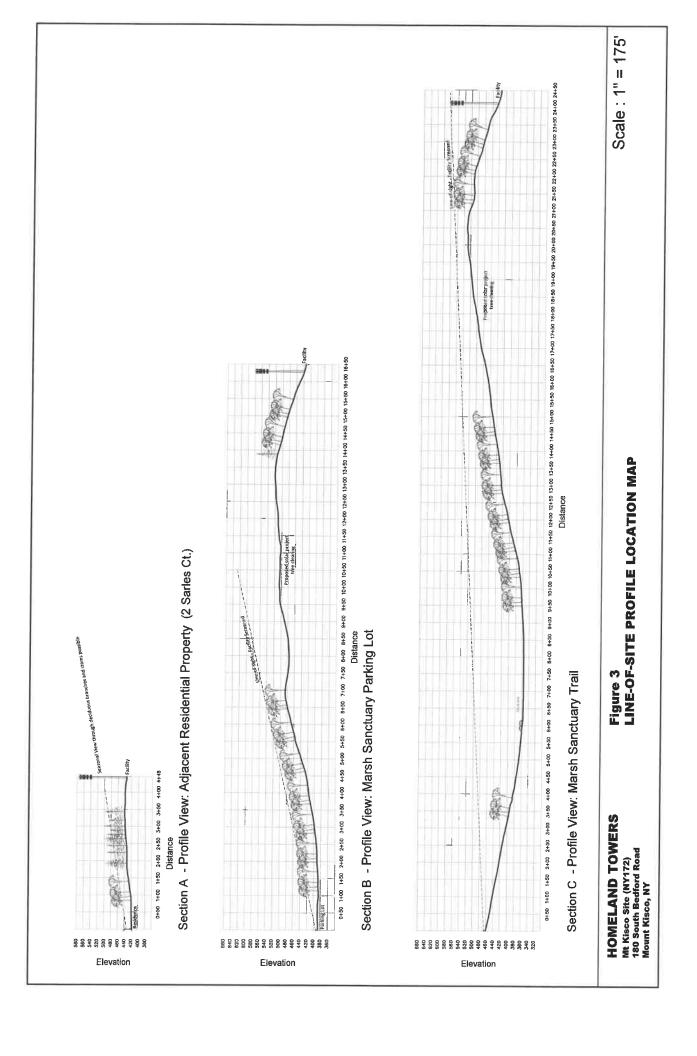
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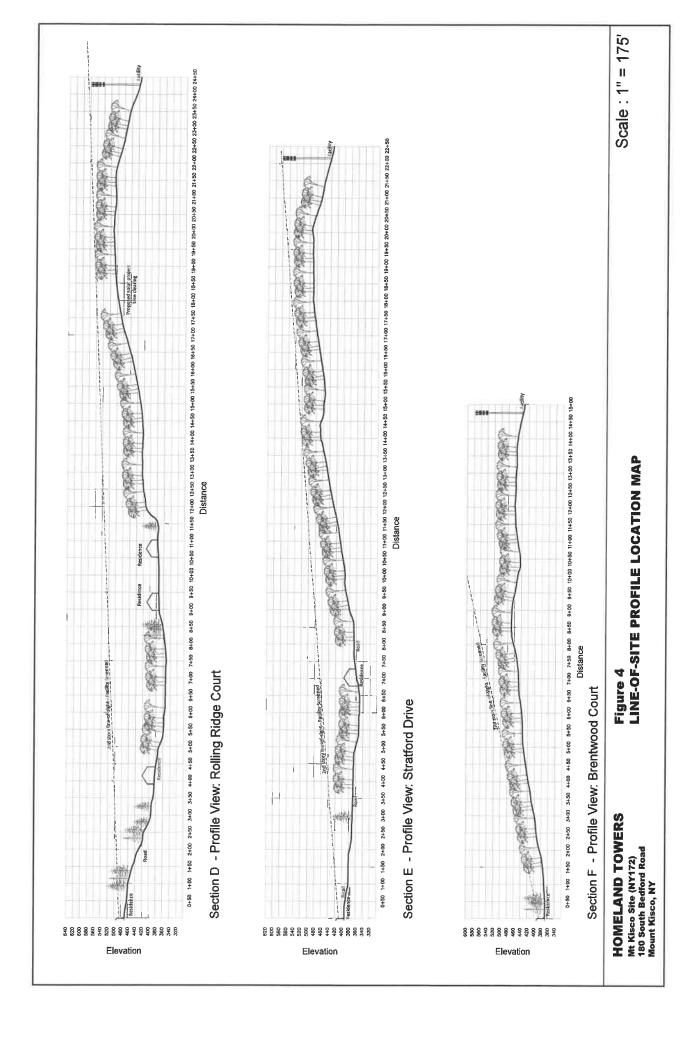
SARATOGA ASSOCIATES

Landscape Architects, Architects, Engineers, and Planners, P.C.











Landscape Architects, Architects, Engineers, and Planners, P.C.

September 28, 2020

Honorable Chairman and Members of the Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

Re: Visual Assessment

Proposed Wireless Telecommunications Facility

180 South Bedford Road

Dear Honorable Chairman and Planning Board Members:

Saratoga Associates is writing on behalf of Homeland Towers regarding a proposed telecommunications tower and associated equipment at the above referenced address. Saratoga Associates has been retained to address potential visual impacts associated with this project.

As you are aware, Homeland Towers and Verizon Wireless have considered several potential locations within the Village to remedy a known gap in wireless telecommunication service. Potential tower sites previously considered are within Leonard Park (Parcel# 80.66-1-1) and the "Water Tank" site off of Rolling Ridge Court (Parcel# 80.67-3-2.2). Both of these parcels are owned by the Village. A balloon visibility test was conducted at each of these sites on December 1, 2018 to assess the degree of potential tower visibility from the Rolling Ridge residential neighborhood and the Marsh Sanctuary. The Village Board refused to lease space for the Facility at these locations.

Homeland Towers and Verizon Wireless identified an alternative site at 180 South Bedford Road (Parcel# 80.44-1-1) for consideration. This location was selected to take advantage of a wooded hill to the immediate south of the tower position to screen the Facility from vantage points within the Rolling Ridge residential neighborhood and Marsh Sanctuary. The attached viewshed map and line-of-sight profiles identify the effectiveness of this hill as a visual screen. The viewshed map and line-of-sight profiles account for all cumulative tree clearing created by the proposed SCS Sarles Street Community Solar Farm as shown on that project's site plan drawings dated September 1, 2020.



Village of Mount Kisco Planning Board September 28, 2020 Page 2 of 6

<u>Viewshed Analysis</u> — A viewshed map was prepared to identify the geographic area within which there is a relatively high probability that some portion of the proposed facility may be visible above intervening landform, vegetation or built structures (refer to Figures 1 and 2).

Global Mapper 20.0 GIS software was used to generate viewshed areas based on publicly available topographic and land cover datasets. Using Global Mapper's viewshed analysis tool, the 180 South Bedford Road proposed tower location and height (140 feet above ground level) were input and a conservative offset of six feet was applied to account for the observer's eye level.

The screening effect of vegetation and built structures was incorporated by conservatively allocating 50 feet in vertical height to forest areas and 25 feet to building footprints. Forested areas and building footprints were removed from the viewshed result to account for affected areas located within structures or densely wooded cover. Based on field observation, most trees in forested portions of the study area are taller than 50 feet. This height therefore represents a conservative estimate of the efficacy of vegetative screening.

The resulting viewshed identifies grid cells with a direct line-of-sight to the tower high point would exist. This viewshed analysis indicates that the intervening wooded hill, even with potential clearing within the proposed SCS Sarles Street Community Solar Farm, will effectively screen views of the 140-foot-tall tower from all areas within the Rolling Ridge residential neighborhood and the Marsh Sanctuary.

<u>Line of sight Profiles</u> – To help visualize the results of the viewshed analysis line-of- sight profiles were developed for six locations within the area of interest (refer to Figures 3-5).

Two profiles were developed representing views from trail locations within the Marsh Sanctuary. Three profiles were developed representing views from locations with the Rolling Ridge neighborhood. Study points were selected to represent highpoints or other exposed areas (e.g., locations where views might be expected) within the areas of interests. These profiles confirm that the proposed 140-foot-tall tower will fall behind the wooded hill from each of these study points.

An additional profile is provided to illustrate potential tower visibility from the adjacent residential property at 2 Sarles Court. From this location the upper portion of the tower may be visible though intervening deciduous branches and stems during winter leaf-off-season. Such views will likely be substantially screened during summer leaf-on season.

This desktop viewshed and line-of-sight analysis demonstrates that a 140-foot-tall tower located at 180 Bedford Road South will not be visible from vantage points within the Rolling Ridge residential neighborhood and Marsh Sanctuary.



Village of Mount Kisco Planning Board September 28, 2020 Page 3 of 6

<u>Balloon Visibility Test</u> — As may be requested by the Village Planning Board a balloon visibility test will be conducted to allow the general public and local decision-makers an opportunity to observe the location and potential visibility of the Project. The balloon test will be publicly advertised and will take place at a date and time (including rain dates) as directed by the Planning Board. During the balloon test one 4-foot± diameter red balloon will be raised to the top elevation of the proposed tower. The horizontal location of the balloon will be as close to proposed tower center as practicable considering the presence of dense overhead tree canopy in the area.

While the balloon is in the air an experienced visual analyst will drive public roads to inventory those areas where potential Facility visibility is identified by viewshed mapping. Photographs will be taken from locations determined in advance of the balloon test in consultation with the Planning Board. Attached Figures 1 and 2 identify a number of recommended photo locations for consideration by the Village Planning Board. Photos will also be taken from other publicly accessible locations where the balloon visibility is identified.

<u>Photo Simulations</u> — Following the balloon visibility test photo simulations will be prepared to depict the visual character of the proposed facility from key vantage points. Photo simulations will be developed by superimposing a rendering of a three-dimensional computer model of the proposed Facility into photograph taken during the balloon test. The three-dimensional computer model will be developed using *3D Studio Max Design®* software (3D Studio Max). Simulations will illustrate the proposed 140-foot-tall stealth monopine design. As requested by Village Planning Board consultant Michael Musso for comparative purposes, a second set of photo simulations will be prepared illustrating a traditional 140-foot-tall galvanized monopole tower design.

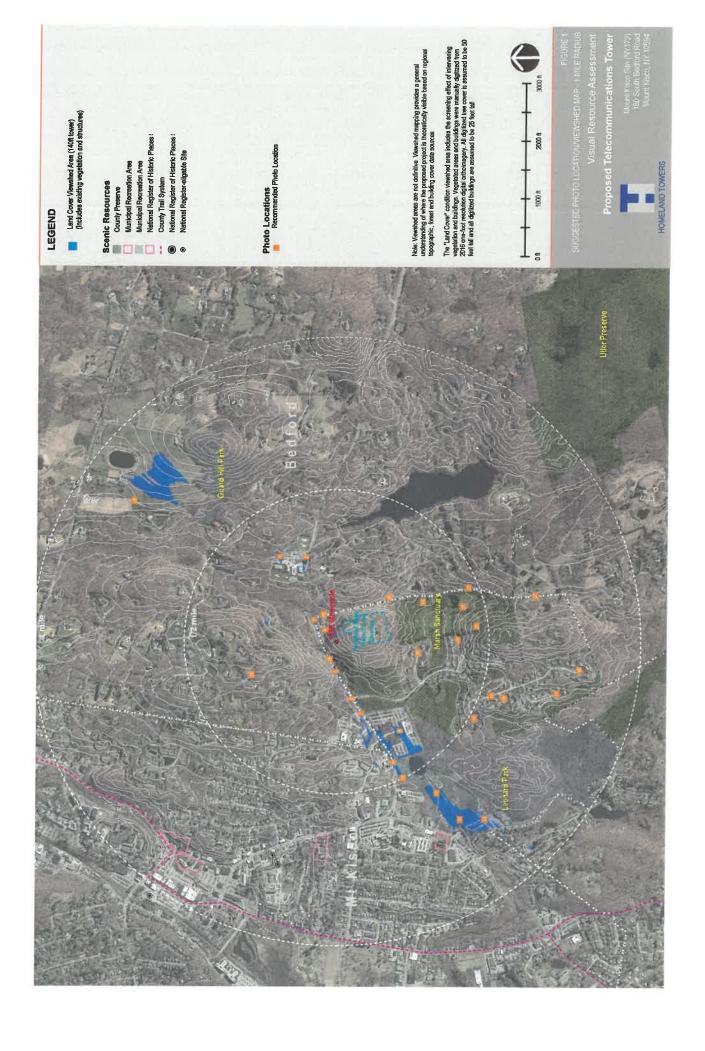
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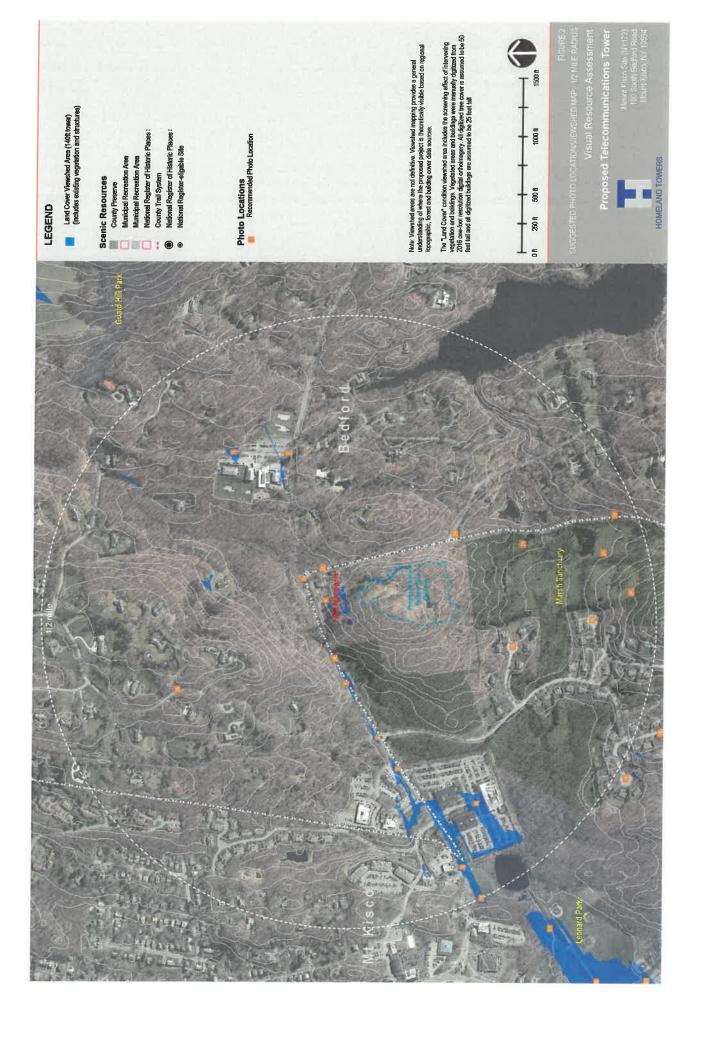
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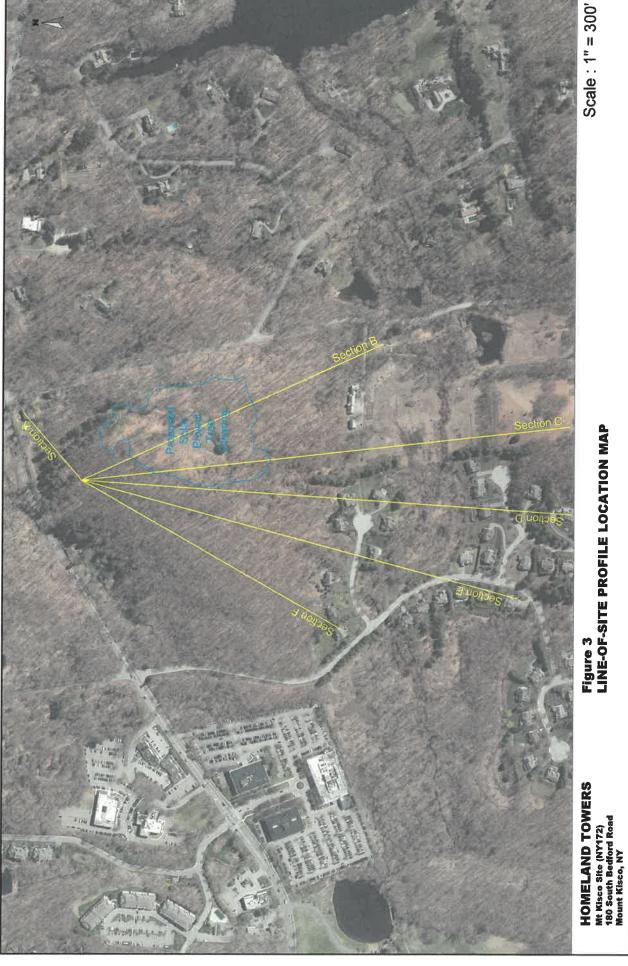
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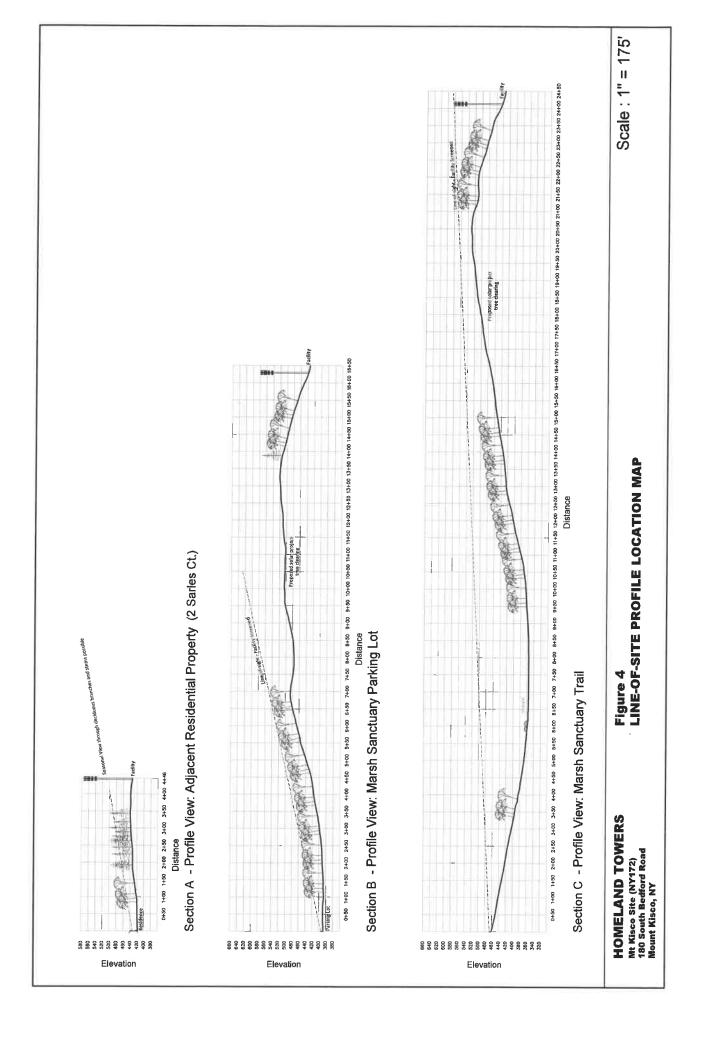
SARATOGA ASSOCIATES

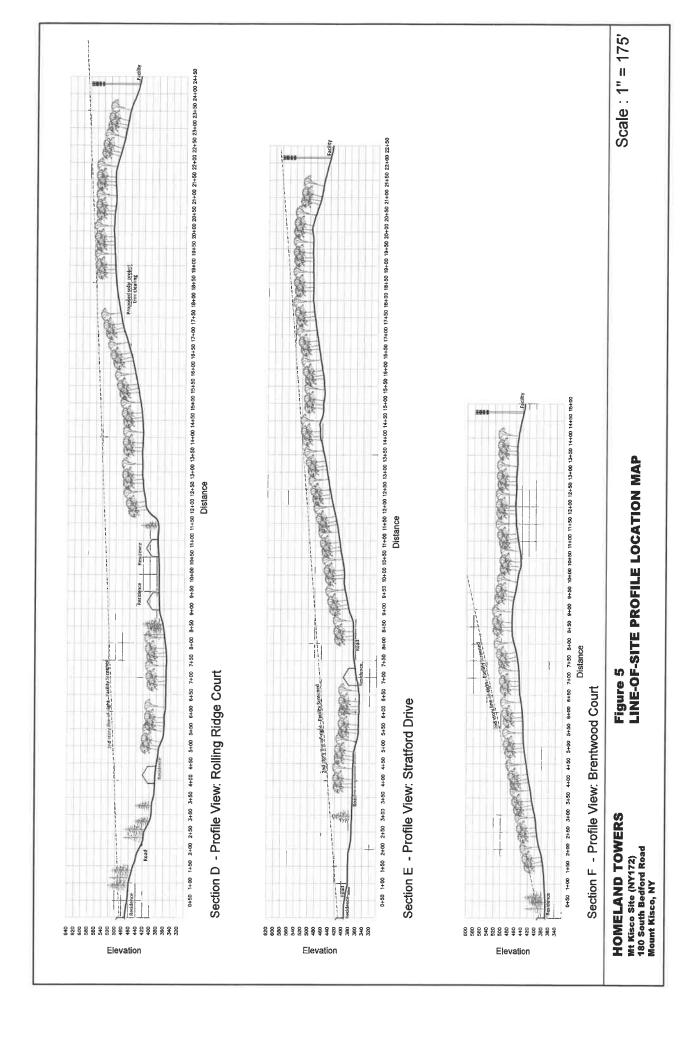
Landscape Architects, Architects, Engineers, and Planners, P.C.











This is to notify you that the Lead SHPO/THPO has concurred with the following filing:

Date of Action: 10/29/2020

Direct Effect: No Historic Properties in Area of Potential Effects (APE) Visual Effect: No Historic Properties in Area of Potential Effects (APE)

Comment Text: The NYSHPO concurs with the recommended effect finding based on the information

provided. Reviewed by J.A. Bonafide, NYSHPO

File Number: 0009277271 TCNS Number: 219961

Purpose: New Tower Submission Packet

Notification Date: 7AM EST 10/29/2020

Applicant: Homeland Towers, LLC

Consultant: EnviroBusiness, Inc. d/b/a EBI Consulting (6120007971)

Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No

Site Name: Mt Kisco / NY 172

Site Address: 180 South Bedford Road

Detailed Description of Project: Proposed construction of a new telecommunications monopine and compound resulting in ground disturbance. Please see Attachment 4 of this filing for project design

details. (6120007971)

Site Coordinates: 41-11-58.7 N, 73-42-48.6 W

City: Mt Kisco

County: WESTCHESTER

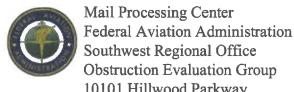
State:NY

the system.

Lead SHPO/THPO: New York State Historic Preservation Office

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE

Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of



10101 Hillwood Parkway

Fort Worth, TX 76177

Issued Date: 10/02/2020

Christine Vergati Homeland Towers, LLC 9 Harmony Street 2nd Floor Danbury, CT 06810

Aeronautical Study No. 2020-AEA-9662-OE Prior Study No. 2020-AEA-5941-OE

** DETERMINATION OF NO HAZARD TO AIR NAVIGATION **

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:

Monopole NY172 Mt Kisco

Location:

Mount Kisco, NY

Latitude:

41-11-58.66N NAD 83

Longitude:

73-42-48.55W

Heights:

426 feet site elevation (SE)

145 feet above ground level (AGL) 571 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/ lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 2.

This determination expires on 04/02/2022 unless:

- the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual (a) Construction or Alteration, is received by this office.
- extended, revised, or terminated by the issuing office. (b)
- the construction is subject to the licensing authority of the Federal Communications Commission (c) (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REOUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE, AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO

SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

This determination cancels and supersedes prior determinations issued for this structure.

If we can be of further assistance, please contact our office at (718) 553-4199, or Dianne.Marin@FAA.GOV. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2020-AEA-9662-OE.

Signature Control No: 450486594-452812705

(DNE)

Dianne Marin Technician

Attachment(s)
Case Description
Frequency Data
Map(s)

cc: FCC

Case Description for ASN 2020-AEA-9662-OE

re-filing on updated 1A Survey data.

Frequency Data for ASN 2020-AEA-9662-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
_	_			
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	1000	W
614	698	MHz	2000	W
698	806	MHz	1000	W
806	901	MHz	500	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W

Verified Map for ASN 2020-AEA-9662-OE





HOMELAND TOWERS, LLC

NY172 MOUNT KISCO 4 SITE

180 S BEDFORD ROAD
MOUNT KISCO
WESTCHESTER COUNTY, NY

OCTOBER 28, 2020

DOMINIC C. VILLECCO
DAVID K. STERN

Rev. 5

V-COMM L.L.C

2540 US Highway 130, Suite 101 Cranbury, NJ 08512 609-655-1200 609-409-1927



Supplemental Report NY172 Mount Kisco 4 Site Mount Kisco, NY October 28, 2020

SUPPLEMENTAL REPORT

V-COMM, L.L.C. has been retained by Homeland Towers, LLC to provide expert analysis in association with Verizon Wireless for its proposed wireless communications facility located at 180 S Bedford Road, Mount Kisco, NY.

This supplemental report and attached coverage plots are provided in response to the Completeness¹ Memo summarizing HDR's review of application materials submitted in regards to the proposed facility in the Village/Town of Mount Kisco.

Items addressed in the report are numbered according to the Request.

3. Verizon should also describe if the use of small cells to remedy service needs in the area has been considered or is feasible in lieu of a new monopole structure.

Response: As part of this analysis, V-COMM investigated the use of alternative technologies such as microcells or small network nodes, and found these are not feasible at this location.

Typically, small network nodes, ODAS or repeater nodes, are used in a campus or dense urban environment to provide capacity or coverage in a specific venue to supplement the existing coverage and capacity of the macrocell network. In suburban areas like Mount Kisco, with significant variations in terrain features, these outdoor small cell nodes have not proven to be a viable alternative to traditional macro sites like that proposed.

The ODAS nodes are usually placed on electric poles or telephone poles. The ODAS nodes are also limited in its coverage radius such that 2100MHz coverage range is approximately 800 to 1000 ft. for ideal line of sight conditions in open areas. However, the area surrounding of Mount Kisco are covered by dense trees that will decrease the signal level and reduce the coverage range further as compared to line of sight conditions. Dense trees can result in significant reductions in coverage range that are less than half the range of open areas. Thus, ODAS nodes are more suitable for open areas. In example, within the coverage gap, there are houses along Stratford Drive towards Carlton Drive, and Sarles Street surrounded by trees, which are areas that do not have reliable coverage. Also, cell phone coverage is vital for proper preparedness in the face of emergencies, and the ODAS nodes do not have battery backup in cases of lost electrical power. In addition, some communities such as Mount Kisco Chase do not have telephone poles available, which besides mounting the antenna equipment also provide the necessary power and fiber for ODAS nodes, and these areas are 2000 ft. to 4000 ft. away from the nearest road with telephone poles on S. Bedford Rd, thus these areas would not have coverage and would not fill the gap in service in the area. Further, for any areas with existing telephone poles, the carrier in many cases would need to place a number of new poles to support their antenna and equipment as many

V-COMM, L.L.C. Page 1 of 24

¹ Please note that the additional requested information is not required by the Town/Village code.



Supplemental Report NY172 Mount Kisco 4 Site Mount Kisco, NY October 28, 2020

Page 2 of 24

existing poles cannot support their equipment, and these existing and new poles would be in close proximity to houses in the township, as well.

These low height, low power nodes have very limited site coverage distances, and only provide acceptable coverage in areas with no terrain or foliage blockage features. In this area, due to its significant terrain features (up to 100 foot ground elevation changes over short distances) with substantial tree growth and foliage signal blockage and losses, small network nodes would not a viable replacement to the proposed 140 foot structure, which as demonstrated herein covers the gap in service and provides contiguous service with neighboring sites.

Taking into account the coverage, capacity and design requirements of macrocell networks, it is not feasible to deploy small network nodes, ODAS or repeater nodes as an alternate technology to meet Verizon Wireless' coverage requirements in the Village/Town of Mount Kisco.



Supplemental Report NY172 Mount Kisco 4 Site Mount Kisco, NY October 28, 2020

8. For each of the existing Verizon cell sites discussed in the RF Justification (V-COMM report), add the distances to the proposed site at 180 S. Bedford Road to Table 1.

Response: Below is the subject site and surrounding existing cell sites for the Verizon Wireless network with the distances to the subject site.

Cell No.	Cell Name	Address	Antenna C/L in Ft.	Distance to the proposed site (mi)
Subject Site	NY172 Mount Kisco 4	180 S Bedford Road Mount Kisco	137	0.00
56	Bedford 3	I-684 & Route 172 Mount Kisco	127	1.49
174	North Armonk	Baldwin Road At Route 684 Mount Kisco	110.03	2.83
185	Mount Kisco 2	5 Green Lane Bedford Hills	137.54	1.82
230	Bedford Fox Lane	Bedford Fox Lane School Bedford	49.21	2.10
234	Readers Digest	Readers Digest Road Chappaqua	50.91	2.52
266	Mount Kisco	304 Lexington Avenue Mount Kisco	149	1.31
313	Wampus Lake	620 Armonk Road Mount Kisco	128.03	2.87
(Proposed)	Mount Kisco VZCO SNN	45 East Main Street Mount Kisco	97	0.93
(Zoning Approved)	Mount Kisco 3	1 Mountain Ave Mount Kisco	94	1.32

Please note that the proposed coverage from the proposed site at 45 East Main Street and the zoning approved site at 1 Mountain Avenue has been provided on the propagation maps that have been submitted.

TELECOMMUNICATIONS ENGINEERING

verizon^v

Supplemental Report NY172 Mount Kisco 4 Site Mount Kisco, NY October 28, 2020

9. The propagation maps for 700 MHz and 2100 MHz / existing and proposed conditions should be updated to include the (-105) dBm RSRP for 'Open Space / Best Server' for comparison.

Response: The service boundary of a 4G site is defined using RSRP equating to an acceptable receiver signal threshold. This value is derived from industry standards, 4G received signal levels and quality and acceptable signal to noise ratios, along with statistically quantifiable variations in terrain. This threshold must also take into account additional losses associated with surrounding location of the mobile user and signal path from the cell site.

Verizon Wireless must provide service to all customers including those in buildings. In order to account for users within buildings, additional margins must be included in the minimum RSRP level so that adequate and reliable coverage exists inside buildings. This additional margin also is required for in-vehicle service specifically to account for increased path loss associated with user body losses and losses for signal penetration for the in-vehicle use.

Verizon Wireless design criteria for its system is -95 dBm and equates to the minimally acceptable received signal level for adequate service, as measured at the mobile's receiver and accounts for the required in-building and in-vehicle customer use. Furthermore, the signal level of -105 dBm would only serve customers outdoor in open areas (i.e. standing on the street), which is an extremely small percentage of customers usage, and is not sufficient to serve customers in buildings. The vast majority (greater than 80%) of all usage is indoors, and this is the locations where all communications including emergency communications are required from a wireless network, per FCC regulations.

Maps 7 through 10 shows the existing and proposed coverage at -95 dBm for in-building and invehicle on-street coverage, -105 dBm for Open Space Coverage. The -95 dBm coverage is represented in green for existing sites and proposed site. The -105 dBm coverage is represented in yellow for existing sites and proposed site.

- * Map 7 depicts the RF coverage from the existing Verizon Wireless sites on Google Earth as underlying map for 700 MHz frequency band.
- * Map 8 depicts the RF coverage from the proposed site on Google Earth as underlying map for 700 MHz frequency band.
- * Map 9 depicts the RF coverage from the existing Verizon Wireless sites on Google Earth as underlying map for 2100 MHz frequency band.
- * Map 10 depicts the RF coverage from the proposed site on Google Earth as underlying map for 2100 MHz frequency band
- 10. New propagation maps should be included (for 700 MHz and 2100 MHz; and for 'Open Space' and -95 dBm RSRP) for the following alternate monopole heights:
 - a. 80 ft. (77-ft Verizon antenna centerline height)
 - b. 125 ft. (122-ft Verizon antenna centerline height)

The alternate height maps will be useful in justifying need (110-27.1 E (3))

Maps 11 through 14 shows the proposed site coverage at -95 dBm in dark blue.

* Map 11 depicts the RF coverage from the proposed site at 700 MHz frequency band at 122 ft. antenna centerline.

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- * Map 12 depicts the RF coverage from the proposed site at 700 MHz frequency band at 77 ft. antenna centerline.
- * Map 13 depicts the RF coverage from the proposed site at 2100 MHz frequency band at 122 ft. antenna centerline.
- * Map 14 depicts the RF coverage from the proposed site at 2100 MHz frequency band at 77 ft. antenna centerline.

As the antenna center line (ACL) descends from the proposed 137 feet, it enters into a range where clutter becomes an increasingly problematic factor. Examples of clutter are trees, houses, buildings, soil, and other physical objects on the ground. Clutter attenuates or weakens and disperses, the RF energy necessary for wireless telecommunications. As the ACL descends RF energy is increasingly attenuated by the total accumulated volume of clutter. A graphic depiction of attenuation is found in Figure 1 (not to scale).



FIGURE 1 – IMPACT OF CLUTTER

The lower height of 77 ft. provides approximately 0.5 sq. miles of coverage within the existing gap of coverage, however this results in an area that does not cover approximately 50 to 75 houses within the existing gap. Reducing the centerline to 122 ft. provides less coverage than the proposed height, and results some areas of the gap not covered including approximately 25 houses that would be losing reliable in-building coverage. In addition, for both of the reduced antenna heights shown above, Route 172 towards Darlington Road, Sarles Street, Carlton Drive and areas around Marsh Memorial Sanctuary, Guard Hill Preserve will lose reliable coverage, and the proposed antenna height will cover these areas. Therefore, the proposed antenna centerline of 137 feet AGL is the minimum height required at this location to provide reliable coverage to these uncovered areas in the gap of service.



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11. For existing Verizon sites with which the proposed facility will interact and for which the proposed facility will provide supplemental capacity, provide capacity charts for key performance indicators that demonstrate existing or future capacity issues (i.e., Forward Data Volume, Average Schedule Eligible User, Average Active Connection, and/or other parameter). If there are no capacity issues at these 'on air' sites at the current time, please confirm.

Response: V-COMM analyzed whether there was sufficient RF coverage and found that there was a gap in coverage for Verizon Wireless within the Village/Town of Mount Kisco. The goal of this search area is to provide full and seamless coverage to users of Verizon Wireless' services in and around the subject site. In the case of the Mount Kisco 4, Verizon Wireless also has insufficient capacity to handle the projected 4G voice and data traffic in the area. Therefore, the secondary need for the proposed location is the capacity relief to the existing surrounding Verizon Wireless sites. Without this capacity relief, Verizon Wireless subscribers will experience gaps in service caused by insufficient network capacity.

Mount Kisco is a significant historic village along the Washington-Rochambeau Revolutionary Route. As of the 2013 United States Census there were 11,067 people, 4,128 households, and 2,447 families residing in the village. The large number of small businesses, retail stores, and financial and medical offices swells the daytime population to more than 20,000.² The day time population increases up to 5000³ due to people commuting into and through the town/village.

A substantial deficiency in service is occurring in Verizon Wireless' telecommunication network in and around the subject site. This deficiency is a result of a significant gap in coverage and capacity demands that are taxing the surrounding sites in the Verizon Wireless network. Data volume, also known as throughput, is one of the key factors reviewed to determine the 4G capacity for a site. In Figures 1-2, FDV graphs shows the average active connections "capacity". The future usage and data overflows for each site are calculated by trending the data to predict when a site will reach its capacity limit (i.e. when the usage hits the red capacity line). The trend line is based on a constant growth model where traffic on 4G grows based on the historical subscriber and usage growth on the system. However the actual trend will likely be higher with increasing subscriber take up rate of 4G capable devices.

The gap area located within the Village/Town of Mount Kisco is currently served by two sites. The sites are overloaded and requires capacity relief. Additionally the gap area is subject to significant terrain challenges for RF (signal) propagation. Signals in this area are terrain limited, meaning that terrain features in the area will block the signal due to terrain obstructing the propagation of the signal. And, in addition to terrain signal losses, there is significant losses due to ground clutter and foliage (trees, leaves, etc. above the ground) that attenuates the signal as well as limiting the propagation range from the proposed site.

The first serving site is Mount Kisco, located on a monopole and approximately 1.3 miles away from the proposed site. The sector pointing east covers the commercial and residential buildings

² https://en.wikipedia.org/wiki/Mount Kisco, New York

³ city-data.com/city/Mount-Kisco-New-York.html



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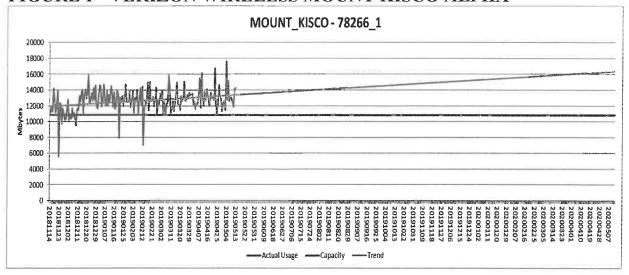
along Lexington Avenue, parts of Rt. 117/S Bedford Rd. Mount Kisco Alpha (cell 26 sector 1) already reached exhaust (i.e. its capacity limit) in September 2018; see figure 1.

The second serving site is Mount Kisco 2. The site covers along N Bedford Rd towards Guard Hill Road. The site is approximately 1.81 miles away from the proposed location. Mount Kisco 2 Gamma (cell 185 sector 3) reached exhaust in December 2018; see figure 2.

The existing Verizon sites Mount Kisco and Mount Kisco 2 exhausted in 2018. Since that time Verizon has been trying to remedy the capacity deficit within the town. Though geographically small, the town/village of Mount Kisco is a unique tourist destination. As explained in Section 15, we provided the long term plan for the Verizon network within the town/village of Mount Kisco in order to address the coverage and capacity deficiencies in the area. The proposed site will provide the required coverage and capacity needs within the town/village. In addition, the proposed Mount Kisco VZCO site and zoning approved site Mount Kisco 3 will also provide coverage and capacity to other areas adjacent to the proposed Mount Kisco 4 site. Thus, all 3 sites are required for the Verizon network to cover the gap in service in the Mount Kisco area.

We note that the existing coverage provided in the RF report includes the coverage from the sites Mount Kisco VZCO and Mount Kisco 3 as well as the sites that are currently on-air. As shown in the Existing Coverage Map, there is still a coverage gap within Mount Kisco that requires the new proposed site to cover this area. Neither Mount Kisco VZCO nor Mount Kisco 3 will provide coverage within the area near S Bedford Road. Due to the location, the Mount Kisco 4 site will provide the required coverage and capacity to the gap in service, in particular the most popular tourist destination Marsh Sanctuary Inc. (112 South Bedford Road).

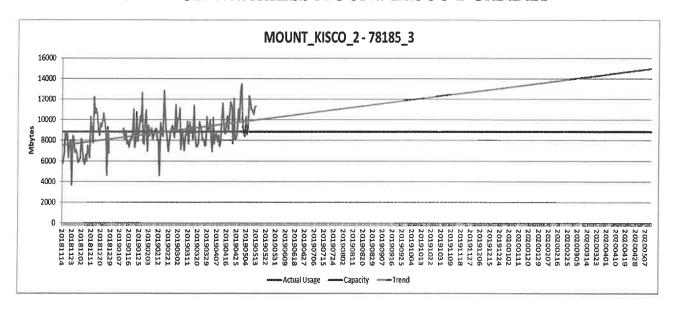






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FIGURE 2 - VERIZON WIRELESS MOUNT KISCO 2 GAMMA





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12. Drive test data for the area – as a supplement to the modeled signal propagation maps and requested capacity data – should be submitted if available from Verizon.

Response: There is no drive test data available for this location. V-COMM uses an industry standard RF computer-aided design tool to model the design of wireless networks. This tool can generate a coverage plot of RSRP signal level which is dependent upon the Verizon Wireless' licensed frequency band, the height of the antenna above the ground, as well as the terrain and clutter around the site.

The RF propagation plots provided in the reports are created using commercial propagation modelling software EDX using USGS terrain and land use/clutter data, using TSB-88 clutter attenuation values.

Also, drive data only shows signal level on the major roads in the data collection, compared to propagation tools that predict coverage over the entire area in the study area including smaller roads, individual houses, businesses, parks and wooded/remote areas.

15. Verizon should submit a long-range communications facilities plan for the Village of Mt. Kisco. Verizon should also confirm that no 5G operations are proposed at the current time and inform the Planning Board of its conceptual plans to roll-out 5G operations in the Village. One of the proposed high-band frequencies (3.5 GHz) should be described in terms of operations that are associated with that frequency (i.e., voice, data, capacity).

Response: 5G is not currently deployed in Mount Kisco and the proposed site is designed to remedy a 4G gap in service. Any future conceptual plans to roll out 5G technology would be communicated to the town at the appropriate time, however there are no such current plans for the Village/Town of Mount Kisco in Verizon Wireless's current forecast.



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OVERALL COMPREHENSIVE PLAN

A significant deficiency in service is occurring in Verizon Wireless' telecommunication network in and around Mount Kisco. This deficiency is a significant gap that has been forecasted by reviewing the capacity data from two sectors of two existing Verizon Wireless sites. Moreover, there is a significant gap in coverage.

LONG TERM COMPREHENSIVE PLAN

Therefore, the comprehensive coverage plan for this area of Mount Kisco is to add new sites needed to better serve the area and offload the exhausted sites and to fill the gaps in coverage. The locations for the proposed sites are chosen such that they become the dominant site at areas where Verizon customers congregate such as businesses, restaurants and residences. Every day more Verizon customers convert their older 3G technology phones to 4G technology. That factor coupled with the release and popularity of ever increasingly more data intensive applications, customer's social media proclivities, VOLTE – (Voice over LTE) service and the proliferation of smart phones, tablets and wireless air cards for laptops all points to higher and higher 4G data demands every day.

Verizon Wireless is planning the following sites in this area to complete the overall comprehensive plan for this portion of Mount Kisco. The plan uses existing structures where suitable and available, and keeps the number of new towers to a minimum.

Mount Kisco 3 – The site is Zoning Approved. The site will be located on a monopole tower serving Saw Mill River Pkwy and Kisco Avenue.

Mount Kisco 4 – Proposed Subject Site

Mount Kisco VZCO –The site is proposed to be located on a building roof on Main Street and Carpenter Avenue. It will help to support the traffic around the Main Street commercial buildings including the Mount Kisco Shopping Center.



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ALTERNATE LOCATIONS

The subject site was identified as a suitable location for a wireless communications facility and it also met Verizon Wireless' coverage objectives. The following site was considered as an alternative for the proposed location.

Northern Westchester Hospital, 400 E Main Street, Mount Kisco – See Maps 15 and 16 for -95 dBm coverage from the site for both 700 and 2100 MHz frequencies at 120 ft. centerline height. The site is an existing building on 400 E Main Street located too far west to provide adequate coverage to the targeted gap area. The location is close to the existing site Mount Kisco, proposed sites Mount Kisco VZCO and Mount Kisco 3 and therefore do not add any new coverage to the existing Verizon coverage.

At the height of 120 feet, the hospital location coverage cannot cover Route 172 beyond the proposed Mount Kisco 4 location at 180 S. Bedford Rd. The coverage from the hospital site is limited on Route 172 as a result of terrain, ground clutter and obstacles. For this part of Mount Kisco the density of the 80 ft. trees significantly attenuates the RF signal towards the east, as the ground elevation gradually increases, which limits the coverage significantly.

Darlington Castle, 33 Charles Rd, Bedford – V-COMM also analyzed the location at 33 Charles Rd near Bedford which is a stone mansion with 51 acre property surrounding it. The site is also close to the existing Verizon site Bedford 3 (0.45 miles away). See Maps 17 and 18 for acceptable coverage at -95 dBm signal level from the site for both 700 and 2100 MHz frequencies at the 100 ft. antenna centerline height.

The site is too far east to provide adequate coverage within the targeted coverage gap area, thus it's not a suitable site for the proposed location. This alternate location does not add sufficient new coverage to the existing Verizon coverage, as much of the coverage area is redundant with the existing Verizon Bedford 3 site coverage area. In addition, the coverage from the Darlington Castle site is limited on Route 172, as a result of the location's distance from the coverage GAP areas, as well as the terrain variability and ground clutter along those paths.

Both alternative sites, the Hospital and the Castle, are located too far from the existing coverage gap, and do not provide sufficient coverage into this gap area as the proposed Mt Kisco 4 site does, which is suitably located and providing coverage where it's needed in this gap area. In addition, both of these alternate sites are close to existing Verizon sites, and their coverage areas are already covered by the existing Verizon network, such that from an RF standpoint, they are not providing sufficient new coverage into areas needed. Further, when sites are located close to the existing sites, they can result in poor signal to interference call quality that can degrade the performance of the network. Further, both of these alternate locations would not provide new coverage in the gap area in the following areas: Route 172/S Bedford Road, parts of Sarles Street and W Patent Road.



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CONCLUSION:

V-COMM reviewed the materials provided by Verizon Wireless and prepared an analysis of the existing cell sites, their respective RF coverage and System Data usage. With the existing sites, there is a significant gap in coverage and capacity. The maps demonstrate the gap in Verizon's coverage in this area and that the proposed facility will provide the additional coverage to significantly fill this gap. Due to the capacity requirements in Town/Village of Mount Kisco, a single site will not completely fulfill the capacity requirements of the Verizon network, hence V-COMM agrees with the long term comprehensive plan proposed by Verizon for the Town/Village of Mount Kisco, which includes 2 additional sites as addressed in this report.

The proposed site provide the required coverage for the Verizon network and provides significant coverage to the gap in coverage identified in this reports, is a suitable site from an radio frequency standpoint, and will work well within Verizon's network. It is our expert opinion that Verizon's proposed site on the 140 ft. proposed monopole located at 180 S Bedford Road in Mount Kisco, NY will satisfy the coverage and capacity needs of Verizon Wireless and its subscribers in this portion of the Town/Village of Mount Kisco.

Dominic C. Villecco

President, V-COMM, L.L.C.

ine a Vleces

10/28/2020

David K. Stern

Vice President, V-COMM, L.L.C.

10/28/2020

Peter Longo, P.E.
NY Professional Engineer

PML Consulting Engineers, L

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Date

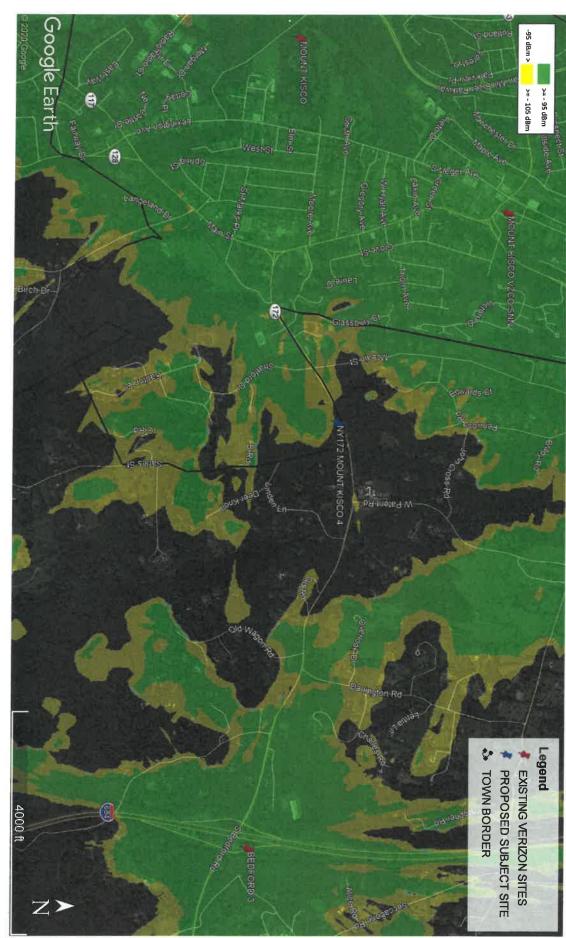
10/28/2020

Mr. Longo has reviewed the V-COMM, L.L.C. Supplemental RF Report for NY172 Mount Kisco 4 and concurs with the report conclusions



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MAP 7 - VERIZON WIRELESS EXISTING COVERAGE AT 700 MHZ



V-COMM, L.L.C.

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MAP 8 - VERIZON WIRELESS COVERAGE WITH "NY172 MOUNT KISCO 4" SITE AT 700 MHZ

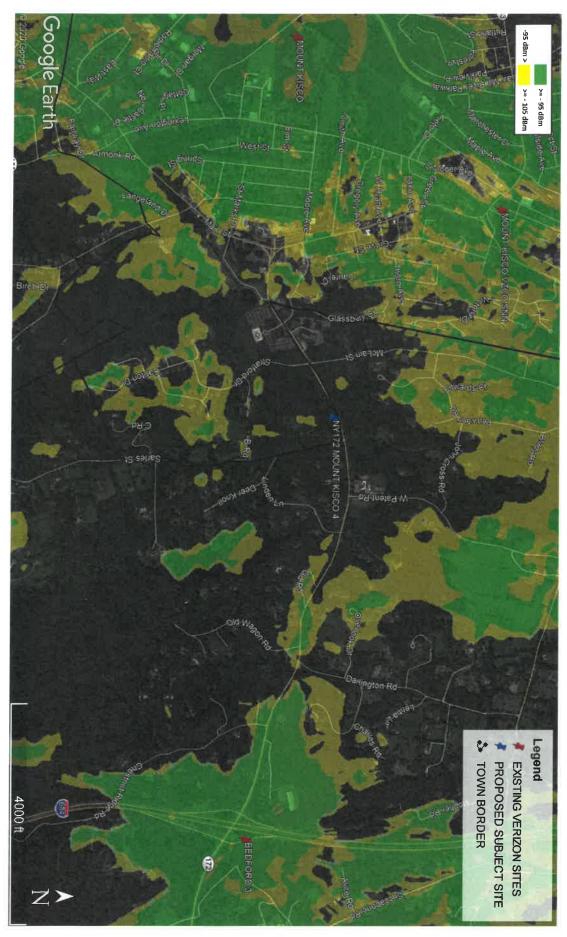


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MAP 9 - VERIZON WIRELESS EXISTING COVERAGE AT 2100 MHZ

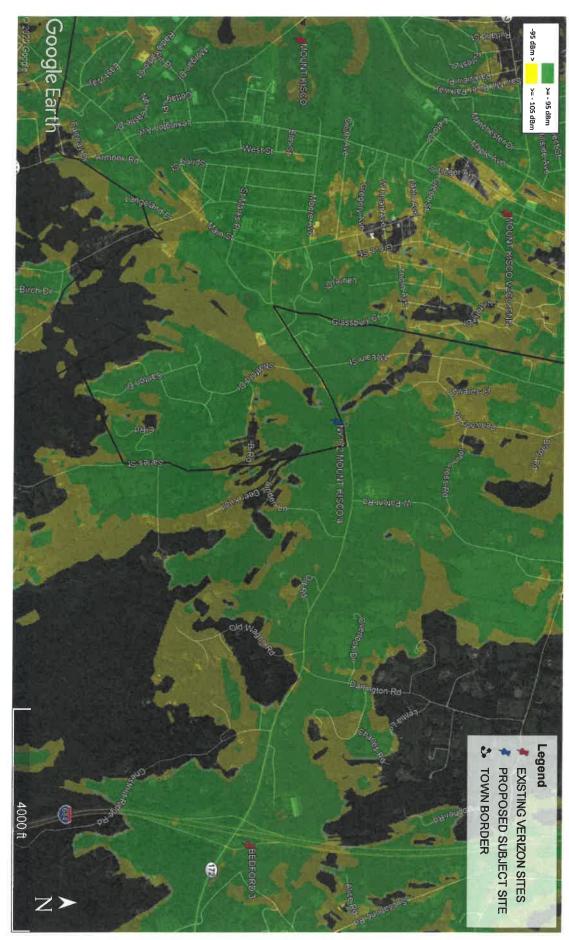




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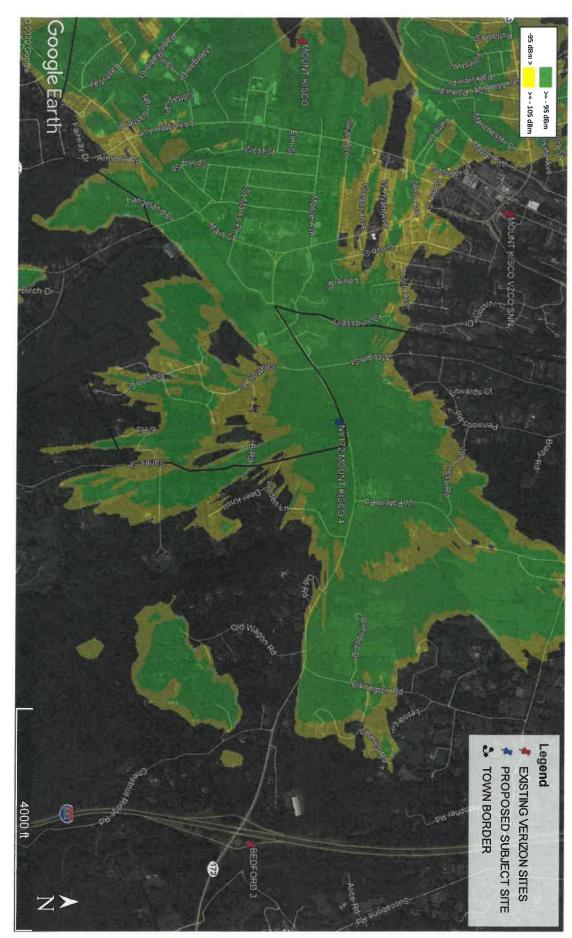
MAP 10 - VERIZON WIRELESS COVERAGE WITH "NY172 MOUNT KISCO 4" SITE AT 2100 MHZ





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MAP 11 - PROPOSED SUBJECT SITE COVERAGE AT 700 MHZ - 122 FT. C/L HEIGHT

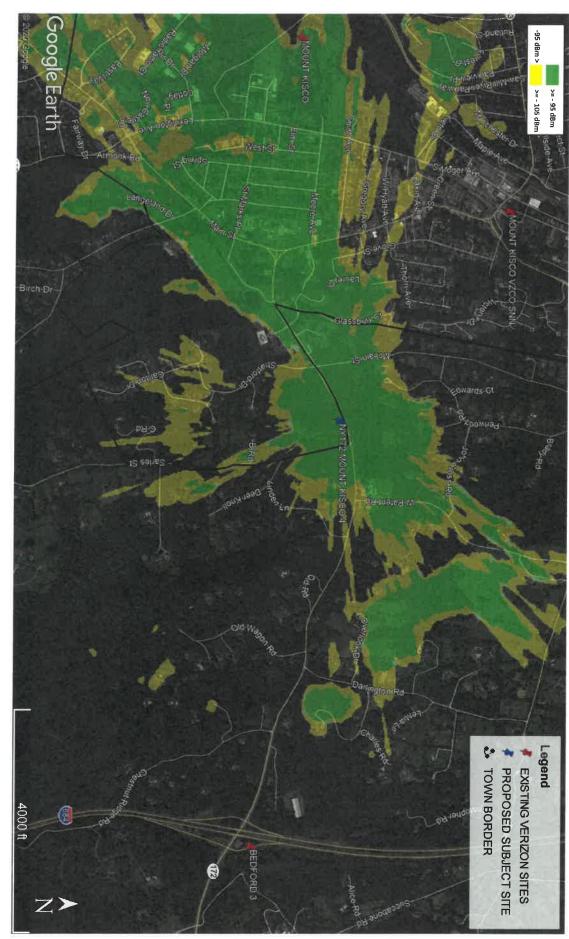


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MAP 12 - PROPOSED SUBJECT SITE COVERAGE AT 700 MHz - 77 FT. C/L HEIGHT

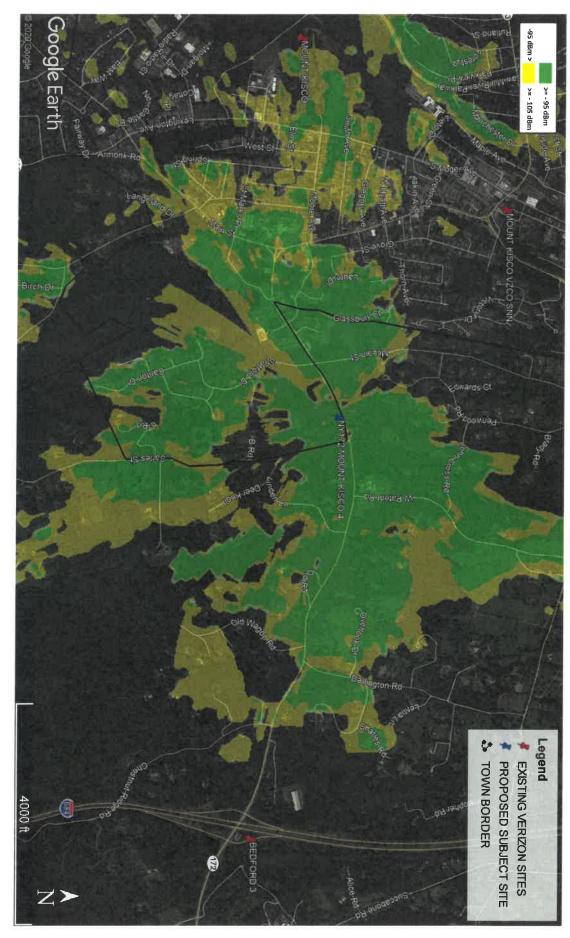


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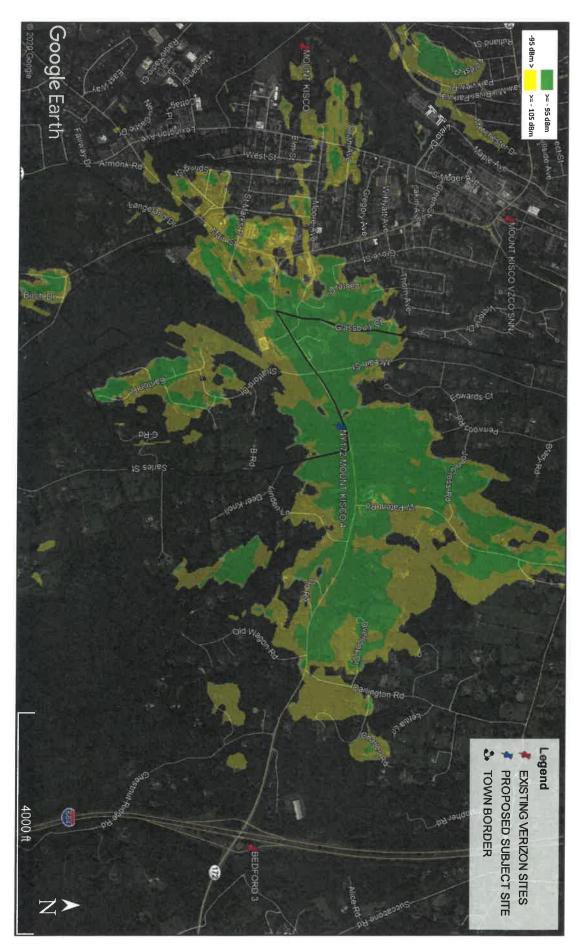
MAP 13 - PROPOSED SUBJECT SITE COVERAGE AT 2100 MHz - 122 FT. C/L HEIGHT





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MAP 14 - PROPOSED SUBJECT SITE COVERAGE AT 2100 MHZ - 77 FT. C/L HEIGHT



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Verizon

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MAP 15 - NORTH WESTERN HOSPITAL COVERAGE - 700 MHZ

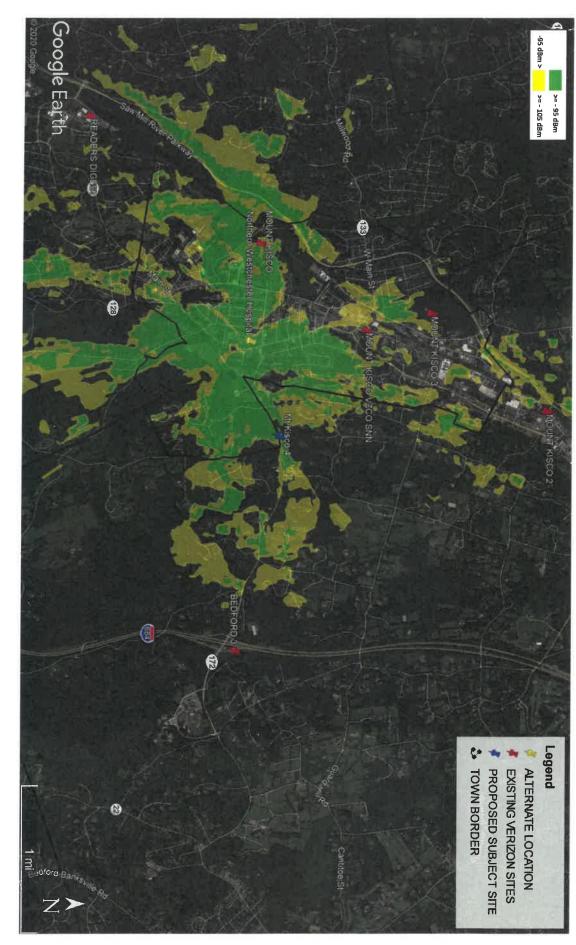


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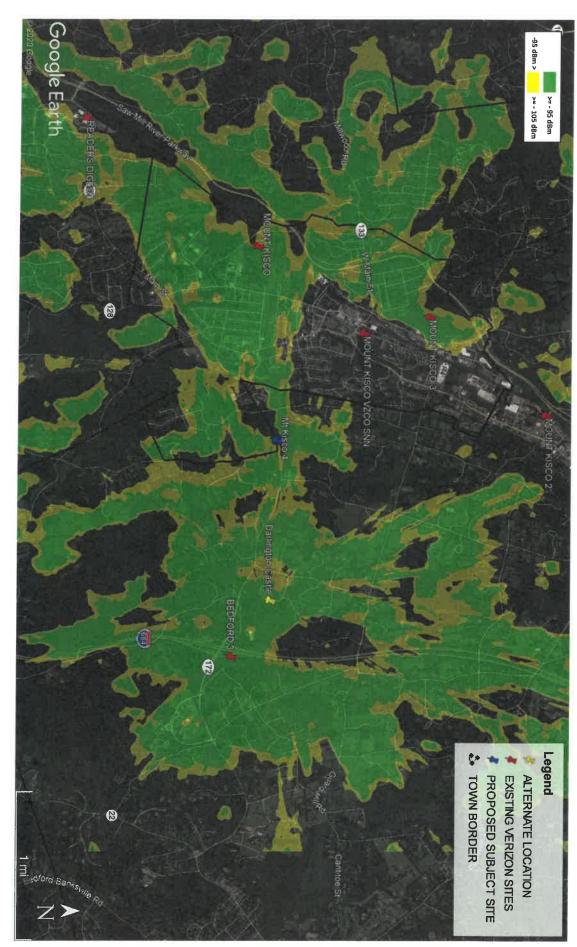
MAP 16 - NORTH WESTERN HOSPITAL COVERAGE - 2100 MHZ





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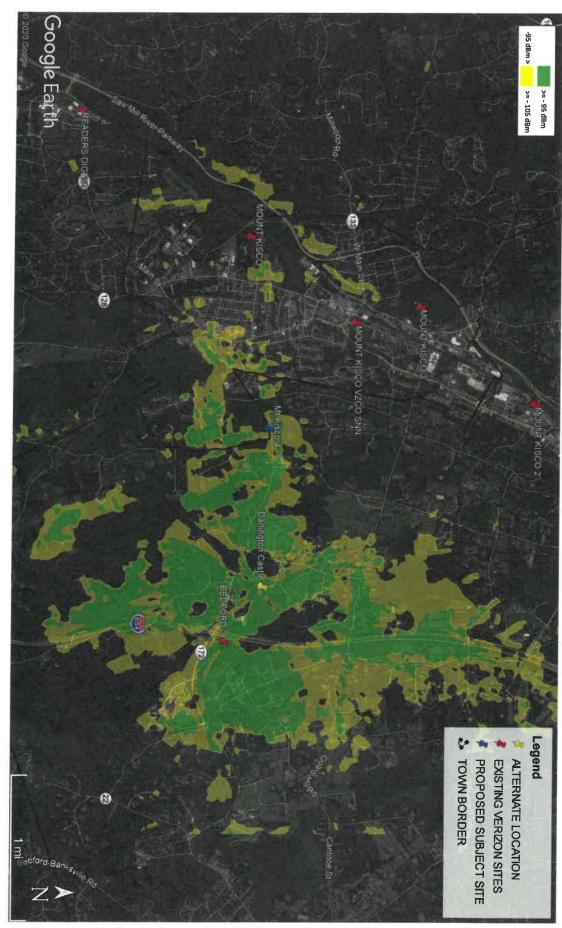
MAP 17 - DARLINGTON CASTLE COVERAGE - 700 MHZ





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MAP 18 - DARLINGTON CASTLE COVERAGE - 2100 MHZ





November 2, 2020

Hon. Members of the Planning Board Village of Mt Kisco 104 Main St Mt Kisco, NY 10549

Re:

Homeland Towers, LLC, Verizon Wireless application

to locate a Wireless Telecommunications Facility ("Facility")

at 180 S Bedford Rd, Mt Kisco, New York (Property")

Response to Bldg. Inspector Miley memo of October 6, 2020

Dear Hon. Chairman and Members of the Planning Board:

I am the Regional Manager for Homeland Towers, LLC. As such I was responsible for identifying a suitable location for a telecommunications facility that would remedy the significant gap in reliable wireless service in this area of Mount Kisco in the vicinity of the Property and along Route 172.

Building Inspector Miley's Memo of October 6, 2020 on page 5, section (4) states: "...a Special Permit can only be issued by the Planning Board upon the applicant's submission of documentation by the RF Engineer that sufficiently satisfies and has met the four (4) criterion set forth above. A review of V-Comm's 8-17-20 memo suggests that the engineer did not adequately answer all of these questions. Engineers statement that 'A review of the surrounding area reveals absence of existing tall structures, towers, or water tanks that meet all the requirements for a wireless facility' is inaccurate. Certainly, the hospital, Cisqua campus, Darlington Castle and other sites of high elevations exist within the area."

For the following reasons, we respectfully disagree.

In my "Alternate Site Report" of August 14, 2020, I detailed the steps taken and the various sites and properties that were evaluated and other considerations to find the best solution to provide coverage for the significant gap in service. In addition to the sites previously included in my report, I would like to address the locations Mr. Miley mentions.

• The Northern Westchester Hospital, 400 E Main St, Mt Kisco, NY: an installation on the roof of the Hospital would not provide coverage for the existing service gap. Please see the supplemental RF Report prepared by V-Comm Telecommunications Engineers as part of this application. Moreover, the Hospital has never agreed to lease space on the hospital



building for wireless facilities despite numerous attempts by various carriers and other entities over the past decades.

- Rippowam Cisqua Campus, 325 W Patent Rd, Bedford, NY: on July 21, 2020 I reached
 out to the Campus and spoke with Mr. Colm MacMahon, Head of School, and was told
 that: "they would never lease land for a cell tower and the Board would never approve
 it." In any event, there are no existing tall structures, towers, or water tanks on this
 property to remedy the significant gap in service.
- Darlington Castle, 33 Charles Rd, Bedford, NY: an installation at this property would not provide coverage for the existing service gap and in addition it is only 0.45 miles from an existing site at the Park & Ride on I-684. Please see the supplemental RF Report prepared by V-Comm Telecommunications Engineers as part of this application. Moreover, there is no reason to believe that the owners of this parcel would allow a wireless facility by a carrier on this building.
- 2 Sarles Street, Mount Kisco, NY. In the course of our due diligence we met with the owner Mr. Rex Pietrobono on October 9, 2020 to survey his property and discuss a possible location for a facility at his property. While initially considering the opportunity, in a follow up email Mr. Pietrobono informed us that he was not interested in our proposal and suggested other locations such as 103-105 South Bedford Rd, Mount Kisco, the Rippowan Cisqua School, Bedford and a different location on our present property on the top of the hill, which are all locations we have previously contacted or evaluated. We already documented the infeasibility of 103-105 South Bedford Road, Mt Kisco in the Alternate Site Report, but as a matter of continued due diligence I reached out again to the owner, but to date have not received a response.

Other sites of high Elevations: I am not aware of any other "high elevation" locations in addition to the high elevation locations already listed in my report of August 14, 2020. Moreover, the Code does not require an evaluation of "high elevations."

We would be willing to review any reasonable, specific, non-speculative alternative locations, but based on my personal extensive due diligence and documents submitted to the administrative record, it is clear that the Property is the only feasible alternative location.

Respectfully,

Klaus Wimmer

Klaus Wimmer Regional Manager Homeland Towers, LLC



October 27, 2020

Hon. Members of the Zoning Board Village of Mt Kisco 104 Main St Mt Kisco, NY 10549

Re:

Application by Homeland Towers, LLC to locate a Wireless Telecommunications Facility ("Facility") at 180 S Bedford Rd, Mt Kisco, New York

Co-location commitment letter

Dear Hon. Members of the Zoning Board:

Homeland Towers, LLC ("Homeland Towers") has designed the proposed Facility to support collocation in accordance with §110-27.1(D)(5). The Facility, including the tower, equipment compound, and utilities, has been designed to support Verizon Wireless as well as additional FCC licensed carriers and emergency communication facilities.

In the event the Village's noncommercial emergency service departments have a need to colocate their antennas and equipment at the Facility, space will be made available at no cost on the tower above 140' and below 90' for co-location, provided the emergency service antennas do not cause harmful interference with exiting uses, together with space within a 10' x 10' area within the proposed compound designated as "Future Municipal Equipment Area" on the site plan. There will be no charge for rent for such space on the tower but Homeland Towers shall not be responsible for the costs associated with the purchase, installation or maintenance of any such antennas or equipment.

The ability to collocate at the Facility is a benefit of the application and will help to reduce the proliferation of towers in the Village. Future co-locators will not alter the stealth monopine design of the Facility as the Facility has been designed to contain the future co-locators within the stealth designed faux branches.



As owner of the above referenced proposed tower, Homeland Towers, hereby agrees to:

Rent or lease available space for collocation on the tower, to the extent legally, technically, structurally and economically feasible, without discrimination to other personal wireless service providers, for the duration of the existence of the tower.

Very truly yours,

Homeland Towers, 17

Name: Manuel Vicente

Title: President



October 23, 2020

Honorable Members of the Planning Board Village of Mt Kisco 104 Main St Mount Kisco, NY 10549

RE: Lease with Skull Island Partners LLC at 180 S Bedford Rd, Mt Kisco, NY

Hon. Members of the Planning Board:

As requested, attached please see the recorded Memorandum of Lease together with Lease Exhibit "B1" depicting Homeland Tower's lease area.

Please note that the Lease Exhibit "B1" shows the leased premises under the Lease. The property owner, Skull Island Partners LLC, has informed us that it will not permit any other location on the property.

Respectfully

Klaus Wimmer

Klaus Wimmer Regional Manager Homeland Towers, LLC. (203)-297-6345 The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



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Name:	Homeland Towers LLC	Subn	nitte	r Information			
Address 1:	9 Harmony St.			Phone:		9145893750	
Address 2:	Suite 2			Fax:			
City/State/Zip:	Danbury CT 06810			Email:		cv@homeland	towers.us
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Danbury C1 06610			Reference for	Submitter	TP-584 NY17	2
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Control Number: 592663623							
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Timothy C. Idoni Westchester County Clerk				Homeland Towers LLC			
			9 Harmony Street, 2nd Floor				
				Danbury, CT 06810 Attn: Christine Vergati			
			0				
					,. **		



PREPARED/RECORDING REQUESTED BY:

Homeland Towers, LLC 9 Harmony St, 2nd Floor Danbury, CT 06810

Record and Return to:

Homeland Torres, LCC. 9Hermony St. 2nd Fl. Danbury CT 06810

Tax ID/Parcel No.: 80.4	14-1-1	
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(space above for Recorder's use only)

MEMORANDUM OF OPTION AND GROUND LEASE AGREEMENT

THIS MEMORANDUM OF OPTION AND GROUND LEASE AGREEMENT (this "Memorandum"), made and entered into on this day of the control of

- 1. <u>Description of Property</u>. The Leased Premises are located on that certain real property described in <u>Exhibit A</u> hereto (the "<u>Property</u>").
- 2. <u>Term.</u> The "<u>Initial Term</u>" of the Lease is five (5) years beginning on the date that Lessee exercises the Option set forth in Section 1 of the Lease. Lessee has the right to extend the term of the Lease for nine (9) successive terms of five (5) years each (individually, a "<u>Renewal Term</u>," and collectively, the "<u>Renewal Terms</u>"). The Initial Term and any applicable Renewal Term(s) are collectively referred to as the "<u>Term</u>."
- 3. Quiet Enjoyment. Pursuant to the Lease, Lessee has the exclusive right to use the Property or any portion thereof for use as telecommunications facilities providing transmission and/or receiving facilities for wireless providers and/or users, Pursuant to the Lease, Lessor shall not grant a lease, sublease, license, or



The little services and the services of

other right to use the Property, any portion thereof, or any property that is adjacent thereto that may be owned by LESSOR, to any other person or entity for the operation of antenna and/or telecommunications facilities except as provided in the Lease.

- 4. <u>Subletting.</u> Lessee has the right, at any time during the Term of the Lease, to sublet any portion of the Leased Premises or to permit any portion of the Leased Premises to be occupied or used by its subtenants, licensees, and customers in connection with the provision of communication services.
- 5. Right of First Refusal. The Lease grants LESSEE a right of first refusal, which shall not apply to offers pertaining to the sale or lease of the Property, in the event of (a) a lease, grant of an easement, or sale of the Leased Premises, in whole or in part, (b) a sale, transfer, or other conveyance of LESSOR's interest in the Lease including, without limitation, the right to receive rent under the Lease, and (c) the right to enter into an option, lease, or easement with respect to (a) or (b) after the term of the Lease.
- 6. <u>Limited First Right to Negotiate</u>. In the event that LESSEE exercises all of the Renewal Terms under the Lease, the Lease grants LESSEE an exclusive right to negotiate with LESSOR with respect to the terms of a new lease for a period of six (6) months commencing on the first day of the last year of the final Renewal Term. In the event that LESSEE and LESSOR have not reached agreement as to all of the material terms of the new lease on or before the expiration of such six (6) month period, then LESSEE's exclusive right to negotiate shall be of no further force or effect.
- 7. <u>Limited Power of Attorney</u>. LESSOR hereby grants the right to LESSEE to complete and execute on behalf of LESSOR any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.
- 8. Ratification of Lease; Release of Memorandum. By this Memorandum, the parties: (a) intend to record a reference to the Lease; (b) hereby ratify and confirm all of the terms and conditions of the Lease; and (c) declare that the Leased Premises are subject to the Lease. Following the expiration or earlier termination of the Lease, Lessee will, upon Lessor's written request therefore, execute and deliver to the Lease and the release of this Memorandum.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum of Option and Ground Lease as of the date first above written.

Still Island Pontin Lee
a Florida LLC
("LESSOR")
By: Name: David Salam
Name:
State of Florida
County of Hills barrugh
On November , 2019, before me, the undersigned Notary Public,
poisonary appeared 12000 Plant Manager
Skull Island Partners UC who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity (les), and that by his/her/their signature(s) on the instrument the person(s) or the
entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.
Signature: (Affix Notarial Seal)
Print Name: Hmy Lemley
My Commission Expires: 12/20/2022 Notary Public State of Florida Amy Lemley My Commission CO 20022
Expires 12/20/2022
Commission No.: 46 284259

• IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum of Option and Ground Lease as of the date first above written.

HOMELAND TOWERS, LLC, a New York limited liability company

("LESSEE")	
By: Name: Manuel Vicente Title: President	
State of Connection	
satisfactory evidence to be the person(s) whose instrument and acknowledged to me that he/sh authorized capacity(ies), and that by his/her/t	e/they executed the same in his/her/their their signature(s) on the instrument the
person(s), or the entity upon behalf of which the I certify under PENALTY OF PERJURY that the	
WITNESS my hand and official seal.	
Signature:	(Affix Notarial Seal)
Print Name: Koberca + Call	Rebecca Hail Notary Public-Connecticut
My Commission Expires: $8.31.2025$ Commission No.: 177221	My Commission Expires August 31, 2023



EXHIBIT "A" TO MEMORANDUM OF OPTION AND GROUND LEASE AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT A

SITUATED IN THE VILLAGE OF MOUNT KISCO, TOWN OF MOUNT KISCO, COUNTY OF WESTCHESTER, STATE OF NEW YORK:

BEGINNING AT A POINT ON THE WESTERLY BOUNDARY LINE OF SARLES STREET AT ITS INTERSECTION WITH THE PREMISES HEREIN DESCRIBED ON THE SOUTH AND PROPERTY NOW OR FORMERLY BELONGING TO R. & J. COOGAN ON THE NORTH, SAID POINT BEING DISTANT 345.33 FEET FROM THE SOUTHERLY BOUNDARY OF SOUTH BEDFORD ROAD AS MEASURED IN A SOUTHERLY DIRECTION ALONG SAID WESTERLY BOUNDARY LINE OF SARLES STREET;

RUNNING THENCE IN A SOUTHERLY DIRECTION ALONG THE WESTERLY BOUNDARY LINE OF SARLES STREET AND ALONG THE DIVISION LINE BETWEEN THE VILLAGE AND TOWN OF MOUNT KISCO ON THE WEST AND THE TOWN OF BEDFORD ON THE EAST, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 00 DEGREES 28 MINUTES 20 SECONDS WEST 24.00 FEET, SOUTH 17 DEGREES 32 MINUTES 20 SECONDS EAST 50.77 FEET, SOUTH 01 DEGREE 17 MINUTES 30 SECONDS EAST 186.00 FEET, SOUTH 02 DEGREES 38 MINUTES 30 SECONDS WEST 192.35 FEET, SOUTH 00 DEGREES 52 MINUTES 30 SECONDS EAST 116.81 FEET, SOUTH 00 DEGREES 48 MINUTES 50 SECONDS EAST 277.68 FEET, SOUTH 03 DEGREES 44 MINUTES 50 SECONDS WEST 112.34 FEET, AND SOUTH 00 DEGREES 54 MINUTES 40 SECONDS WETS 68.83 FEET TO A POINT;

A 40 40 4

THENCE IN A WESTERLY AND NORTHERLY DIRECTION ALONG THE NORTHERLY BOUNDARY LINE OF OTHER PROPERTY NOW OR FORMERLY BELONGING TO WILLIAM G. GREEN NORTH 83 DEGREES 56 MINUTES 49 SECONDS WEST 1104.37 FEET AND NORTH 07 DEGREES 29 MINUTES 40 SECONDS EAST 147.07 FEET TO A POINT;

THENCE CONTINUING IN A NORTHERLY, EASTERLY AND NORTHERLY DIRECTION ALONG THE EASTERLY BOUNDARY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO WILDLIFE PRESERVES, INC. THE FOLLOWING COURSES AND DISTANCES:

NORTH 07 DEGREES 29 MINUTES 40 SECONDS EAST 291.06 FEET, NORTH 12 DEGREES 52 MINUTES 40 SECONDS EAST 218.31 FEET, NORTH 20 DEGREES 02 MINUTES 40 SECONDS EAST 172.00 FEET, SOUTH 76 DEGREES 54 MINUTES 20 SECONDS EAST 54.75 FEET, NORTH 89 DEGREES 18 MINUTES 40 SECONDS EAST 229.00 FEET, AND NORTH 00 DEGREES 12 MINUTES 20 SECONDS WEST 364.98 FEET TO A POINT;

THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTHERLY BOUNDARY LINE OF SOUTH BEDFORD ROAD THE FOLLOWING COURSES AND DISTANCES:

NORTH 68 DEGREES 33 MINUTES 40 SECONDS EAST 97.37 FEET,
NORTH 74 DEGREES 09 MINUTES 40 SECONDS EAST 101.36 FEET,
SOUTH 88 DEGREES 46 MINUTES 59 SECONDS EAST 60.96 FEET,
NORTH 88 DEGREES 13 MINUTES 00 SECONDS EAST 101.03 FEET,
NORTH 84 DEGREES 00 MINUTES 00 SECONDS EAST 26.36 FEET, AND
NORTH 85 DEGREES 06 MINUTES 10 SECONDS EAST 51.32 FEET TO A POINT:

THENCE IN A GENERALLY SOUTHERLY, WESTERLY AND EASTERLY DIRECTION ALONG THE WESTERLY BOUNDARY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO R. & J. COOGAN THE FOLLOWING COURSES AND DISTANCES:

SOUTH 04 DEGREES 53 MINUTES 50 SECONDS EAST 61.79 FEET, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 49.00 FEET, A CENTRAL ANGLE OF 40 DEGREES 43 MINUTES 40 SECONDS FOR A LENGTH OF 34.83 FEET, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 161.00 FEET, A CENTRAL ANGLE OF 28 DEGREES 53 MINUTES 20 SECONDS FOR A LENGTH OF 81.18 FEET, SOUTH 64 DEGREES 43 MINUTES 10 SECONDS WEST 108.00 FEET, ON A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 159 DEGREES 13 MINUTES 50 SECONDS FOR A LENGTH OF 69.48 FEET; NORTH 85 DEGREES 29 MINUTES 20 SECONDS EAST 98.48 FEET, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 78 DEGREES 43 MINUTES 00 SECONDS FOR A

EXHIBIT A

LENGTH OF 137.39 FEET, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 527.00 FEET, A CENTRAL ANGLE OF 02 DEGREES 24 MINUTES 46 SECONDS FOR LENGTH OF 22.19 FEET, AND SOUTH 89 DEGREES 31 MINUTES 40 SECONDS EAST 160.08 FEET PER SURVEY (160.00 FEET PER DEED) TO THE POINT AND PLACE OF BEGINNING.

TAX I.D. NUMBER: 80.44-1-1

BEING THE SAME PROPERTY CONVEYED TO SKULL ISLAND PARTNERS LLC, A FLORIDA LIMITED LIABILITY COMPANY, GRANTEE, FROM REALIS DEVELOPMENT, LLC, GRANTOR, BY DEED RECORDED 07/01/2013, AS DOCUMENT NO. 531553080, OF THE WESTCHESTER COUNTY RECORDS.

Exhibit B1 pages LE-1 to LE-3



WATERFORD, CT 06385 WWW.ALLPOINTSTECH.COM

567 VAUXHAL STREET EXTENSION SUITE 311 PHONE: (860)-663-1697 FAX: (860)-663-0935

APT FILING NUMBER: NY283830

LE-1

SCALE: AS NOTED DRAWN BY: C\$H

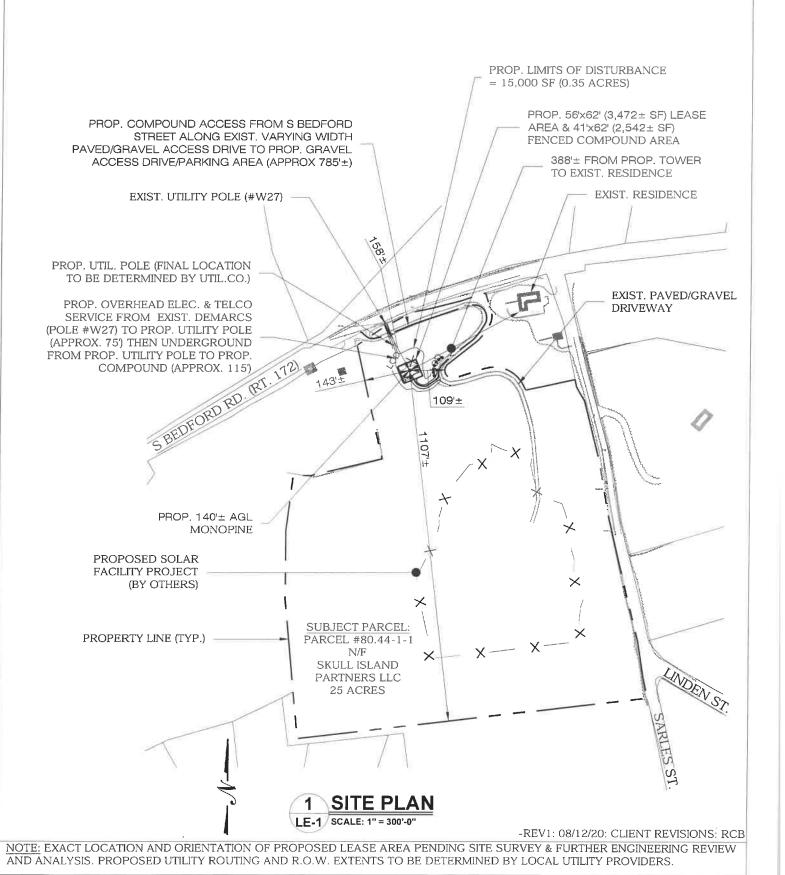
DATE: 07/27/2020 **CHECKED BY: RCB**



HOMELAND TOWERS, LLC 9 HARMONY STREET 2nd FLOOR DANBURY, CT 06810

HOMELAND TOWERS: NY172

> MOUNT KISCO 180 S. BEDFORD RD. MT. KISCO, NY 10594





WATERFORD CT 06385 WWW.ALLPOINTSTECH.COM

567 VAUXHAL STREET EXTENSION SUITE 311 PHONE: (860)-663-1697 FAX: (860)-663-0935

APT FILING NUMBER: NY283830

I F-2

SCALE: AS NOTED DRAWN BY: CSH

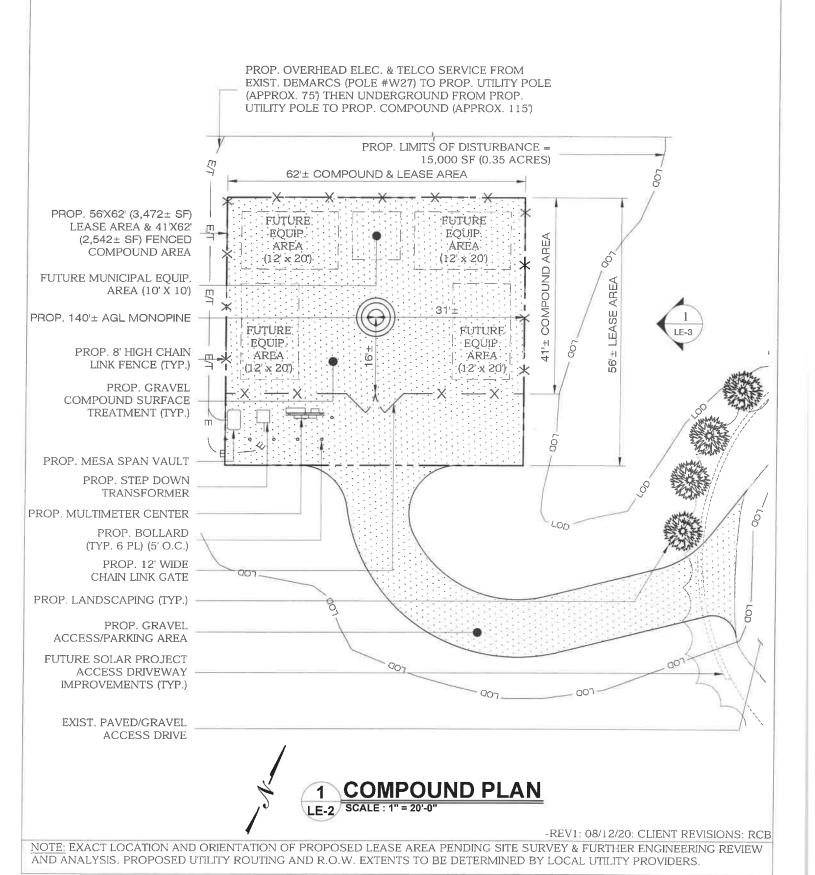
DATE: 07/27/2020 **CHECKED BY: RCB**



HOMELAND TOWERS, LLC 9 HARMONY STREET 2nd FLOOR DANBURY, CT 06810

HOMELAND TOWERS: NY172

MOUNT KISCO 180 S. BEDFORD RD. MT. KISCO, NY 10594





WATERFORD, CT 06385 WWW.ALLPOINTSTECH.COM

567 VAUXHAL STREET EXTENSION SUITE 311 PHONE: (860)-663-1697 FAX: (860)-663-0935

APT FILING NUMBER: NY283830

LE-3

SCALE: AS NOTED DRAWN BY: CSH

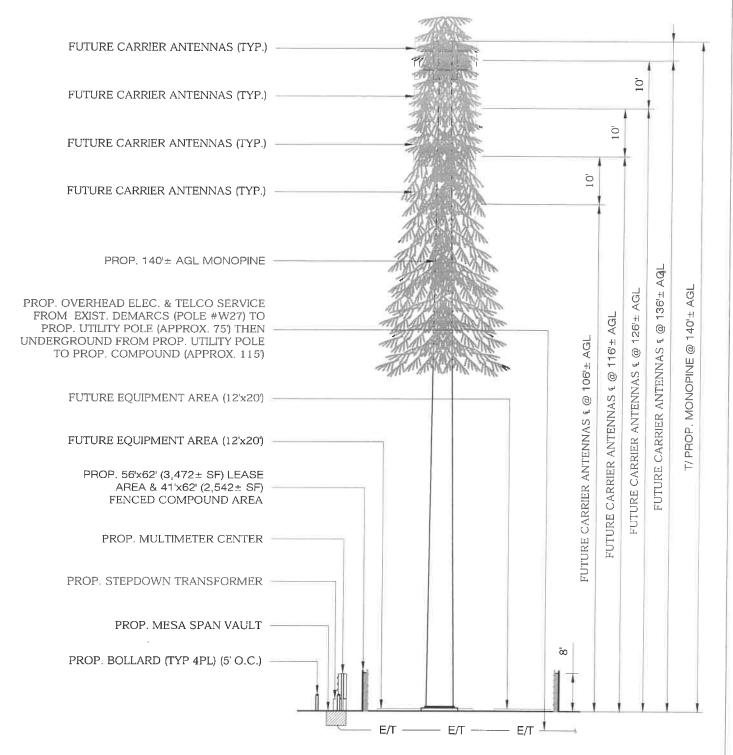
DATE: 07/27/2020 **CHECKED BY: RCB**



HOMELAND TOWERS, LLC 9 HARMONY STREET 2nd FLOOR DANBURY, CT 06810

HOMELAND TOWERS: NY172

MOUNT KISCO 180 S. BEDFORD RD. MT. KISCO. NY 10594



EAST ELEVATION

-REV1: 08/12/20: CLIENT REVISIONS: RCB

NOTE: EXACT LOCATION AND ORIENTATION OF PROPOSED LEASE AREA PENDING SITE SURVEY & FURTHER ENGINEERING REVIEW AND ANALYSIS. PROPOSED UTILITY ROUTING AND R.O.W. EXTENTS TO BE DETERMINED BY LOCAL UTILITY PROVIDERS



Honorable Chairman and Members of the Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

November 3, 2020

RE:

Homeland Towers Site Name: Mt. Kisco NY172

180 S. Bedford Road Mt. Kisco, NY 10594 Response to Comments

Honorable Chairman and Members of the Board:

Please find as follows the responses to the comments from the Peter J. Miley comment memo dated October 6, 2020, Michael P. Musso, P.E. letter dated September 18, 2020, the Anthony Olivieri, P.E. memo dated September 3, 2020, and the fire, ice and debris comments from Andrew J. Campanelli Memorandum of Opposition (the response is in red after each of the referenced comments):

Miley Memo

Comments:

Comment 2:

A listing of property owners adjacent to, across streets from, and downslope within 500 feet of the property, and any additional property owners deemed appropriate by the Planning Board is

required. Plan R1 provides only a 300 ft. distance.

Drawing R-1 has been updated to show property owners within 500 feet of the property.

Comment 3:

Location of the proposed utilities are partially underground. All utilities from the street should be

located underground.

The design has been revised to propose the utilities services on the site run underground the entire

way.

Comment 8:

The proposed cell tower location is 388 feet to the closest residence (east) and will encroach 73 ft. into the 200 ft. buffer requirement for a Ground-Mounted Solar Facility. Setback dimensions to the two structures (care takers cottage) located at the Marsh Sanctuary have not been provided. Drawing TR-1 has been added to the drawing set. This drawing shows the distances to all of the residences within the tower setback (1,600 ft.). The distances to the (2) structures located at the

Marsh Sanctuary are also shown on Drawing SP-1.

Comment 9: Distances to other residences within the required setback have not been provided.

Drawing TR-1 has been added to the drawing set. This drawing shows the distances to all of the

residences within the tower setback (1,600 ft.).

Comment 10: Plans containing equipment should be in color.

The colors of all the proposed carrier equipment have been listed with the detail of each piece of

equipment.

Comment 12: Information (type/size) for future equipment should be provided.

APT ENGINEERING

	567 VAUVHALL STREET EXTENSION,	SUITE 311 · WATERFOR	RD, CT 06385 · PHONE 860	-663-1697 · FAX 860-663-093
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The spaces showing 'future equipment' is for illustrative purposes only, and to show the potential for collocation. The information relating to the type and size of the future equipment cannot be known until the collocator submits plans for collocation at the Facility. The equipment used is selected by each individual carrier, and therefore we cannot know what equipment may be proposed by a future collocator.

Musso Letter

Comments:

Comment 5: It should be confirmed whether any new utility poles are proposed at the property or at the street frontage of the property as part of the proposed wireless facility. Underground utility conduits shall be confirmed.

It is unknown whether a new utility pole will be required to replace the existing pole on S. Bedford Road until the site is walked with the utility company. Beyond that there are no new utility poles proposed on this project and all proposed utilities are to be underground.

Comment 7: Please confirm that an emergency generator is required for the facility, or if backup battery cabinets can be employed by Verizon.

Both an emergency generator and a battery backup cabinet are proposed for the Verizon installation at this site (see Drawing C-1).

Comment 16: Additional x-sections (DWGs A-1 and A-2) should be added to show a 140-ft conventional monopole, with and without co-location by other carriers. It is noted here and above that an alternate height scenario will need to undergo technical evaluation:

The two tower elevations described above have been added to Drawing A-3.

Comment 17: Although a full structural and foundation analysis would be submitted and reviewed as part of a future Building Permit (should the current applications be approved), potential construction methods (dewatering; type of foundation construction; equipment slabs on grade) should be provided at this time. Narrative format is acceptable. Please confirm if any borings have been conducted in the area of the proposed monopole, and provide data if available.

The construction of the proposed tower foundation will be design upon the completion of a Geotechnical Investigation, which has not been performed to date (currently there is no boring data). The preferred tower foundation will be a buried concrete pad and pier. If dewatering is required during construction it will be performed in accordance with all applicable codes. The proposed concrete equipment pad details have been provided on the drawings (see Drawing C-1).

Olivieri Memo:

Comments:

Comment 2: Cut and fill calculations should be submitted for review.

The proposed earthwork numbers have been added to Drawing SP-3.

Comment 6: The sediment and erosion control plan must provide greater detail and include items such as soil

stockpiling, and a concrete washout location etc.

Additional sediment and erosion control detail has been added to Drawings SP-3, EC-1 and EC-2.

Comment 7: The limit of disturbance should include any staging areas, it is unclear if other areas of the site would be utilized for this.

A proposed staging area has been added to the drawings and the proposed Limit of Disturbance has been increased to reflect this addition.

Comment 8:

Stormwater detention for any proposed increase to impervious coverage must be included; it is unclear if this would be incorporated into the stormwater design for the proposed solar panel project, the disturbance as noted will require NYSDEC General Permit coverage and possibly NYCDEP SWPPP approval.

The stormwater calculations have been shown on Drawing SP-3. These calculations are based on the telecommunication installation only. The proposed solar panel project will be responsible for the stormwater for that facility. A SWPPP for the Telecommunications Facility has been included as part of the revised ZD submission (Drawing EC-1). We agree that NYSDEC General Permit coverage and NYCDEP SWPPP approval are required and will be sought once the design and layout of the facility are finalized by the Planning Board.

Comment 9:

A structural design and calculations should be submitted for the proposed tower and foundation demonstrating capability for proposed and future carriers.

The structural design and calculations will be performed based on the appropriate design standards and will be part of the proposed Construction Drawings that will be submitted for a Building Permit.

Campanelli Memo of Opposition:

Structural Failures: The proposed facility is located such that it is a minimum of 109 feet to the nearest property line (east). The applicant is proposing to design the tower to have a failure hinge point at elevation 31' AGL which would allow the tower fall zone to be contained within the subject parcel. The top section of the tower would collapse on itself.

Fire: Homeland Towers, LLC, is proposing the construction of an unmanned wireless telecommunications facility at the above referenced site. We offer the following information relative to fire safety at the proposed facility.

There are hundreds of thousands similar towers nationwide and the limited number of fires reported is a rare occurrence. In fact, many telecommunications towers are expressly used to support emergency service antennas and equipment. Overall, fire impacts are limited based on the non-combustible/fire-resistant nature of steel monopine towers, the implementation and enforcement of best management practices required during welding, the installation of lightening suppression systems and provisions for emergency service access.

The wireless telecommunications tower proposed for this project is a monopine, consisting of a steel monopole tower outfitted with faux branching and foliage intended to mimic a pine tree. A monopole is constructed of noncombustible hollow sections of metal which provide for telecommunication lines to be routed within the structure. The faux branching and foliage are classified as fire resistant having met the testing requirements of ASTM D635 and NFPA 701, respectively. While monopines are non-combustible/fire resistant, some materials located within the structure are flammable.

On the rare occasion that a fire does occur, it is generally fueled by the outer jacketing surrounding the telecommunications coaxial cables inside the pole due to a welding accident. Welding on a tower site occurs in very rare circumstances when structural upgrades are being made to the tower itself. The tower being proposed at this location is structurally designed to handle the proposed Verizon installation along with the loading for (3) future carriers; therefore, the likelihood that the tower will need to be structurally reinforced is very low. In response to such concerns, all welding at this site will be performed in accordance with OSHA Guidelines and the local Fire Department will be notified prior to welding activities occurring. Some OSHA guidelines that will be followed should welding need to take place on the site shall include any combustibles shall be protected with fire blankets or wet down to help prevent ignition of material. Adequate sources of water will be available. Installation of temporary 3/4" plywood covers over ice bridges and vulnerable equipment to protect against possible fire and falling

materials. Coax cables (internal and external) will be bundled to maintain a minimum 6 inches of clearance from the surface of any section to be cut or take other measures to protect cables from heat, sparks, embers, and flames.

Another potential fire source could be a lightning strike. However, the tower will be properly bonded and grounded thus lightning strikes are not a significant concern.

Based on the very rare occurrence of fire at wireless facilities, the non-combustible/fire-resistant nature of the monopine tower, compliance with welding best management practices and associated OSHA regulations, bonding and grounding the tower and facility to protect against lightning strikes, and the fact that the facility is fully accessible to emergency service vehicles, there will be no significant adverse effects related to fire.

Ice and Debris Fall: The design of the facility as a monopine, is located within a secured fenced compound appropriately located on a large property more than 100 feet from the nearest property line and 288' from the nearest residence. Therefore there will be minimal possibility of ice accumulation and debris fall on adjacent parcels. I believe there is not a significant risk to persons or property from ice and/or debris fall in this situation.

In our experience falling ice is not as much a concern with monopine structures as it is with broadcast towers guyed towers and/or lattice towers. Accumulation of ice is generally of function of altitude, structure height and site location. Mountain top sites or very tall towers have been documented to shed ice. Smaller monopole structures (200' or <) such as that proposed and specifically located in Westchester County New York have not been reported to have shedding ice issues.

In addition to altitude, tower height and site location - the surface area of the tower structure is a major factor for ice shedding. Monopines have less surface area than broadcast towers or other towers, which are usually much taller and constructed with a lattice and/or guy wire design. Monopoles for telecommunication facilities are typically 200' high or less.

Should you have any questions, please do not hesitate to call me at (860) 663-1697 x206.

Sincerely,

APT Engineering

Robert C. Burns, P.E. Program Manager



November 2, 2020

Honorable Chairman and Members of the Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

RE: 180 S. Bedford Road Public Utility Wireless Telecommunications Facility Homeland Towers, LLC

Dear Honorable Chairman and Members of the Planning Board:

I am Robert C. Burns, P.E. with APT Engineering, the project engineer for the above referenced project to construction a public utility wireless telecommunications facility ("Facility") at the above referenced property ("Property"). As you are aware the application ("Application") filed by Homeland Towers and Verizon Wireless ("Applicants") also includes a request for a Steep Slope Permit in accordance with §110-33.1(A) of the Zoning Code. In reviewing the Application, the following factors are offered for consideration in accordance with the Steep Slope Permit requirements contained in the Village Zoning Code. Please note that the following sections in **bold** face type are the actual quotes from the Zoning Code, and the response to each section is noted below.

A. Steep slopes.

- (1) Development limitations. To protect environmentally sensitive lands, preserve the Village's natural resources, and promote the orderly development of land, development on parcels that contain excessively steep slope areas, which parcel on the effective date of this chapter is in excess of 40,000 square feet and is in single, undivided ownership, shall be limited by deducting the following from the gross lot area of such parcels to determine the net lot area [in conjunction with § 110-33.1B(1) herein]:
- (a) Fifty percent of the area of steep slopes greater than 25%.
- (b) Twenty-five percent of the area of steep slopes greater than 20% but not greater than 25%. Please see below the following slope information for the Property:

111,614 SF slopes 20%-25%;

381,778 SF slopes over 25%; and

45% of the existing property has slopes over 20%.

- (2) Steep slopes protection regulations.
- (a) Purpose. For the purpose of preventing erosion, preventing stormwater runoff and flooding, providing safe building sites, preventing landslides and soil instability, protecting the quantity and quality of the Village's surface and groundwater resources, protecting important scenic views and vistas, preserving areas of wildlife habitat, minimizing the area of land disturbance related to site

APT ENGINEERING

development and protecting the Village's character and property values, it is the intent of these steep slope regulations to minimize disturbance on steep slopes and to avoid disturbance and construction activities on very steep slopes. Further, it is the intent of these steep slope regulations to minimize the development of hilltops and ridgelines. The Village Board, the Planning Board, the Zoning Board of Appeals, the Building Inspector and the Village Engineer shall take these objectives into consideration in reviewing and acting on any plans submitted pursuant to the provisions of this chapter.

- (b) Exempt and regulated activities.
- [1] Regulated activities.
- [a] It shall be unlawful to create any disturbance greater than 100 square feet in aggregate, or to cut any tree with a diameter greater than four inches when measured from 1 1/2 feet from ground level, on any steep slope, hilltop, or ridgeline, other than an exempt activity as defined herein, without a Steep Slopes Permit issued in conformance with these regulations.

The proposed project involves 4,039 SF (2,128 sf of 20-25% slope and 1,911 sf of over 25% slope) of disturbance on slopes over 20% and trees larger than 4" diameter. Therefore, as the project involves land disturbance in areas with slopes over 20%, a Steep Slope Permit will be required, and the Applicants respectfully request that the Planning Board issue the Steep Slope Permit.

[b] In order to protect the stability of slopes and to ensure the safety of residents, construction activities on steep slopes shall be minimized and shall follow the standards for grading set forth herein.

The grading plan included with the Site Plan follows the standards set by the Village code.

[c] Construction activities shall not be permitted on very steep slopes unless there is no viable alternative.

The proposed plan has 1,911 sf of disturbance on very steep slopes, however due to the location of the Facility and slope of the Property there is no other viable alternative.

- [2] Exempt activities. The following activities shall be exempt from provisions of this chapter:
- [a] Any customary landscaping, provided that any such activity conforms to all other applicable laws of the Village of Mt. Kisco.
- [b] Repair of existing structures with no increase in any physical dimension.

The project does not qualify as an exempt activity therefore a Steep Slope Permit has been requested.

- (c) Standards for development approval. In denying, granting, or granting with modifications any application for a steep slopes permit, the Planning Board shall consider the consistency of the proposed activity with the following standards:
- [1] Disturbance and construction activities on very steep slopes shall not be permitted unless there is no viable alternative.

With the Facility proposed in this location there is no viable option to avoid the disturbance of very steep slopes.

- [2] Disturbance of areas with steep slopes shall be in conformance with the following provisions:
- [a] The planning, design and development of buildings shall provide the maximum in structural safety and slope stability while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character.

The compound has been designed to minimize the disturbance in the area of development.

[b] The terracing of building sites shall be kept to an absolute minimum. The construction of retaining walls greater than six feet in height or 60 feet in length shall not be permitted unless there is no viable alternative.

The site is not terraced and there are no retaining walls currently proposed.

[c] Roads and driveways shall follow the natural topography to the greatest extent possible in order to minimize the potential for erosion and shall be consistent with other applicable regulations of the Village of Mt. Kisco and current engineering practices.

The proposed access drive to the compound extends off the existing access drive and follows the natural terrain to the most feasible way possible to reduce land disturbance and meet current engineering practices.

[d] Replanting shall consist of vegetation intended to further slope stabilization with a preference for indigenous woody and herbaceous vegetation.

Currently the proposed slopes are to be seeded with NYSDEC permanent construction area planting mixture #1 from the New York State Standards and Specifications for Erosion and Sediment control (Blue Book), latest edition and covered with Erosion Control Blankets to allow the turf to be established.

[e] When development activities are proposed to occur on hilltops or ridgelines, the plans submitted for review shall demonstrate that the impacts on the functions, aesthetics and essential characteristics of such areas are effectively minimized and mitigated. The natural elevations and vegetative cover of ridgelines shall be disturbed only if the crest of a ridge and the tree line at the crest of the ridge remains uninterrupted and shall not be permitted unless there is no viable alternative. This may be accomplished either by positioning buildings and areas of disturbance below a ridgeline or hilltop or by positioning buildings and areas of disturbance at a ridgeline or hilltop so that the elevation of the roof line of the building is no greater than the elevation of the natural tree line. However, under no circumstances shall more than 50 feet along a ridgeline, to a width of 50 feet generally centered on a ridgeline, be disturbed.

The Facility is not located on a hilltop or ridgeline.

[f] Any regrading shall blend in with the natural contours and undulations of the land. All proposed grading will be blended into the existing natural contours.

[g] Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom, and sides of regraded slopes.

All proposed cuts and fill contours are shown rounded off on the Site Plan.

[h] The angle of cut and fill slopes shall not exceed a slope of one vertical to two horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Village Engineer are used, in which case the angle shall not exceed a slope of one vertical to three horizontal.

The cut and fill slopes do not exceed a 2:1 slope.

[i] Tops and bottoms of cut and fill slopes shall be set back from structures a distance that will ensure the safety of the structures in the event of the collapse of the cut or fill slopes. Generally, such distance shall be considered to be six feet plus 1/2 the height of the cut or fill.

The Facility is set back from the edge of the slope by 26' and the foundation of the tower will be designed so that it will not be sitting on any of the proposed fill required for construction of the equipment compound. There are no other structures on the site other than a concrete equipment pad which is approximately 5' from the edge of the slope.

[j] Disturbance of rock outcrops shall be by means of explosives only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable regulations of the Village of Mt. Kisco and the State of New York.

There are no rock outcroppings observed within the proposed area of disturbance. It is not known if there is any ledge in the area because a Geotechnical Explorations has not been performed yet. The Applicants do not anticipate the need for blasting to construct the proposed Facility. If ledge is encountered, chipping is preferred to blasting. If blasting were required, an appropriate protocol would be followed in accordance with state and municipal regulations.

[k] Disturbance of steep slopes shall be undertaken in workable units in which the disturbance can be completed and stabilized in one construction season so that areas are not left bare and exposed during the winter and spring thaw periods (December 15 to April 15).

The total construction time is anticipated to take 12 weeks and no disturbance to any steep slopes will occur between December 15 and April 15.

[l] Disturbance of existing vegetative ground cover shall not take place more than 15 days prior to grading and construction.

The Applicants will comply with this requirement.

[m] Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, must be applied to an area of disturbance within two days of establishing the final grade, and permanent stabilization must be applied within 15 days of establishing the final grade.

Erosion control blankets are proposed on all graded slopes with a 3:1 slope or steeper.

[n] Soil stabilization must be applied within two days of disturbance if the final grade is not expected to be established within 21 days. In locations where construction activities have temporarily ceased, temporary soil stabilization measures must be applied within one week.

The Erosion Control notes (Site Plan Sheet-EC-1) on the Site Plan comply with this criteria.

[0] Topsoil shall be stripped from all areas of disturbance, stockpiled and stabilized in a manner to minimize erosion and sedimentation, and replaced elsewhere on the site at the time of final grading. Stockpiling shall not be permitted on slopes of greater than 10%.

Soil Stockpiling as shown on the Site Plan is not proposed on any slopes greater than 10% and that a note has been added to the Temporary Stockpile Detail (See Site Plan Sheet EC-2).

[p] No organic material or rock with a size that will not allow appropriate compaction or cover by topsoil shall be used as fill material. Fill material shall be no less granular than the soil upon which it is placed, and shall drain readily.

All fill material will be in accordance with a Licensed Geotechnical Engineers recommendations once a Geotechnical Report has been completed for the project.

[q] Compaction of fill materials in fill areas shall be such to ensure support of proposed structures and stabilization for intended uses.

All compaction of fill material will be in accordance with a Licensed Geotechnical Engineers and the proposed Tower and Tower Foundation design engineer's recommendations once a Geotechnical Report and tower design has been completed for the project.

[r] Structures shall be designed to fit into the hillside rather than altering the hillside to fit the structure. (Among the methods that may be employed to achieve this goal are reduced footprint design, "step-down" structures, stilt houses, minimization of grading outside the building footprint, placement of structures at minimum street setback requirements to preserve natural terrain, etc.).

There are no "buildings" being proposed as part of the Facility.

[s] Development shall be sited on the least sensitive portions of the site to preserve the natural landforms, geological features, and vegetation.

Where the development is currently being proposed on the site is designed to not affect and natural land forms geological features and to try and minimize any tree clearing.

[t] The stability of slopes and the erodibility of soils on slopes is a function of various physical soil properties and underlying bedrock conditions. Where site surveys indicate the presence of soils or underlying bedrock conditions the physical properties of which might present limitations on construction practices or high erodibility that may result in unstable slopes, the Planning Board may limit the type and extent of construction activities or disturbance to these areas as necessary to ensure public health, safety, and welfare.

The project is designed such that the proposed slopes are stable and will not be impacted by erosion.

[u] Impacts from construction activities or other disturbance on bedrock outcrops and glacial erratics shall be minimized.

There were no outcroppings or glacial erratics visible in the area of the development area.

[v] All measures for the control of erosion and sedimentation shall be undertaken consistent with this chapter and with the Westchester County Soil and Water Conservation District's "Best Management Practices Manual for Erosion and Sediment Control," and New York State Department of Environmental Conservation "Guidelines for Urban Erosion and Sediment Control", as amended, or its equivalent satisfactory to the Planning Board, whichever requires the higher standards.

All erosion control measures have been designed in accordance with NYSDEC guidelines.

[w] All proposed disturbance of steep slopes shall be undertaken with consideration of the soils limitations characteristics contained in the Identification Legend, Westchester County Soils

Survey, 1989, as prepared by the Westchester County Soil and Water Conservation District, in terms of recognition of limitation of soils on steep slopes for development and application of all mitigating measures, and as deemed necessary by the Planning Board.

According to the Westchester County Soils Survey, CsD soils which are a B soil are located in the proposed area of disturbance.

(d) Permit procedures.

- [1] Application for permit. An application for a steep slopes permit shall be filed with the Planning Board, and shall contain the following information and such other information as required by it, except when waived by the Planning Board as not pertinent or necessary for the proposed disturbance:
- [a] Name, post office address and telephone number of the owner and applicant. Property Owner is Skull Island Partners LLC, c/o David Seldin, 1571 Oceanview Drive, Tierra Verde, Florida 33715 (646) 932-3628

Applicants are Homeland Towers, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless, c/o Snyder & Snyder, LLP 94 White Plains Road, Tarrytown, New York 10591 (914) 333-0700

[b] Street address and Tax Map designation of property covered by the application. The Property is identified as 180 South Bedford Road - SBL 80.44-1-1

[c] Statement of authority from owner for any agent making application.

A letter of authorization from the Property Owner has been included with the Application.

[d] Listing of property owners adjacent to, across streets from, and downslope within 500 feet of the property, and any additional property owners deemed appropriate by the Planning Board. A map and list of adjacent property owners has been included on Sheet R-1 of the Site Plan.

[e] Statement of proposed work and purpose thereof.

This has been included in the Application, the Application is for a public utility wireless telecommunications facility to address a significant gap in Verizon Wireless's network.

- [f] A statement prepared by a licensed architect, registered landscape architect, or engineer, that describes:
- [i] The methods to be used in overcoming foundation and other structural problems created by slope conditions, in preserving the natural watershed and in preventing soil erosion; and
- [ii] The methods to be used to eliminate or mitigate water runoff on all adjacent properties and any other property that will be naturally affected by increased water runoff.

The proposed equipment compound is designed with clean broken stone with 40% voids that will allow the increase in runoff to be held within the voids and infiltrated back into the ground. A swale has been designed on the south side of the driveway to convey the existing stormwater runoff from the uphill areas south of the proposed development area around the proposed compound and driveway and discharge through a riprap energy dissipator, slowing down the runoff where it will naturally drain down the hill towards S. Bedford Road as it does in existing conditions

- [g] A statement made under the seal of a licensed professional engineer certifying that:
- [i] The proposed activity will disturb the steep slope area to the minimum extent practicable; and
- [ii] The proposed mitigation measures will prevent, to the maximum extent practicable, the adverse effect of any disturbance of the steep slope area on the environment and any neighboring properties.

The proposed development has been designed to minimize the disturbance on steep slope areas as much as possible and that disturbance will not adversely effect the neighboring properties.

- [h] Eleven copies of plans for the proposed regulated activities drawn to a scale of not less than one inch equals 50 feet (unless otherwise specified by the Planning Board). Such plans shall be sealed and show the following:
- [i] Location of proposed construction or disturbance and its relationship to property lines, easements, buildings, roads, walls, sewage disposal systems, wells, and wetlands within 100 feet of the proposed construction or disturbance, unless a greater distance is deemed appropriate by the Planning Board.

This has been included on the Site Plan.

[ii] Estimated material quantities of excavation/fill.

130 CY of excavation, 815 CY of fill required and 165 CY of gravel import.

[iii] Location and size of areas of soils by soils types in the area of proposed disturbance and to a distance of 100 feet surrounding the area of disturbance.

Soil boundaries and soil types are included on the Site Plan.

[iv] Existing and proposed contours (NGVD, National Geodetic Vertical Datum) at two-foot intervals in the area of proposed disturbance and to a distance of 100 feet beyond.

This information has been provided on the Site Plan.

[v] Slope categories for the entire project site itself showing at minimum the steep slope and very steep slope categories. Slope is to be determined from on-site topographic surveys prepared with a two-foot contour interval. The vertical rise is to be measured, on the basis of two-foot contours, in a ten-foot horizontal length.

This information has been provided on the Site Plan.

[vi] Cross sections of steep slope areas proposed to be disturbed.

A Cross section through the steep slope area has been provided on the Site Plan.

[vii] Retaining walls or like constructions, with details of construction.

There are no retaining walls or like construction proposed.

[viii] Erosion and sedimentation control plan prepared in accordance with the requirements listed above in Subsection A(2)(c)[2][k] through [o]. These plans must be submitted under the seal of a licensed professional engineer and must show and certify the following:

[A] All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion and water.

- [B] The calculated volume of water runoff from the slope(s) and from the lot in question, as unimproved.
- [C] The calculated volume of water runoff from the slope(s) and from the lot in question, as improved.
- [D] The existence, location and capacity of all natural and artificial drainage courses and facilities within 500 feet of the lot, which are or will be used to carry or contain water runoff to and from the slopes(s) and the lot.

The sediment and erosion control plans contain everything except all natural and artificial drainage courses and facilities within 500' of the lot. The proposed design is decreasing the runoff analysis of those areas are not necessary. The Property drains into S. Bedford Road and per this requirement that has been shown on the Site Plan.

[j] A list of all applicable county, state or federal permits that are required for such work or improvements.

There are no applicable county, state or federal permits required. The approvals required for the Facility have been noted on the EAF filed with the Application.

[k] An application fee in the amount set forth in a fee schedule established by the Village Board. The Applicants have filed the necessary application fees with the Planning Board.

Conclusion

Based on the aforementioned it is respectfully submitted that the Applicants have met the criteria for issuance of the Steep Slope Permit.

Sincerely,

APT Engineering

Robert C. Burns, P.E.

Program Manager



October 29, 2020

Honorable Chairman and Members of the Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

RE: Homeland Towers Site Name: Mt. Kisco NY172

180 S. Bedford Road Mt. Kisco, NY 10594 Verizon Generator

Honorable Chairmen and Members of the Board,

As part of the proposed Wireless Telecommunications Facility application at the above referenced address currently before the Planning Board, Verizon Wireless is proposing to install and operate an emergency diesel powered 15kw DC backup generator. The generator specified on the drawings is a Ascot: 15 kw generator. A 54 gallon diesel belly tank is proposed to fuel this generator. The proposed tank is a double walled tank fitted with leakage alarms. The proposed generator will be typically cycled remotely once a week for approximately 20 minutes.

According to the manufacturer's specifications, the maximum noise levels produced by the proposed generator is 66 dBA measured at a distance 23 feet from the generator. The closest property line is approximately 80' east of the existing facility; therefore, the projected noise level from the proposed generator at the closest property line is below the Town of Mt. Kisco required noise standards set by Town Code.

I trust the foregoing provides the information you have requested. Please do not hesitate to contact me should you have any questions or comments.

Sincerely,

APT Engineering

Robert C. Burns, P.E. Program Manager



Town of Mount Kisco 10 Main Street Mount Kisco, NY 10549

September 16, 2020

RE:

Homeland Towers Site Name: Mount Kisco NY172

180 S. Bedford Road Mount Kisco, NY 10594 Structural Certification

To Whom it May Concern:

Homeland Towers, LLC is proposing the installation of a public utility wireless telecommunications facility, consisting of a 140' monopine ("Tower") with antennas mounted thereon.

The proposed Tower, all attachments, and the Tower's foundation will be designed to meet the ANSI/TIA-222-H "Structural Standard for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures" and all county, state and federal structural requirements for loading, including wind and ice loads. The Tower will be designed to be able to support at least four (4) antenna arrays. Furthermore, the proposed tower will be designed with a "hinge-point" at elevation 31' AGL (closest property line distance is 109 '+/-) so that in the unlikely event of a catastrophic failure occurring, the tower fall zone will be contained within the subject parcel.

Should you have any questions, please do not hesitate to call me at (860) 663-1697.

Sincerely,

APT Engineering

Michael S. Trodden, P.E. Senior Structural Engineer



APT ENGINEERING



CORPORATE OFFICE: Mountainville, RY (200) 829-6531

1278 Route 300 Newburgh, NY 12650 (945) 557-6656 www.teolonicangineering.com

Honorable Supervisor Doherty and Members of the Town Spard Town of Kent 25 Sybil's Crossing Kent Lakes, NY

April 8, 2013

RE:

W.O. 4806.NY181

HOMELAND TOWERS, LLC 21 SMOKEY HOLLOW CT. KENT LAKES, NY 10812

Honorable Supervisor and Members of the Town Board:

Tectonic Engineering Consultants & Surveyors, P.C. (Tectonic) has been provided a copy of "An Analysis of Cell Tower Ice Falls" prepared by Mr. Dannis Rogers dated March 28, 2013.

Based on the review of the said letter we would like to offer the following:

- Mr. Rogers incorrectly assumes an entenne size of 2 x 1 meters (6'-6' x 3'-3").
 These values translate into a surface area of 21.5 sqft. A more realistic entenne size for one of the major wholese carriers (Vertzon Wireless) is approximately 6ft x1ft, which has a surface area of 6 sqft. This value is significantly less than the area used in the analysis referenced above.
- Mr. Rogers assumes an log thickness of 6 cm (2.35 inches) which would result in a piece of log weighing approximately 108 kg (237 lbs). The proposed installation is governed by ANSI/TIA.

Per the letest version of the TIA publication, ANSI/TIA-222-G-2005, "Structural Standard for Antenna Supporting Structures and Antennas", published by the Telecommunications industry Association. Standard, the Maximum Basic Design Ice Thickness for Putnam County is listed as 0.75 inches. The code also requires that the ice be escalated with height when calculating the ice weight and wind on ice loads. Therefore the radial ice calculated at 150' (top of the proposed pole) is approximately 1.75 inches. Utilizing this ice thickness and an area of 8 acti, the mass of potential ice would be reduced to approximately 85 ibs. See attached calculations for determination of radial ice based on the TIA standard which is lower than the arbitrary thickness assumed by Mr. Rogers.

3. In our professional opinion, the photo of Ceil Tower los build up found in the summary of Mr. Rogers is not a proper representation of typical conditions found in the northeast. Our research indicates that this photo is evaliable on the World Wide Web and is most likely of a self-support tower located in Cordova Alaska. It should also be noted that the structure shown in the photo is of a self-support lattice structure and not a monopole structure that is proposed at this location. As noted in PLANNING • ENGINEERING • CONSTRUCTION AND PROGRAM WAYAGEMENT.

An Equal Opportunity Employer

the state of the s



Homeland Towers 4506.NY161

2

April 8, 2013

the Teclonic letter dated March 16, 2013; the proposed structure has significantly less auriace area capable of accumulating loe, thereby significantly decreasing the potential for its accumulation.

In conclusion, the photograph presented by Mr. Rogers is not relevant to the proposed facility in the Town of Kent. It's our professional opinion that based on the design of the facility as a monopole, its location within a secured fenced compound at a Town-owned Highway Garage, and the minimal possibility of ice accumulation and fall, we believe there is not a significant risk to persons or property from ice fall in this situation

If you should have any further questions, please do not healists to call us.

Sincerely,

TECTONIC

Kavish Zawar P.E. Sr. Project Manager

cc: Manny Vicente-Homeland Towers, LLC Robert Gaudioso-Snyder & Snyder

Q:iNewburghi Projects/ASDS-Homeland Towers NSDS.NY [8] Kent Strokey Hollow Countletters NY 181 Sup Ice Letter 4.5-13.doc



Landscape Architects, Architects, Engineers, and Planners, P.C.

November 3, 2020

Honorable Chairman and Members of the Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, New York 10549

Re: Visual Assessment

Proposed Wireless Telecommunications Facility

180 South Bedford Road

Dear Honorable Chairman and Planning Board Members:

Saratoga Associates is writing on behalf of Homeland Towers regarding a proposed telecommunications tower and associated equipment at the above referenced address. Saratoga Associates has been retained to address potential visual impacts associated with this project.

At the October 27 Village of Mount Kisco Planning Board meeting the Village Planning Board (the "Board") requested the applicant conduct a balloon visibility test for the above referenced project. In a memo dated October 22, 2020 Board consultant HDR provided a recommended scope for the balloon test. Consistent with HDR's recommended scope we offer the following balloon test methodology for Board consideration.

<u>Balloon Date/Time</u> - The balloon test will be publicly advertised to take place on Saturday

November 14 between the hours of 8am and 12pm or in the event of inclement or windy weather
each consecutive day thereafter until the balloon test is completed.

To assure the best opportunity for a successful test the applicant will consult and HDR to make a "go/no go" decision no later than 2pm on the day before the scheduled test. The balloon test will be postponed if the weather forecast calls for precipitation or winds in excess of 8 mph at any time during the scheduled "float window". HDR will coordinate with the applicant and the Board to establish and email chain to advise all involved parties of the go/no decision.

<u>Balloon Launch/Float</u> - One 5-foot± diameter red balloon will be raised to the top elevation of the proposed tower (140 feet). A 4-foot± diameter red balloon will be affixed to the same tether 15 feet below the top balloon to represent an alternative tower height. The second balloon is



Village of Mount Kisco Planning Board November 3, 2020 Page 2 of 6

provided solely at the request of the Board. The application currently before the Board is a for 140 feet tall monopole tower only. The land owner has not agreed to allow a facility at the alternative location.

A second set of balloons will be simultaneously flown at an alternative location on the property to the south and at a higher elevation than the primary location. At this second location one 5-foot± diameter blue balloon will be raised to the top elevation of the proposed tower (140 feet and a 4-foot± diameter blue balloon will be affixed to the same tether 15 feet below the top balloon to represent an alternative tower height. This second balloon is provided solely at the request of the Board. The application currently before the Board is for a 140 feet tall monopole tower at the first location only. The land owner has not agreed to allow a facility at the alternative location.

The anchor position of the balloon(s) will be as close to designated tower center(s) as practicable considering the presence of dense overhead tree canopy in the area. The location of the balloon anchor point(s) will be documented in the field using a handheld GPS unit. The actual ground elevation of the anchor location(s) will be determined in advance of the test. The length of the tether will be adjusted as necessary to account for any proposed cut/fill grade change at the tower center and/or actual ground elevation at balloon anchor point if an offset location is necessary raise the balloon as close as practicable to proposed top of monopole elevation.

The height of the balloon(s) (length of the tether) and ground elevation adjustment will be verified in the field by Board consultant HDR. The applicant will provide a tape measure for use by HDR to document tether length. In order to maintain the launch schedule HDR must be present on-site at least 30 minutes prior to launch time to verify the tether length.

The applicant will document the weather condition and wind speed direction once per hour during the float window (i.e., screen shot of current local weather conditions as reported by the Weather Channel, Accuweather or other reputable source). The applicant will keep note of the any tilt or bobbing of the balloon over the course of the float.

Should the balloon(s) pop or deflate within the float window a replacement balloon will be promptly raised. The applicant will document the time the balloon was down or otherwise floated at less than full height. Spare balloons and helium will be mobilized for the field test.

<u>Photo Receptors</u> – 36 locations have been identified in consultation with HDR to be visited during the balloon test. Attached are viewshed maps Figure 1a – Photo Location/Bare Earth Viewshed Map 1 Mile Radius, Figure 1b Photo Location/Land Cover Viewshed Map 1 Mile Radius, Figure 2a – Photo Location/Bare Earth Viewshed Map 1/2 Mile Radius, Figure 2b Photo Location/Land Cover Viewshed Map 1/2 Mile Radius are provided as Exhibit A herein. These viewshed maps identify the geographic area within which the top elevation of the propose 140-foot-tall monopole is

SARATOGA ASSOCIATES

Village of Mount Kisco Planning Board November 3, 2020 Page 3 of 6

theoretically visible under bare earth (i.e., without consideration of the screening value of existing vegetation or structures) and land cover (i.e., with without consideration of the screening value of existing vegetation or structures).

Viewshed maps illustrating the theoretical bare earth and land cover visibility of a 140-foot-tall tower at the alternative location are provided herein as Exhibit B.

While the balloon is in the air an experienced visual analyst will visit each preapproved location to document balloon visibility (whether the balloon is visible or not). Photographs may also be taken from additional publicly accessible vantage points as may be identified in the field during the balloon test.

Board consultant HDR will attended the balloon test and independently visit preidentified visual resources. While in the field HDR will be in communication with the Saratoga Associates visual analyst as may be necessary to confirm photographs are being taken from visible vantage points and to recommend additional locations as may be determined in the field. Prior to the balloon test the applicant will provide the names and mobile phone numbers of the field crew, in case Planning Board members or HDR needs to contact them or vice versa.

Photographs will be taken using a Canon 6D Mark II digital single lens reflex ("DSLR") 24-mega pixel camera with fixed 50mm ("prime") lens. A 50mm lens is used to minimize optical distortion and is most reprehensive of normal human eyesight. The precise coordinates of each photo location will be recorded in the field using a handheld global positioning system (GPS) unit. Prior to field reconnaissance, the coordinates of the proposed telecommunications tower will be programmed into a handheld GPS unit as a "waypoint." The "waypoint indicator" function of the GPS (arrow pointing along a calculated bearing) will be used to assist the visual analyst determine the direction of the tower site from each photo location in cases where the balloon(s) is not visible though or above intervening vegetation.

Thank you for your attention to this matter.

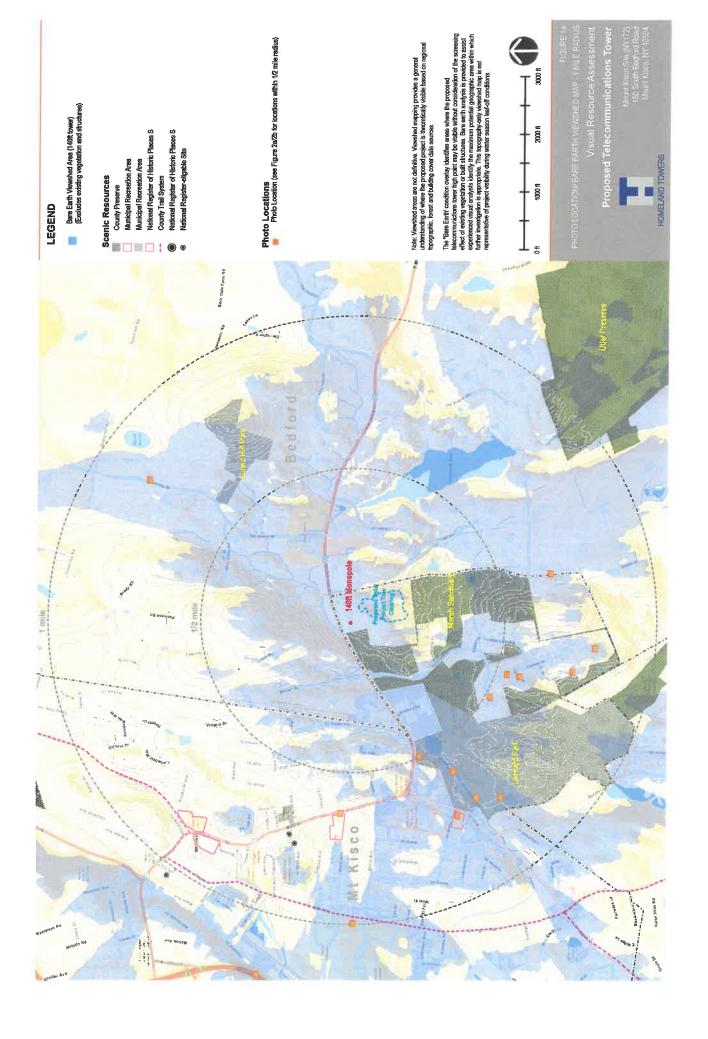
Matthew W. Allen, RLA

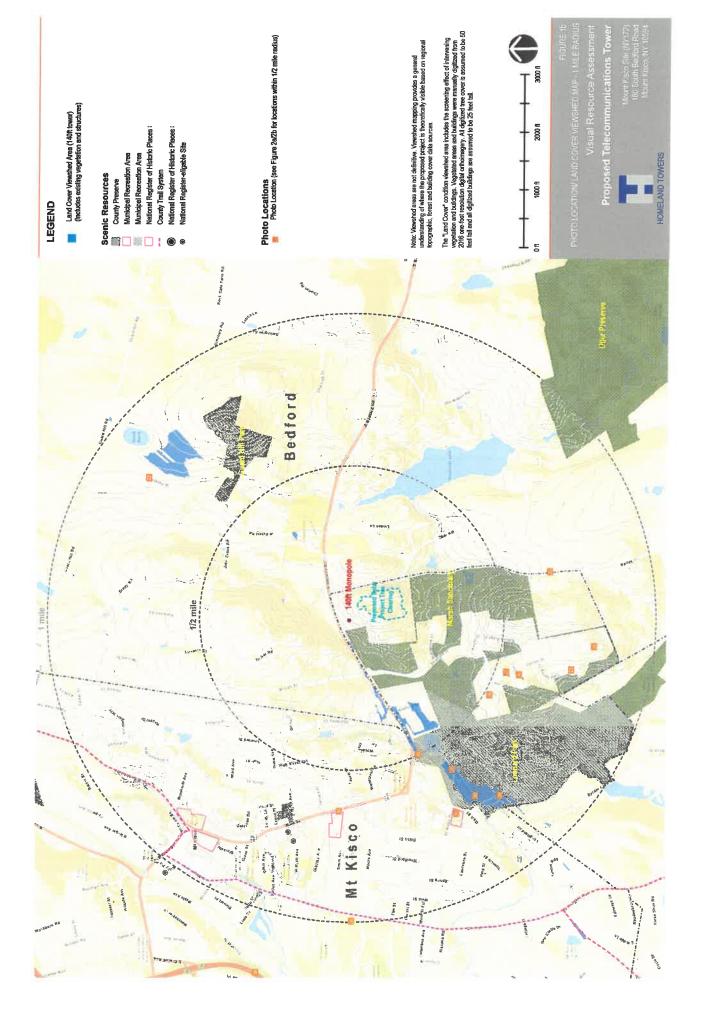
Principal

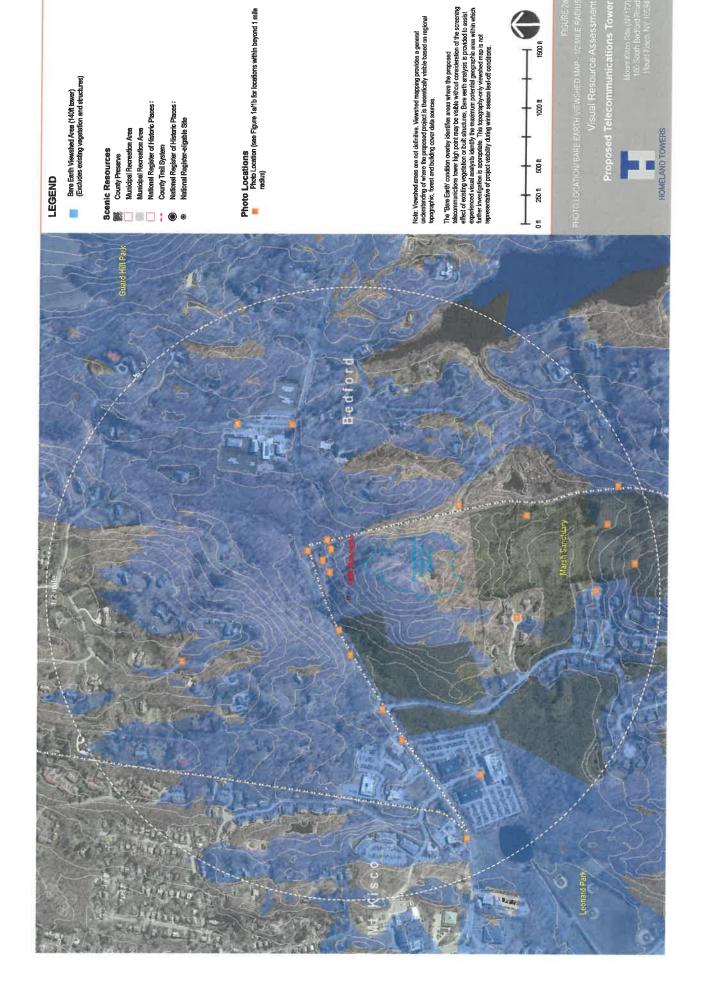
SARATOGA ASSOCIATES

Landscape Architects, Architects, Engineers, and Planners, P.C.

Exhibit A Photo Location/Viewshed Maps Proposed Tower Location







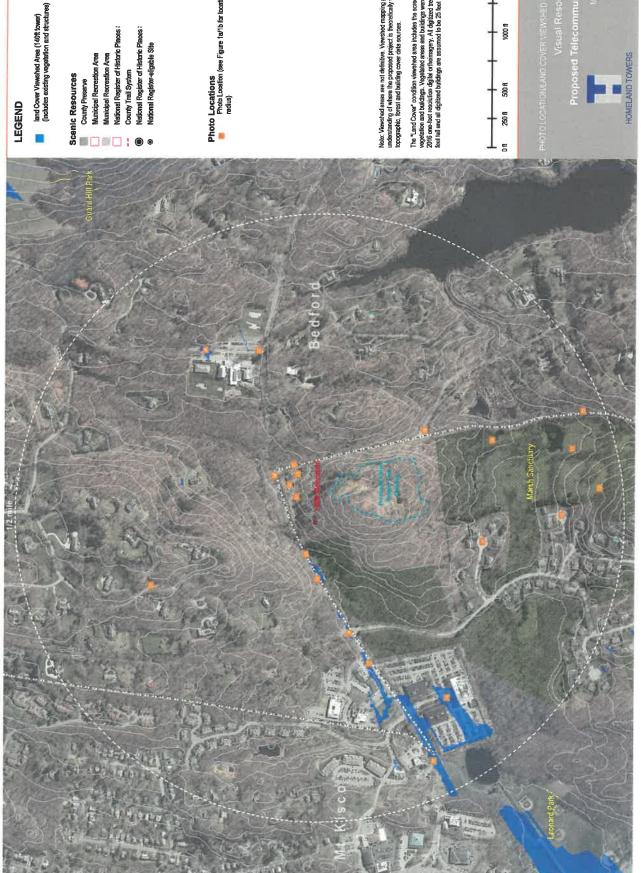


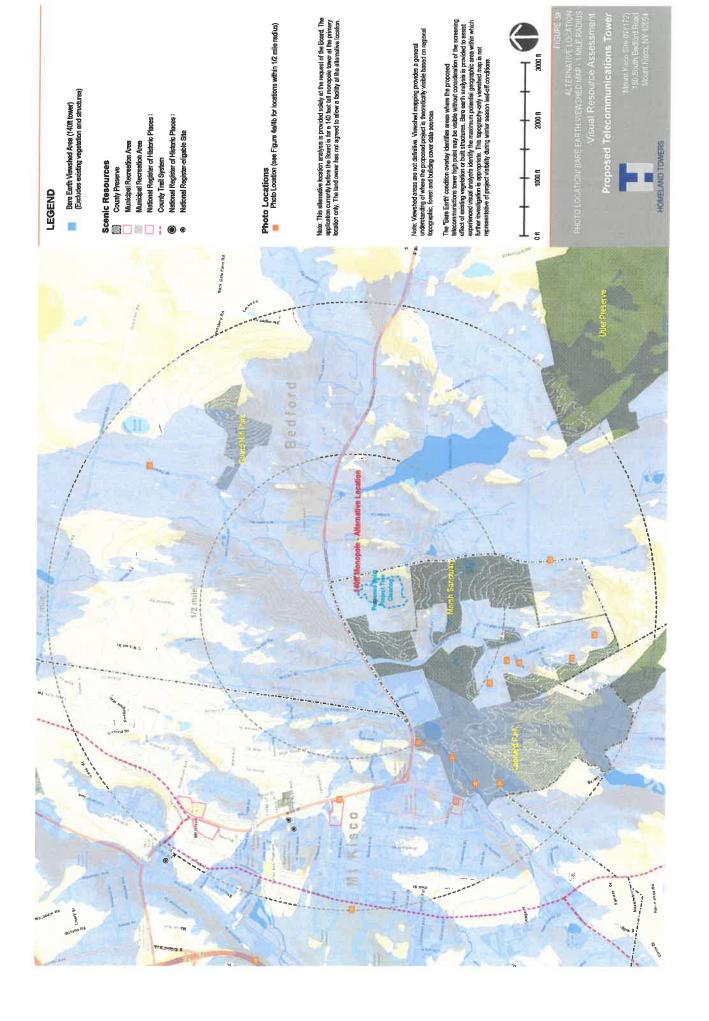
Photo Locations
Photo Location (see Figure 1a/1b for locations within beyond 1 mile radius)

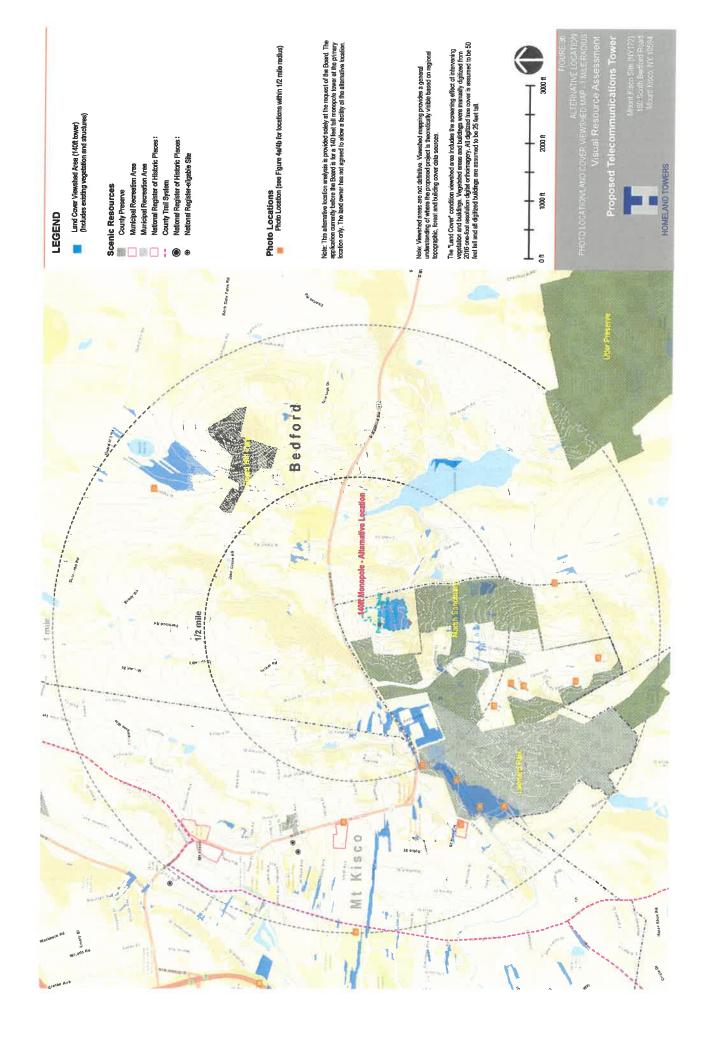
Note: Viewshed areas are not definitive. Viewshed mapping provides a general understanding of where the proposed project is theoretically visible based on regional topographic, forest and building cover data sources.

The "Land Cover" condition viewahed area includes the screening effect of intervening selection and buildings, Vegelader errors and buildings were menuelly digitized from ZMG one-foot resolution digital orthoringsey. All digitized her cover is essumed to be 50 feet fall and all digitized buildings are assumed to be 25 feet fall.

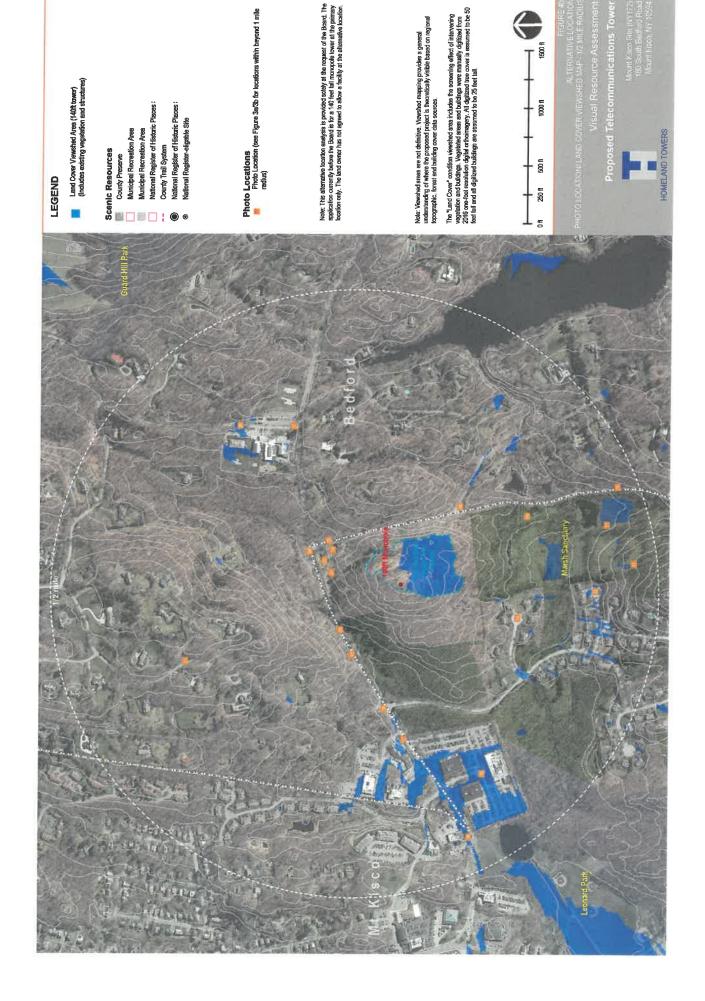


Exhibit B Photo Location/Viewshed Maps Alternative Tower Location











HOMELAND TOWERS, LLC

WIRELESS TELECOMMUNICATIONS FACILITY **MOUNT KISCO**

MT. KISCO, NY 10594 180 S. BEDFORD RD.

DRAWING INDEX

T-1 TITLE SHEET & INDEX

1 OF 2 ABUTTERS PLAN

SITE-

2 OF 2 PARTIAL EXISTING CONDITIONS SURVEY

R-1 500' RADIUS MAP & PROPERTY OWNERS

TR-1 1,600' TOWER RADIUS MAP

SP-1 SITE PLAN

SP-3 PARTIAL SITE PLAN SP-2 PARTIAL SITE PLAN

CP-1 COMPOUND PLAN

A-1 - A-3 ELEVATIONS & ALTERNATE MONOPOLE ELEVATIONS

EC-2 EROSION CONTROL DETAILS EC-1 EROSION CONTROL NOTES & DETAILS

C-2 VERIZON ANTENNA PLAN & DETAILS C-1 VERIZON EQUIPMENT PLAN & DETAILS

C-3 SITE DETAILS

C-4 VERIZON EQUIPMENT LIGHTING DETAILS

LOCATION MAP

SS-1 STEEP SLOPE PLAN LS-1 LANDSCAPING & TREE PROTECTION PLAN

CONEDISON: (800) 752-6633

VERIZON 4 CENTEROCK RD. WEST NYACK, NY 10994

HOMELAND PROJECT ATTORNEY:
SNYDER & SNYDER, ILLP
94 WHITE PLAINS ROAD
TARRYTOWN, NY 10591
(914) 333-0700

TELCO PROVIDER: VERIZON (914) 890-0200

DIG SAFELY NEW YORK: (800) 962-7962

SITE INFORMATION

PROJECT LOCATION: 180 S, BEDFORD RD. MT. KISCO, NY 10594

PROJECT DESCRIPTION: RAWLAND SITE W/ GROUND EQUIPMENT
WITHIN 2,542± SF TELECOMMUNICATIONS
COMPOUND W/ NEW 140± AGL MONOPINE,

ENGINEER CONTACT: ROBERT C. BURNS, P.E. (860) 663-1697 x206

LATTIUDE: 41° 11' 58,66'N LONGITUDE: 73' 42' 48,55'W ELEVATION: 426'± AMSL

PROPERTY DEVELOPER: HOWELAND TOWERS, LLC 9 HARMONY STREET 2ND PLOOR DANBURY, CT 06810

DEVELOPER CONTACT: KLAUS WIMMER (203) 297-6345

SECTION: 80.44
BLOCK: 1
LOTE: 1
ZONE: CD -CONSERVATION DEVELOPMENT DISTRICT



verizon^v

HOMELAND TOWERS, LLO
B HARMONY STREET
2nd FLOOR
DANBURY, CT OGBIO
GUGS 287 6345

DEBON PROFESSIONALS OF RECORD
PROFE SCOTT IN CHASSE F.E.
PROFE SCOTT IN CHASSE F.E.
ADD: SOT VALVIAL STREET
EXTRACION - SUITE 11
DARBUTY, CT 19810

ADDRESS: INT. NIBOO, NY 1666

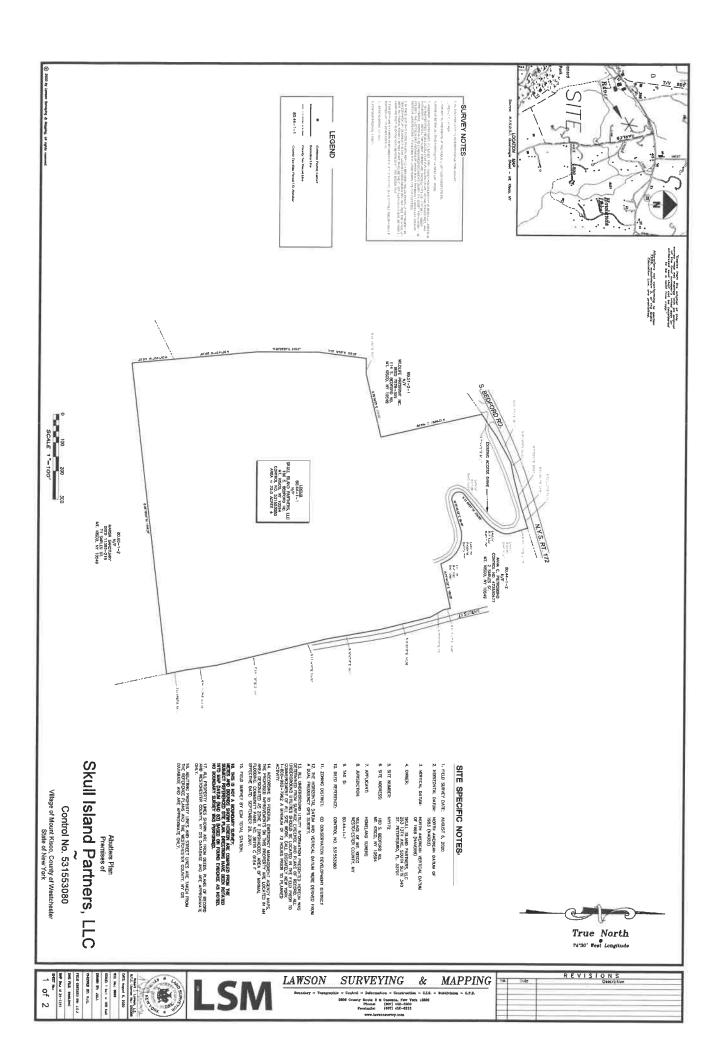
ADDRESS: INT. NIBOO, NY 1666

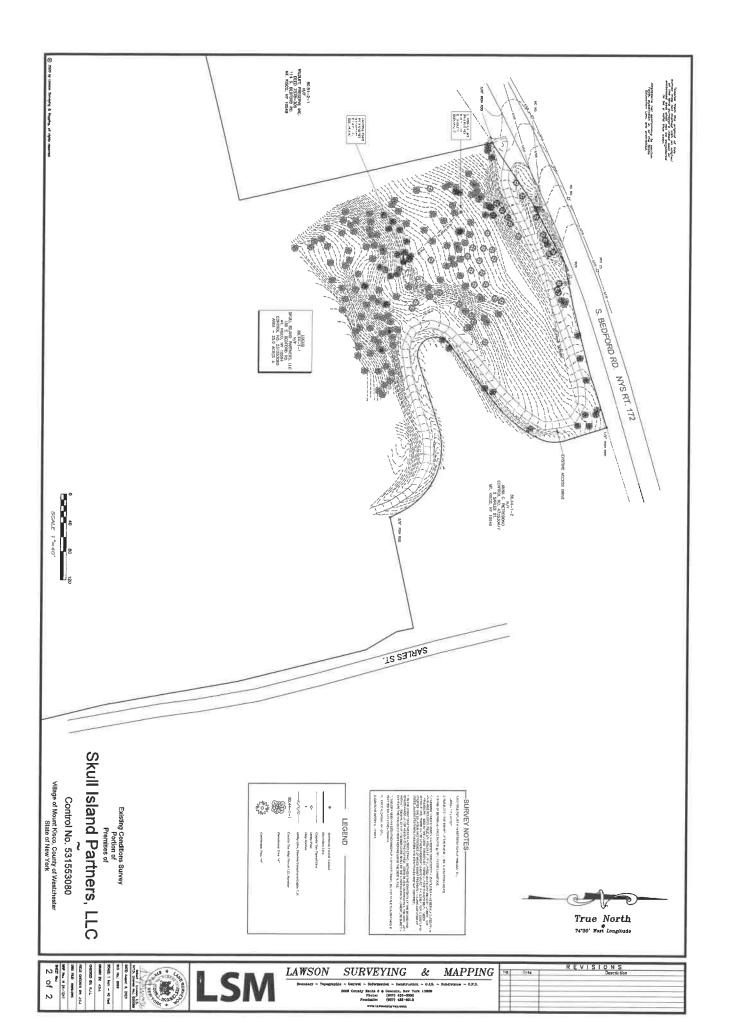
ADDRESS: INT. NIBOO, NY 1666

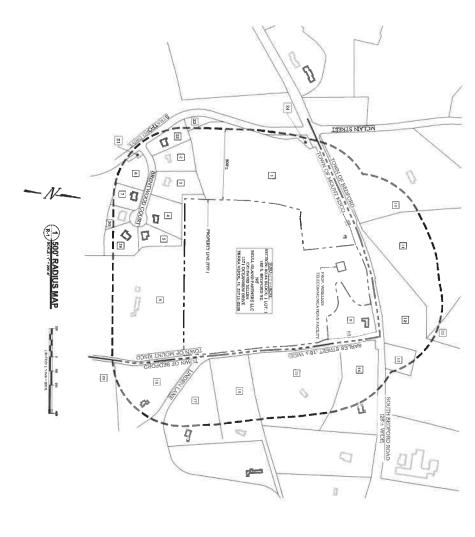
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TITLE SHEET & INDEX









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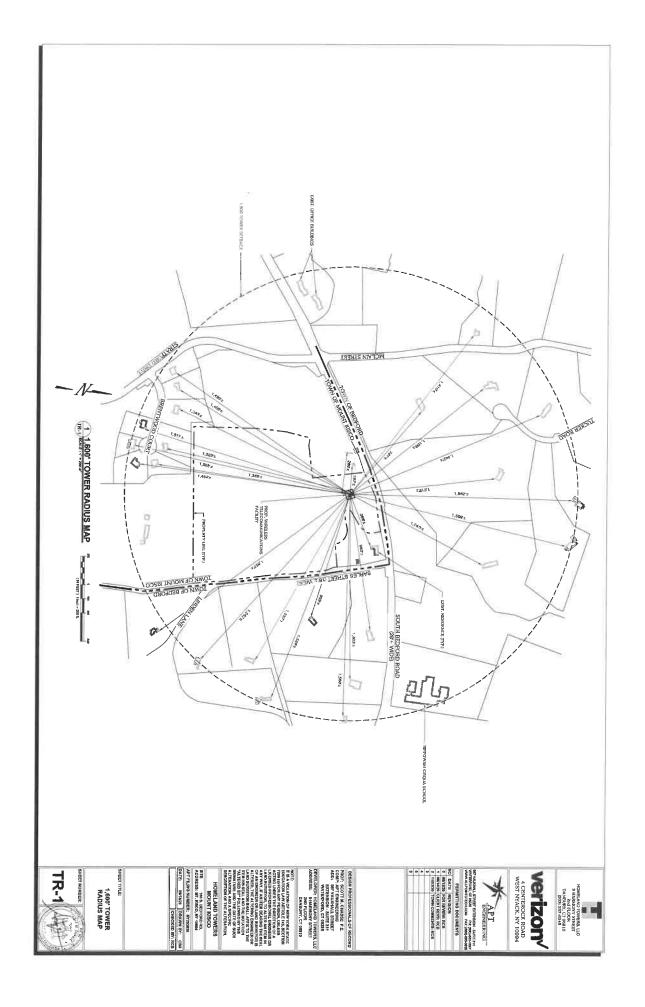
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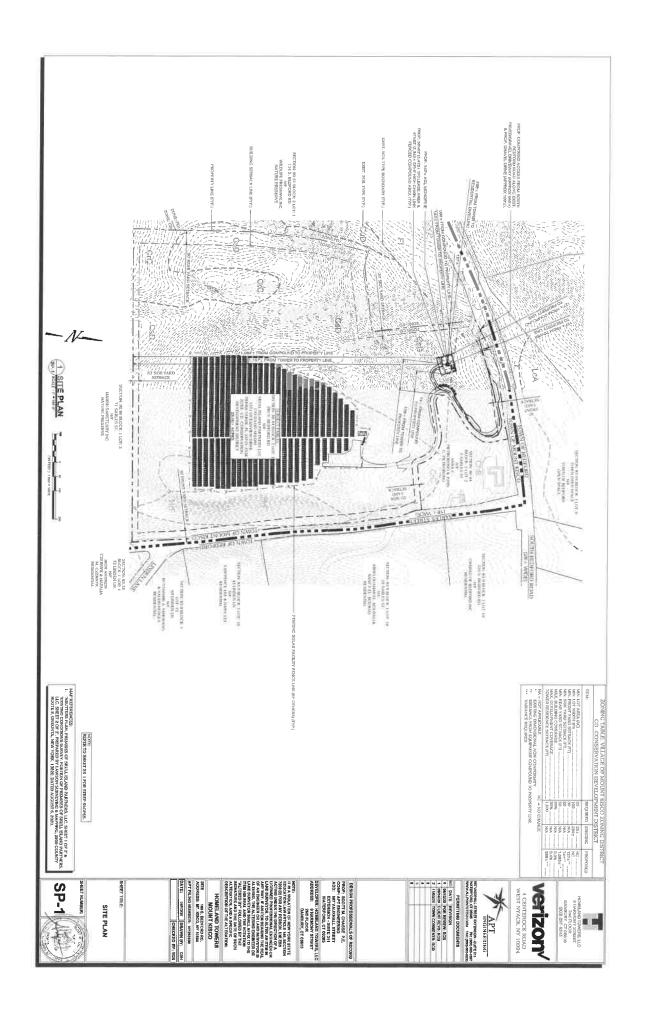
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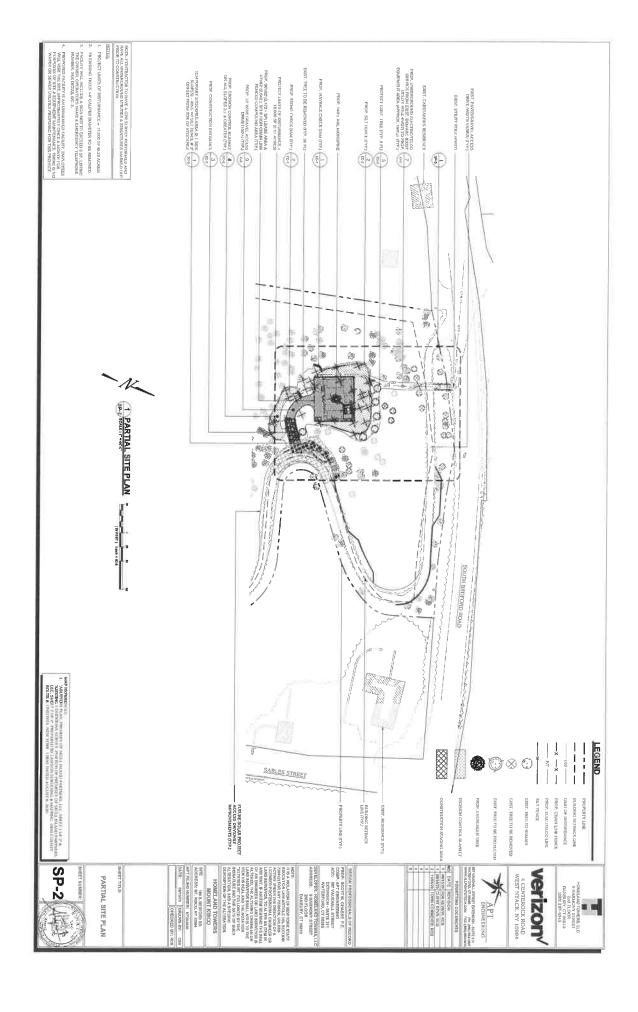
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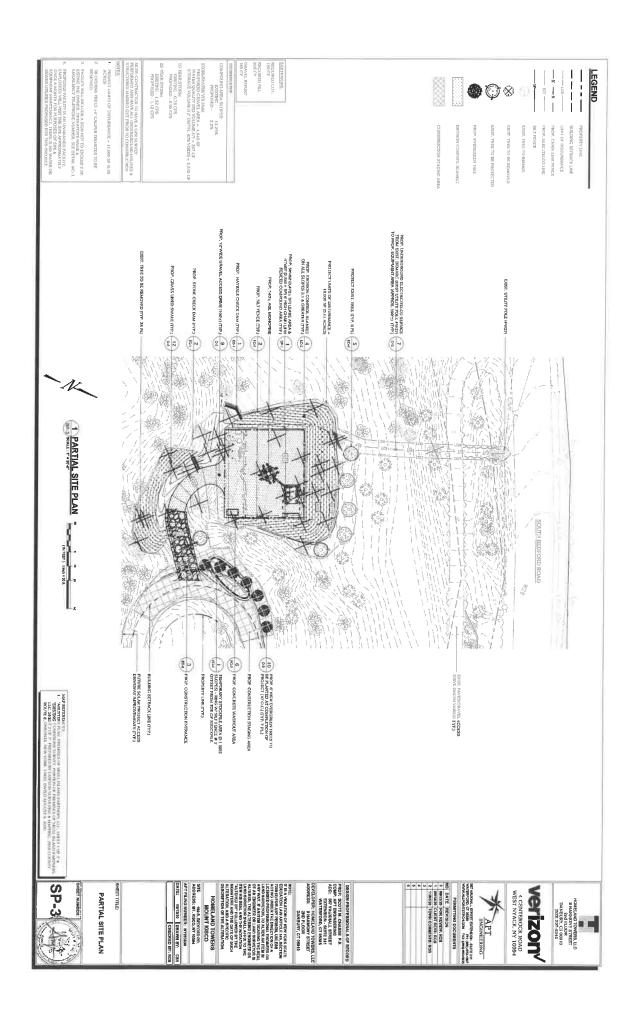
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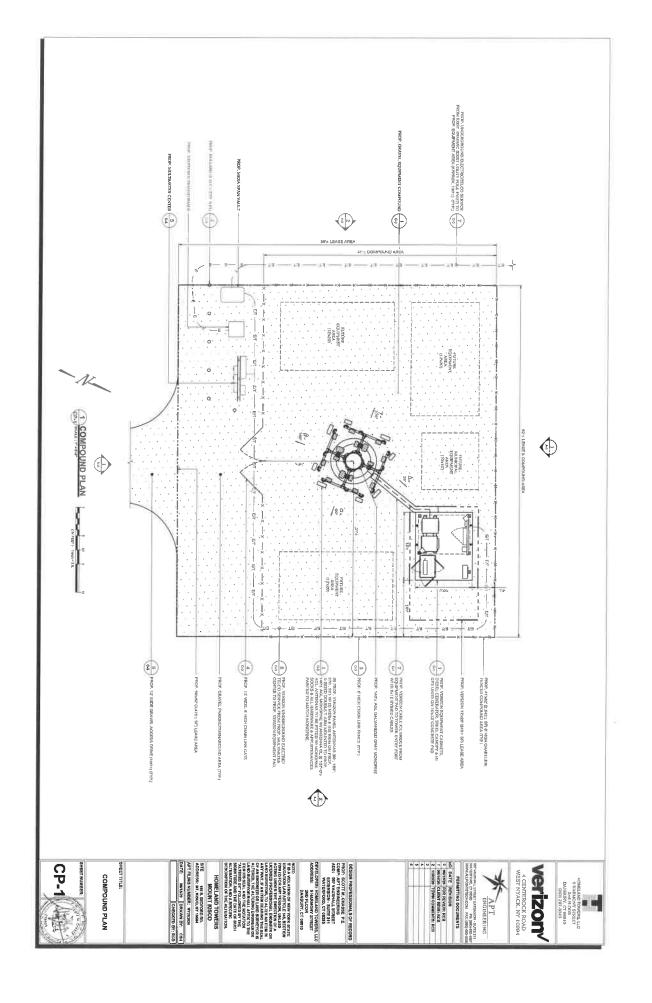
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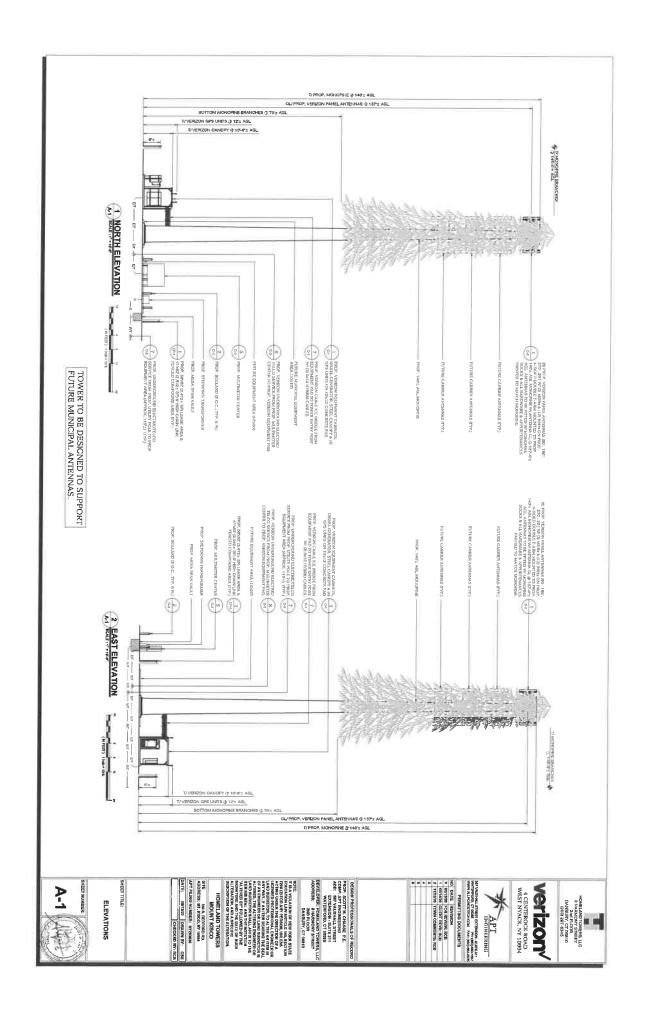


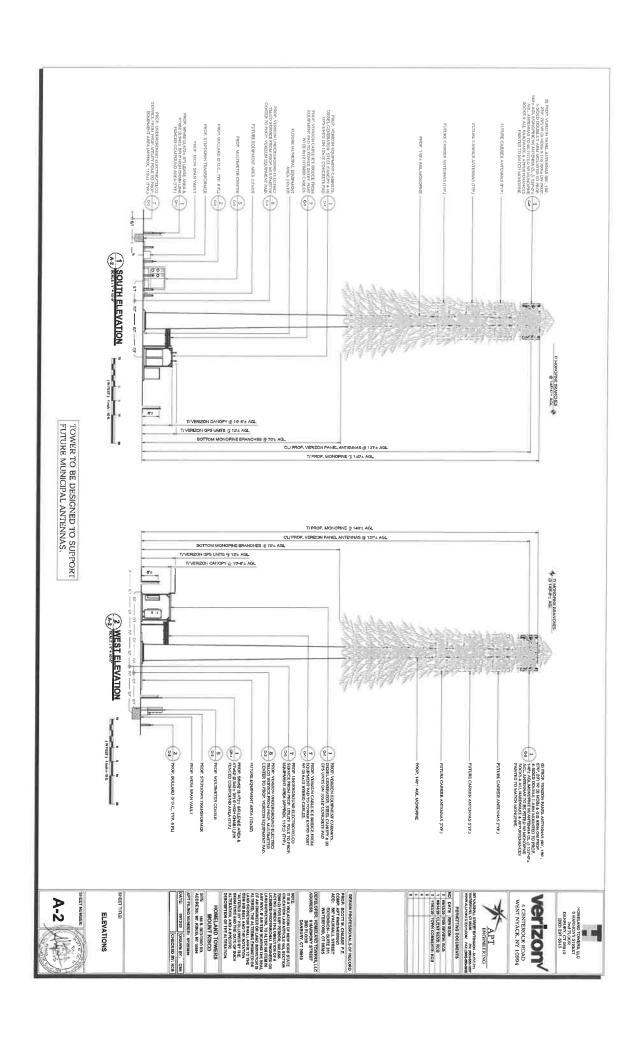


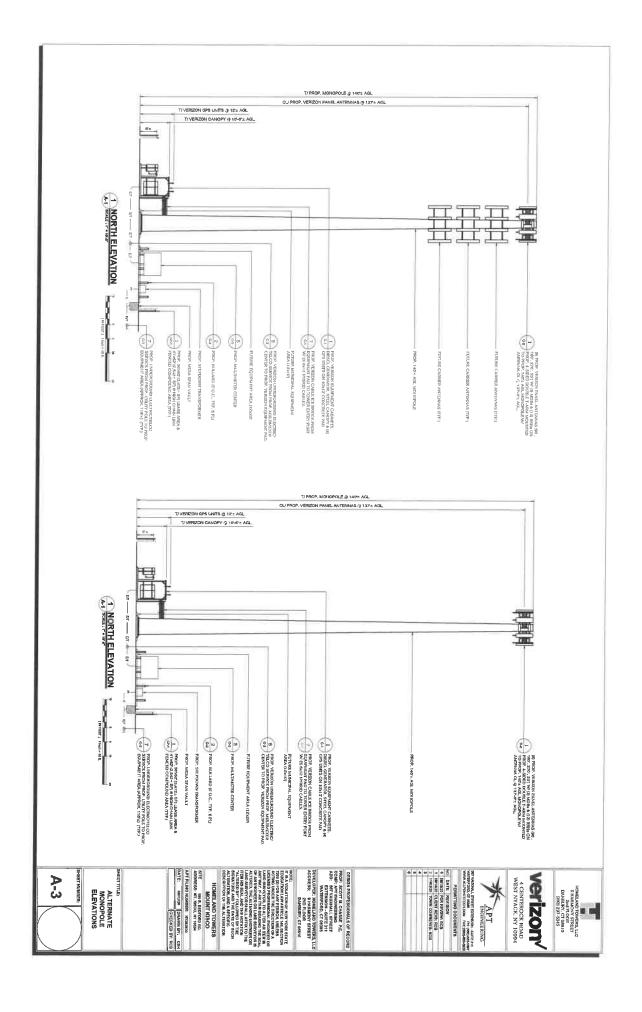












STORMWATER POLLUTION PREVENTION PLAN STORMWATER POLLUTION PREVENTION PLAN

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- LE MATERIA PLACID ADDICINY TO ARY WEILAND ABB, SAIAL 18E GOOD CHAILTY, WITH LESS THAN 5% FRIES PASSING THROUGH A SEVE BIANK KEIN, 1954LL SE DACIDE NAKAZAHAN GORF POOT 1975, AND SKÁLL 3E CAMPALTED TO 57% AMAL DRY DRYSTY MEDIKED TOR OR AS SPECIFED IN THE CONTRACT SPECIFICATIONS.
- T EXISTING TREAS THAT ARE? TO DE SLAVID DIF PRINCIPIO AT THE DIRE THE, OR AS DISTALED, WITH SHOW FENCE, ORANGE SAPETY OR FOUNDAL DAY EPICHOL. ARY LIGHE TRAMANIC SHOULD BE DAVIE AFTER, CONSULTATION WITH AN ASSISTENT AND BEDDIES TÜCHEN BECHEN IN THAT AREA, ERICHIC SHALL BE MARTMATED AND REPORTED DIEGNE CONSTRUCTION. E INSTALLED PRIOR TO JAMY SITE EXCAMATION OR CONSTRUCTION ACTIVITY AND SHALL BE MAINTAINED OF ALL CUNISTRUCTION, THE LOCATION OF THE TRACKING PAIDS MAY CHANCE AS VARIOUS PHASES OF FED.
- 2M THE AREA WILL HE ALLOWED, ALL CONFIDER WASHWATER WILL HE CAME OCCUR. WASHOUT SHALL HE CONDUCTED IN AN ENTRELS HALL HE CONDUCTED IN AN ENTRELS HALL HE CANDUCTED IN AN ENTRELS HALL HE FLANC OF HALL HE CANDUCTED WATER OR NATURAL.
- SEDIMENT TRAPS SHALL PROVIDE 134 CUBIC YARDS OF SEERIEHT STORAGE PER DISTI PROVIDE TRAPIBASIN VOLUMES FOR ALL DISTURBANCE CIN SITE. GRADING OPERATIONS PROCRESS, THE TEMPORARY DIVERSION DITCHES SHALL BE DADS - SLOPES DICTATE, TO DIVERT SURFACE RUNOFF TO THE SEDEMENT TRAPSBASSINS.
- EL SMALL DE STREPED AND STOCKPELDD FOR USE IN FINAL LANDSCAFRIG. ALL EARTH STOCKPILES SHALL HAVE HAY BALES OR SILT RADIAND THE LIMIT OF PLE, PILES SHALL BE TRANONARILY SEEDED IF PLE US TO REMANIN PLACE AND UNDISTURBED FOR MORE TIGAN
- MERG STABILIZZO BY ROCK FACED EMBANISMENTS OR EBOSION CONTROL BLANKEYS. SEELDED, AND THE ROAD SHOULDER AND BANKS WILL BE STABILIZED BANKIDATELY UPOD SUSHED.
- IG PUND DISCHARGE TO A SEDIMBAT CONTROL DENCE SLICH AS TEMPORARY SEDIMENT TRAPS OR GRASS PLITZES. LOAT OF DISTURBANCE. DISCHARGE TO STORIA DIVARS OR SHIFFACE WATERS FROM SEDIMENT CONTROLS SHALL BE TOT THE ENCHAEDE.
- HILDER THE OPEN UPSTREAM ENDS OF DIFFENTION BASINSECTAMENT TRAF OUTLET CONTROL OXIPICES UNTIL STE IS STABILIZED AND BLOCK. HILDER STEINN DRUMS IN EUPOSED TRENCHES WITH BOARDS AND SANDBAGS AT THE KIND DIF LACH WORRING DAY WHEN RAIN IS EXPECTED. MANTAM A CLEM CANSTRUCTOR SITE AND SHALL FOT MALEM THE ACCUMILATIONS OF BRIBBING SE IN THE SITE PROPER SHALLANDS BULLAND SHALL SHE MATCHEN OF ALL THE CONTRACTOR SHALL SEAUTIONS TO AVIOUT THE SHALLAND OF THIS DIG COMER PLALLITARIS UN THE CONSTRUCTION STEEL AND SHALL SEAUTIONS TO AVIOUT THE SHALLAND OF THIS DIG COMER PLALLITARIS UN THE CONSTRUCTION STEEL AND SHALL

- DE STABLISHARIY SHALL 86 PERIORMED OVER ALL DISTLEBED S STONE OR SCHEDULED FOR PAVING WITHIN 30 DAYS, HEMPORARY S DAYS OF SILIVENOXK SOD, UNLESS THE AREA S UNDER ACTIVE CONSTRUCTION, IT IS COVERED SECURING OR NAVILATIVES OF PROTECTION OF ALL PROTOSED SOILS AND IC WORK IN AREAS TO BE LEFT LONGER THAN 30 DAYS.
- VERKS BEFORE THE FALL SEEDING SEASON BEGINS INLIGUST I TOBER 13), THE CONTRACTOR SYALL SCHEDULE A MIRETRY WITH SAFET SYALL SCHEDULE AND THE PROCERED. E CONDITION THROUGHOUT THE CONSTRUCTION

 ONCE THE SITE IS FULLY STABLEZED APP APPROVAL.
- NG MATURES: TYSDEC PERMANENT CONSTRUCTION ASEA PLANTING NIGHTURE #1 ERDSION AND SEDMENT CONTROL BLUE BOOK, LATEST EXTION.

- WHEN OR OPERATOR IS NOT REQUIRED TO HAVE A COALD TO DISPECTOR CONDUCT SITE INSPECTIONS TURBANCE IS UNDER 1 ACRE PER PART IV SECTION C SUBSECTION 14 OF THE GENERAL PERMIT.

- WER OR OPERATOR, SHALL ENSURE THERE IS A TRAINED CONTRACTO BANANCE WITH PART IV SECTION B OF THE GENERAL PERSOT.

2 STONE CHECK DAM

THE PROJECT INCLUSE: THE INSTALLATION OF A 1475 ALL HONOPHE WITH A SUCKIATED GROUND MOUNTED EXLIPIENT, ALL DISTURBED AREAS ARE TO BE SEEDED AND STREETED PROPERTY. EAS MEASURE

PRACTICE, JUDGENENT AND THE APPLICABLE ROSKON AND SEDIMENT CONTROL (BLUE BOOK

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ACCUSTED SEQUENCE OF CONSTRUCT
OF PRACTICES, THE CONTRACTOR MAY
DITING SITE ACTIVITIES AND WEATHER
HOW CONSTRUCTION ACTIVITIES.

CONTACT THE OWNER TO SCHEDULE A PRE-CONSTRUCTION MEETING.
AS NECESSARY TO PACILITATE THE PRE-CONSTRUCTION MEETING.

NOTEY THE OWNER AT LEAST FORTY-EIGHT WII HOURS PRIDE TO COMMENCEMENT OF ANY D REGULATED ACTIVITY ON THE PROJECT, NOTEY DIQ SAPELY NEW YORK AY 1909 962-7962.

CLEAR AND GRUB AS REGOLIEGO, TO INSTALL APPLICABLE. TREE PROTECTION.

ORM THE REMADRING CLEARING AND GRUIBING AS NECESSARY, REMOVE CUT WOOD AND STUMPS, CHIP NYLE FOR PUTURE USE OR NEWXWE CHT-SITE, NEMOVE AND DISPOSE OF DEMOLITION DEIGUS OFT-SITE.

PREPARE SUBCRADE AND INSTALL FORMS, STEE

CONNECT GROUNDING LEADS & LIGHTATHO PROTECTION

AFTER THE SITE IS STABILIZED AND WITH THE APPR CONTROLS.

THE ESTRANTED TOJE FOR THE COMPLETION OF THE WORK IS APPROXIMATELY TWELVE (12) WEIGH, THE EXACT PROCESS REPENTING ON THE CONTRACTORS A SUPCONTRACTORS AVALABILITY TO COMPLETE WORK IS WEATHER DELAYS.

WELL GRADED
STONE MATRIX
2:-9' (NYS-DOT

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verizon^v 4 CENTEROCK ROAD WEST NYACK, NY 10994

HOMELAND TOWERS, LLC 9 HARMONY STREET 2nd FLOOR 2nd FLOOR DANBURY, CT 06810 (203) 267-6345

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PERMITTING DOCUMENTS

NO DATE REVISION

8 841929 FOR REVIEW: RCB

9 881929 CLIENT REVS; RCB

110329 TOWN COMMENTS; RCB ALPORTSTEGHICOM FAX; (8)

DESIGN PROFESSIONALS OF RECORD
PROF. SCOTT B. SURVASSE, P.E.
COMP. ADVISOR STANDARD, P.E.
ADD: SWY MAUDIAL STREET
EXTRACOR-. SUITE ST.
MATERISON-. SUITE ST.
ADDIESS: BLANDARD STREET
DANBURY, CT 59819
DANBURY, CT 59819

2-2" X Z X 3" STAKES EMBANKMENT SLOPE

FLOW TOE OF SLOPE

HAYBALE CHECK DAM

1 SEDIMENTATION CONTROL BARRIER

(C.) SCALLINIA

NOTE:
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NER OR OPERATOR SHALL HAVE EACH OF THE CONTRACTORS AND TRACTORS IDENTIFIED ABOVE SIGN A COPY OF THE FOLLOWING TRACTORS IDENTIFIED ABOVE SIGN A COPY OF THE FOLLOWING TATEMENT BELOW BEFORE THEY COMMENCE ANY CONSTRUCTION

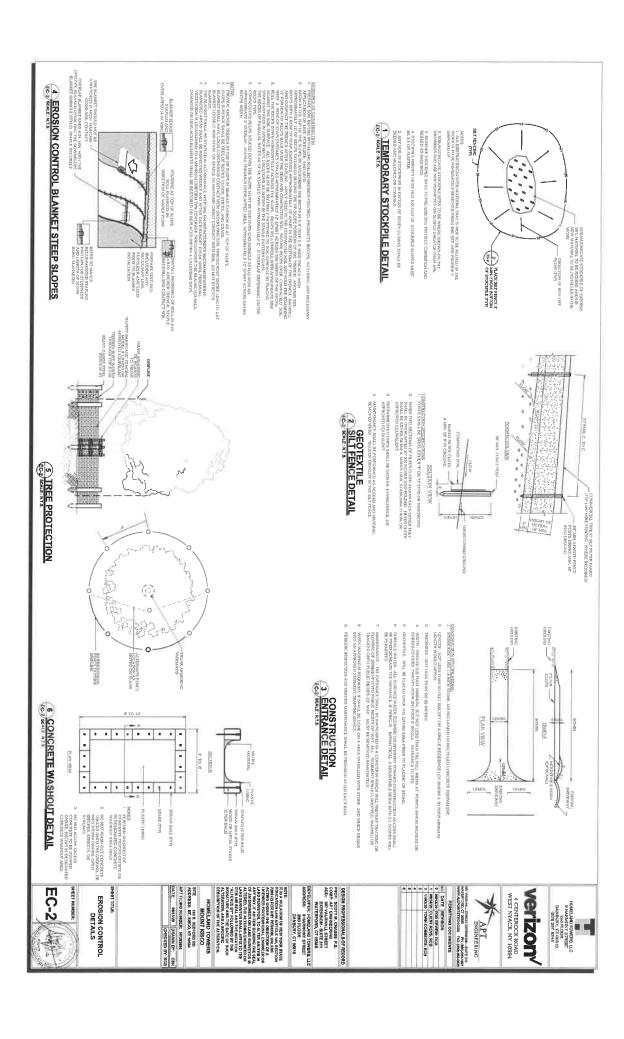
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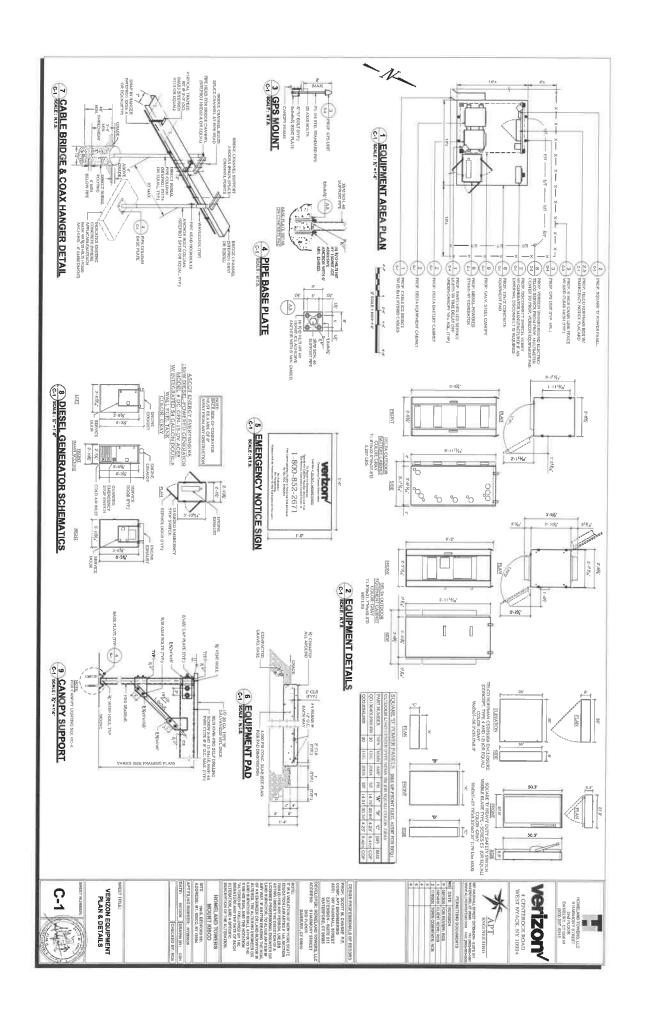
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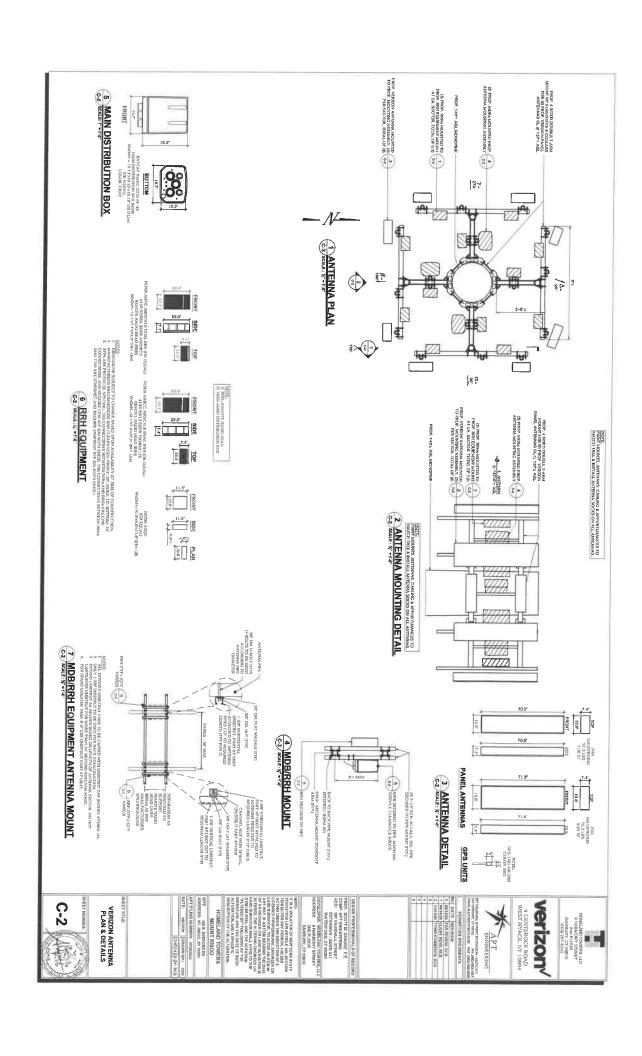


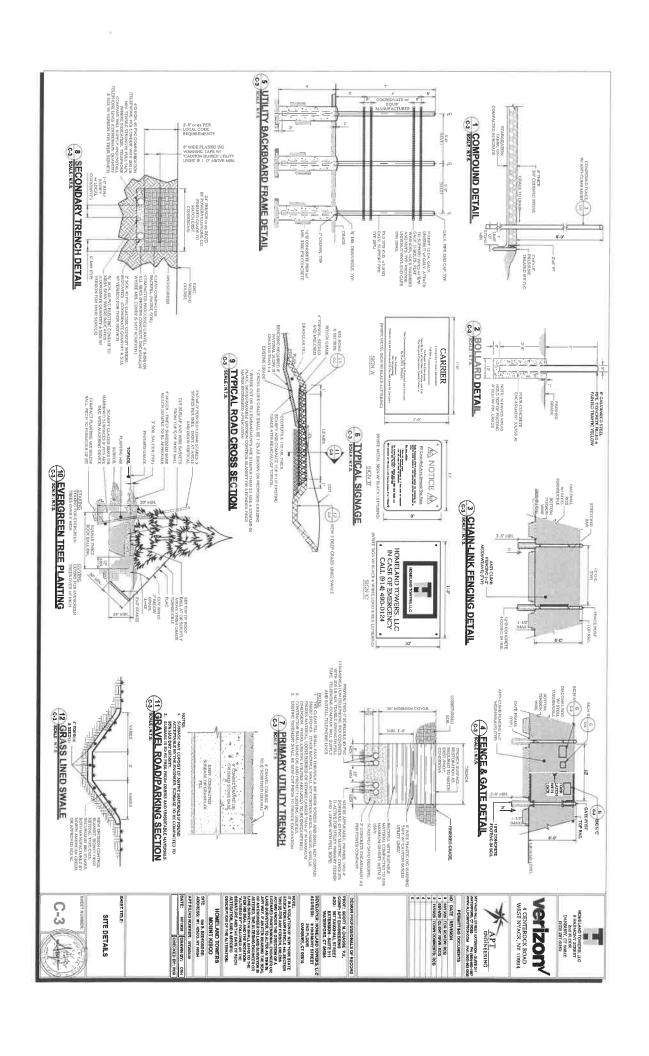


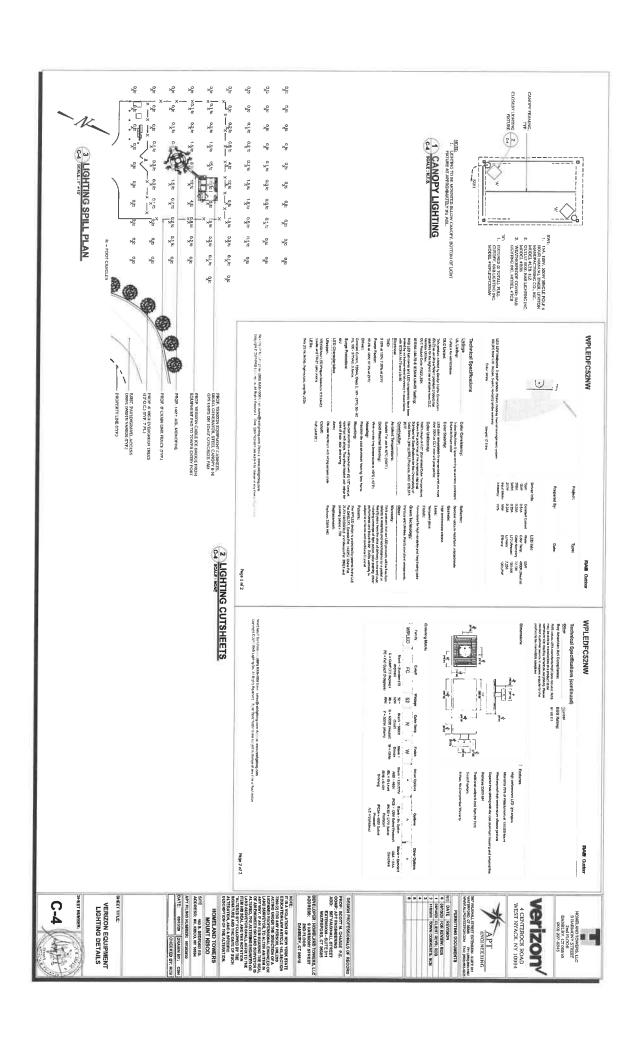
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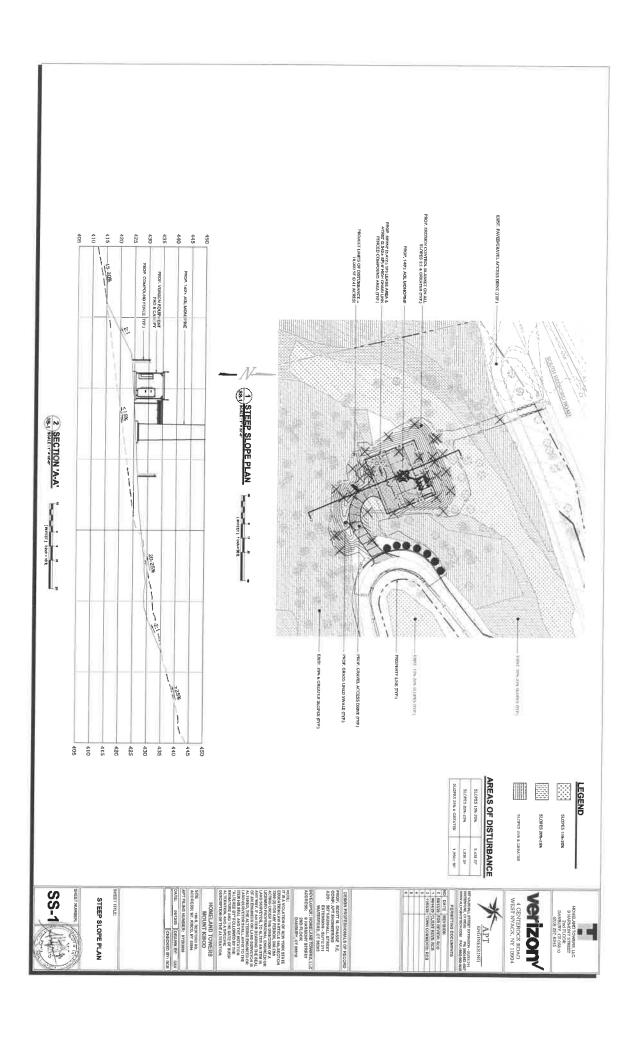


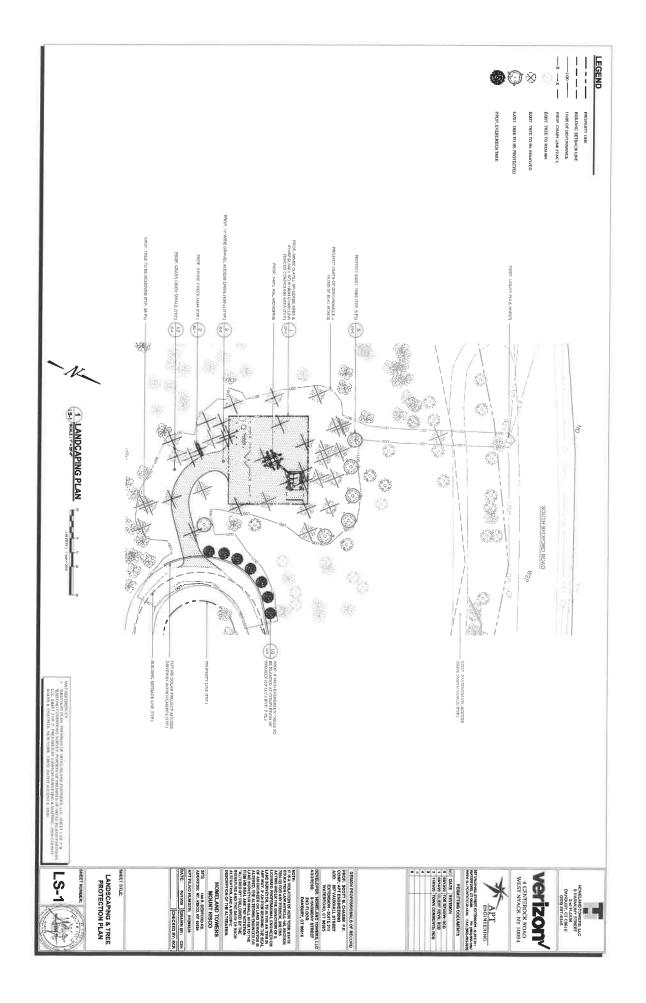












Zoning Board of Appeals

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Municipal Building – 104 Main Street	<u>X</u>
Public Library 100 Main Street	X
Fox Center	X
Justice Court – Green Street 40 Green Street	X
Mt. Kisco Ambulance Corp 310 Lexington Ave	X
Carpenter Avenue Community House 200 Carpenter Avenue	X
Leonard Park Multi Purpose Bldg	X
	fre the same of th
Sworm to before me this day of) oce mby 2020
Theran K. Mm	MICHELLE K. RUSSO
Notary Public	NOTARY PUBLIC-STATE OF NEW YORK

No. 01RU6313298 Qualified In Putnam County My Commission Expires 10-20-2022

AFFIDAVIT OF MAILING

State of New York)	
)	SS
County of Westchester)	

Liza Gross being duly sworn, deposes and says that she is over twenty-one years of age and works at 94 White Plains Road, Tarrytown, in the State of New York; that she is a paralegal at Snyder & Snyder, LLP, the attorney for Homeland Towers, LLC and Verizon Wireless regarding their application for the installation of a public utility wireless telecommunications facility at 180 South Bedford Road, Village of Mount Kisco, New York. On November 24, 2020 she served notices, a copy of which is attached hereto, upon the following named persons at the addresses set forth, as shown on the attached list, by mailing true copies of the same, enclosed and properly sealed in postpaid envelopes, which she entrusted to the exclusive care and custody of the United States Postal Service within the State of New York.

Liza Gross

Sworn to and subscribed before me this 124 day of December 2020

NOTARY PUBLIC

David James Kenny
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02KE6343903
Qualified in Westchester County
Commission Expires June 20, 2020

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 15th day of December 2020 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Appeal of Homeland Towers, LLC and Verizon Wireless c/o Snyder & Snyder, LLP 94 White Plains Road, Tarrytown, NY 10591, from the decision of Peter J. Miley, Building Inspector, dated October 6, 2020 including an interpretation of the zoning code that the proposed wireless telecommunications facility at the Property identified as 180 S. Bedford Road, Mount Kisco, NY 10594 and described on the Village Tax Map as Section 80.44 Block 1 Lot 1 requires certain variances. The Property is located on the South side of South Bedford Road in a Conservation Development Zoning District. In the alternative to the Applicants' Appeal of the Building Inspector's Interpretation, application is also being made to obtain a variance from §110-27.1(E)(4) for having a setback of less than 1,600 feet from all residential dwellings where 197 feet is proposed and a variance of 1,403 feet is requested, and relief from height requirement of §110-27.1(E)(3) Code of the Village/Town of Mount Kisco setting a maximum height of 80 feet where 145 feet is proposed and a variance of 65 feet is requested. The area variances are only requested in the alternative to the Applicants' Appeal of the Building Inspector's interpretation that such variance relief is required.

Harold Boxer, Chair Zoning Board of Appeals Village/Town of Mount Kisco Wildlife Preserve Inc. 71 Sarles Street Mount Kisco, NY 10549

Michael J. and Madlyn Inserra 3 Brentwood Court Mount Kisco, NY 10549 George Coppola & Ellen Molloy
5 Brentwood Court
Mount Kisco, NY 10549

Maryann M. Tarnok 7 Brentwood Court Mount Kisco, NY 10549 Frank and Barbara Paccetti 9 Brentwood Court Mount Kisco, NY 10549 Mt. Kisco Chase HOA Inc. PO Box 265 Somers, NY 10589

Karan and Pratibha Garewal 6 Brentwood Court Mount Kisco, NY 10549 Marsh Sanctuary Inc. 71 Sarles Street Mount Kisco, NY 10549 Anna C. and John G. Pietrobono 2 Sarles Street Mount Kisco, NY 10549

David M. and Holly Y. Schwartz 10 Brentwood Court Mount Kisco, NY 10549 Gerard and Beth Romski 8 Brentwood Court Mount Kisco, NY 10549 Elizabeth Jacobs 1 Brentwood Court Mount Kisco, NY 10549

Michael and Carla Bird 35 Tucker Road Bedford Corners, NY 10549 Marci Stearns & Steven McCormick 25 Tucker Road Bedford Corners, NY 10549 Town of Bedford 321 Bedford Road Bedford Hills, NY 10507

Realis Development LLC 356 Manville Road Pleasantville, NY 10570 Chabad of Bedford Inc. 133 Railroad Avenue Bedford Hills, NY 10507 Abdelouahab and Nancy El Bouhali PO Box 667 Bedford Hills, NY 10507

Lawrence and Daisy Lee 43 Linden Lane Bedford Corners, NY 10549 Rosemarie A. Maiorano & Valeri Hedges 69 Linden Lane Bedford Corners, NY 10549 Ihor Andrew and Natalia M. Czernyk 108 Second Avenue New York, NY 10003

Edward and Harriet Feinberg 701 D. Bedford Road Bedford Hills, NY 10507 Lisbeth Fumagalli, Town Clerk Town of Bedford 321 Bedford Road Bedford Hills, NY 10507



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PUBLIC NOTICE

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Beard of Appeals of the Village/Town of Mount Kisco, New York will Hold a Rubik Hearing on the 15th day of December 2020 at the Municipal Building, Mount Kisco, New York, beginning at 2:00 PM pursuant to the Zoning Ordinance on the Appeal of Homeland Towers, LLC and Verison Witeless Co Snyder 8, Snyder, LLC and Verison Market Snyder Snyd

Harold Boxer, Chair Zoning Board of Appeals Village/Town of Mount Koco

4480111

VILLAGE/TOWN OF MOUNT KISCO STATE OF NEW YORK

In the Matter of the Application of:

MEMORANDUM IN OPPOSITION

Homeland Towers, LLC

Application for Site Plan Approval, Special Use Permit and Steep Slope Permit

Premises: 180 S. Bedford Road

Tax Parcel ID#:
Zoning:

80.44-1-1

____X

CD - Conservation Development District

MEMORANDUM IN OPPOSITION FOR THE ZONING BOARD OF APPEALS

Respectfully Submitted,

Andrew J. Campanelli Campanelli & Associates, P.C. 1757 Merrick Avenue, Suite 204 Merrick, NY 11566

Attorneys For:

Rex Pietrobono, 2 Scarles Street, Mount Kisco, New York

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Preliminary Statement

Homeland Towers, LCC (hereinafter "Homeland") is a site development company which has filed applications for a Special Use Permit, Site Plan Approval, a Steep Slope Permit and Variances to install a one hundred forty-five (145) foot monopole, the equivalent of a fourteen (14) story building, in a residential neighborhood where no existing structure currently stands taller than two (2) stories in height.

As set forth hereinbelow, *Homeland's* application should be denied because:

- (a) Homeland has failed to establish that granting the application would be consistent with the *smart planning* provisions of the Town/Village of Mount Kisco Zoning Code;
- (b) granting the application would both violate the Town/Village of Mount Kisco

 Zoning Code and run afoul of the legislative intent behind the relevant provisions

 of the Code;
- the irresponsible placement of such massive a tower at the proposed location would inflict upon the nearby homes and community the precise types of adverse impacts which Sections §110-27.1, §110-45, and §110-46 of the Code were enacted to prevent;
- (d) there are far less intrusive alternative locations where the desired facility could be built, in greater conformity with the requirements of the Town/Village Zoning Code; and
- (e) the irresponsible placement of the tower proposed by the application would not provide a safe fall zone around the proposed tower.

As more fully detailed hereinbelow, it is respectfully submitted that *Homeland's* application should be denied in a manner that does not violate the constraints of the Telecommunications Act of 1996.

POINT I

Granting *Homeland* Permission to Construct a Massive Fourteen (14) Story Wireless Facility at the Location it Proposes Would Violate Both the Requirements Under the Town Zoning Code and the Legislative Intent Based Upon Which Those Requirements Were Enacted by the Town

As set forth hereinbelow, *Homeland's* application should be denied because granting the application would violate the *requirements* of the Town/Village of Mount Kisco Zoning Code as well as the *legislative intent* behind those requirements.

As is explicitly set forth within its text, the very purpose for which the Town/Village of Mount Kisco enacted its Zoning Code, and the provisions which pertain to cell towers, was to regulate the placement of such facilities to minimize the adverse aesthetic impact of such facilities,¹ and to "protect the health, safety and welfare of Village inhabitants."

As an initial matter, the Zoning District in which *Homeland* seeks to install its proposed one hundred forty-five (145) foot tower is a CD Conservation Development District.

As was made clear within the explicit text of Section §110-7, the whole purpose for which the Town created this Conservation District is described as follows:

The CD district is intended to permit single-family residential development at relatively low densities, consistent with the long-range planning objectives of the Village, which development is designed to maintain, preserve and enhance the natural and man-made environment of the lands within and adjacent to the district. In adopting this district, the Village Board of the Village of Mount Kisco declares its intent to encourage well-planned residential site development by

¹ See Section §110-27.1 of the Town/Village Zoning Code.

² See Section §1-1 of the Town/Village Zoning Code.

establishing flexible zoning controls that are designed to assure maximum conservation and efficient utilization of land.

As is beyond argument, the placement of a fourteen (14) story tower in a Conservation District would be entirely inconsistent with the Town's efforts to "preserve and enhance the natural environment" within that District.

A. Homeland's Proposed Wireless Facility is Outside the Designated Personal Wireless Service Facilities Overlay District

Pursuant to Section §110-27.1, wireless communication facilities are only permitted in a Personal Wireless Service Facilities Overlay District.

Specifically, Section §110-27.1(B) states that

[e]xcept as specified in §110-27H (special permits for sites outside the Personal Wireless Service Facilities Overlay District), all new personal wireless service facilities, ... shall be allowed only in the Personal Wireless Service Facilities Overlay District and only pursuant to a special permit issued by the Planning Board in accordance with the criteria set forth in this section and in §110-46 of the Zoning Law.

As is acknowledged by *Homeland* and its attorneys, the proposed location is located outside of the permitted Personal Wireless Service Facilities Overlay District.³

Thus, Section §110-27.1(H) applies. Pursuant to such section, Applicants seeking to construct personal wireless service facilities at sites outside the Personal Wireless Service Facilities Overlay District are required to seek a special permit from the Planning Board.

As set forth in Section §110-27.1(H), any such proposed facility "shall be permitted only if a New York State-licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities establishes to the satisfaction of the approving agency (that being the Planning Board) all of the following:

(1) That the personal wireless service facility is needed to provide coverage to an area

³ See Robert Gaudioso's August 18, 2020 Letter to the Planning Board for the Village of Mount Kisco.

- of the Village that currently has inadequate coverage and is of the minimum height and aesthetic intrusion necessary to provide that coverage;
- (2) The coverage cannot be provided by a personal wireless service facility located within the Personal Wireless Service Facilities Overlay District;
- (3) That all reasonable measures in siting the personal wireless service facility within the Personal Wireless Service Facilities Overlay District have been exhausted; and
- (4) That technical and space limitations prevent location or colocation in the Personal Wireless Service Facilities Overlay District.

In its August 18, 2020 letter, *Homeland's* attorney posited that a Radio Frequency Justification Report prepared by VComm, dated August 17, 2020, evidences that the proposed facility is "necessary" to provide coverage, which allegedly *cannot* be provided by a facility located *within the Overlay District*.

Notwithstanding such claim, a simple review of Homeland's entire application reflects that Homeland has failed to provide any probative evidence, in the form of hard data, to prove the proposed facility is necessary, needed to be installed at the proposed location as opposed to potentially less intrusive alternative locations, needed to be built it the proposed height, or even that granting Homeland's application would be consistent with the smart planning provisions of the Mount Kisco Zoning Code.

Hard data is the most accurate and least expensive evidence used to establish the location, size, and extent of both *gaps* in personal wireless services and areas suffering from *capacity deficiencies*. There are two specific hard data forms: (a) dropped call records and (b) actual drive test data.

Homeland has failed to provide either form of hard data. Thus, the Planning Board can't make a proper and informed determination as to whether the proposed facility is actually needed

to remedy a gap in Verizon's personal wireless coverage or that the proposed location is the best location to remedy such alleged gap.

Further, *Homeland* contends that the "Facility has been strategically located so that the Facility is minimally visible to the general public." However, again *Homeland* provides no actual proof of this. Rather, *Homeland* simply submits useless computer-generated images in which no actual photos are provided, let alone photos taken from the adjacent residential neighborhood or the Marsh Sanctuary and or Wildlife Preserve, which stand to suffer the greatest adverse aesthetic impacts.

For the foregoing reasons, *Homeland* has not met the requirements provided under Section §110-27.1(H), and thus *Homeland's* application should be denied.

B. Homeland's Application Does Not Comply with the Requirements for Granting Area Variances

Homeland is seeking variances from Sections §110-27.1(E)(3) and §110-27.1(E)(5) of the Town/Village of Mount Kisco Zoning Code. Granting *Homeland* a variance from either of these sections would be wholly inconsistent with the purpose and intent of the Zoning Code.

(i) Height

Pursuant to Section $\S110-27.1(E)(3)$,

Unless the FCC promulgates rules to the contrary or the applicant demonstrates to the satisfaction of the board granting the special permit that a greater height is necessary, the maximum height for a tower or monopole shall be 80 feet above ground level or the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Village, whichever is less.

The FCC has not promulgated rules to the contrary. In fact, Congress choose to preserve local zoning authority over the siting of wireless facilities. *See* Sprint Spectrum L.P. v. Willoth,

⁴ See Snyder & Snyder, LLP's August 18, 2020 letter to the Planning Board for the Village of Mount Kisco.

176 F.3d 630, (2d Cir. 1999).⁵

As is detailed on page 12 of Building Inspector, Peter Miley's October 6, 2020 Memorandum "[p]roposed is a total height including a faux tree canopy of 145 feet, 65 feet more than is permitted in the CD Zoning District." Thus, "[a]s proposed, a 65 ft. maximum height variance is required."

Here, *Homeland* claims that the additional height is needed to provide "the capacity and coverage required by Verizon." However, this argument fails because, not only does the height of a facility have nothing to do with capacity but *Homeland* has failed to demonstrate that the proposed facility is necessary to remedy an significant gap in personal wireless coverage.

Homeland even admits that it on page 5 of that same report that there is only a small number of potential customers who are impacted by the alleged gap in coverage meaning that it is in no way significant. §

Further, *Homeland* claims that "Verizon Wireless also has insufficient capacity to handle the projected 4G voice and data traffic in the area." However, again *Homeland* has not provided any hard data such as dropped call data or drive test data to establish that such conclusion is in fact true. In the same report, *Homeland* also claims that "[s]ignals in this area are terrain limited ...

And, in addition to terrain signal losses, there is significant losses due to ground clutter and foliage that attenuates the signal as well as limiting the propagation range from the proposed." Homeland

⁵ "In furtherance of this goal. Congress enacted 47 U.S.C §332(c)(7) which limits the state and local government's authority to deny construction of wireless telecommunications towers, *see id.* §332(c)(7)(B)(i), and regulates how such decision must be made, *see id.* §§332(c)(7)(B)(ii)-(iv). *Although the TCA preserves local zoning authority in all other respects over the siting of wireless facilities.*

^{6 &}lt;u>Id</u>.

⁷ See page 4 of VComm Telecommunications Engineering's August 17, 2020 document.

⁸ ld at nage 5

⁹ See page 6 of VComm Telecommunications Engineering's October 28, 2020 document.

¹⁰ ld.

cannot possibly reach such conclusion without any hard data, specifically drive test data.

Without providing any hard data it is impossible for *Homeland* to satisfactorily demonstrate that the additional sixty-five (65) feet is necessary to provide personal wireless service.

In addition to *Homeland* not proving that the additional height is required, it is also important for the Board to consider the legislative intent behind enacting Section §110-27.1(E)(3). As is set forth in Section §1-1 of the Zoning Code the legislative intent of the Code is "protecting the health, safety and welfare of Village inhabitants."

There is no doubt that the Village/Town of Mount Kisco enacted the height requirement to protect the residents from aesthetic impacts, negative effects on property values, and also from hazards such as structural failures, fire, ice and debris fall, all of which is further discussed below.

For the foregoing reasons, granting *Homeland* a height variance would be improper.

(ii) <u>Setbacks</u>

Pursuant to Section §110-27.1(E)(5),

Unless the FCC promulgates rules to the contrary, all personal wireless service facilities shall be separated from all residential dwellings by a distance of no less than 500 feet. In no case shall a setback be less than 20 feet or the minimum setback required by the underlying zoning district, whichever is greater. The setback shall increase 100 feet for each 10 feet that the personal wireless service facility exceeds the maximum height set forth in the underlying zoning district. Setback from towers or monopoles shall be measured from the base of the structure.

As is detailed on page 12 of Building Inspector, Peter Miley's October 6, 2020 Memorandum,

The proposed cell tower is located in the §110-7. CD Conservation Development District. The maximum height permitted in the CD zoning district is 35 feet. Proposed is a Monopine with faux tree canopy totaling 145 feet, this is 110 feet higher than what is permitted in the CD Zoning District. Proposed is a setback

distance of 388 feet to the closest residential home, a 1,600 feet setback to a residence is required; therefore, a 1,212 ft. setback variance is required.

One of the main reasons zoning ordinances require setbacks is to protect the surrounding communities. It would be outrageous for the Zoning Board of Appeals to grant *Homeland* a one thousand two hundred twelve (1,212) foot setback variance.

As is more fully detailed below in Point II, *Homeland* proposes to place its desired one hundred forty-five (145) foot wireless tower without any meaningful *fall zone* or *safe zone*, which is typically required for monopole towers.

Set forth within the Town/Village of Mount Kisco Zoning Code prior to granting a Special Permit, the applicant must demonstrate to the Planning Board that

- (1) The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.¹¹
- (2) all personal wireless service facilities shall be separated from all residential dwellings by a distance of not less than 500 feet.¹²

Due to the well-documented dangers that the irresponsible placement of monopole cell towers present, local governments across the entire United States have enacted and enforce zoning provisions to ensure that the installation of such towers includes a fall zone or safe zone of sufficient size to preserve the health and safety of their residents.

Homeland is aware of such dangers but nonetheless is still requesting a significant setback variance. On page 3 of APT Engineering's November 3, 2020 document it states "[t]he proposed facility is located such that it is a minimum of 109 feet to the nearest property line (east). The applicant is proposing to design the tower to have a failure hinge point at elevation 31' AGL..."

¹¹ See Section §110-27.1(E)(4) of the Town/Village Zoning Code.

¹² See Section §110-27.1(E)(5) of the Town/Village Zoning Code.

However, even with such "failure hinge" it is still very likely that the one hundred fourteen (114) feet of tower above the thirty one (31) foot hinge will fall outside of the compound.

Structural failures of monopole cell towers and monopole fires occur far more often than the public is aware of. Such failures and fires often result in a monopole cell tower collapsing to the ground, presenting a severe risk of property damage, injury, or death.

The two most common causes of the failure and complete collapse of a monopole cell tower are baseplate failures (*See* Exhibits "D" and "E") and fires (*See* Exhibits "G" and "H").

Baseplate failures cause the entire tower to collapse¹³, and fires either cause the tower to "warp" or collapse in a flaming heap.¹⁴ In addition to baseplate failures, monopole collapses are also caused by failures of flanges, joints, and bolts.

Like the height requirements set forth in the Zoning Code setback requirements were enacted for the safety of the surrounding community it would only be logical and proper for the Board to follow its own code and protect the surrounding community from any potential dangers by requiring *Homeland* to comply with the Zoning Code.

Thus, it would be improper for the Board to grant *Homeland* a Setback Variance.

To see dramatic images of a 165-foot tower having collapsed at a firehouse, crushing the Fire Chief's vehicle, go to www.firehouse.com/news/10530195/oswego-new-york-cellular-tower-crushes-chiefs-vehicle, or go to Google and search for "Oswego cell tower collapse."

¹⁴ To see videos of modern towers bursting into flames and/or burning to the ground, go to http://www.youtube.com/watch?v=0cT5cXuyiYY&NR=1 or http://www.youtube.com/watch?v=y__NKVWrazg, or simply go to *Google*, and search for "cell tower burns."

C. Homeland's Application Does Not Comply with the Requirements for Granting Site Plan Approval

Pursuant to Section §110-45(A)(1), "Site plan approval shall be required for all uses other than one-family residences and the building accessory thereto."

"In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and comfort and convenience of the public in general and of the residents of the proposed development, if any, and of the immediate area..."

15

Before granting Site Plan Approval, the Planning Board must consider:

- (1) that all areas where landscaping is required are reasonably screened at all seasons of the year, particularly from the view of adjacent residential lots and streets. 16
- (2) that the site layout of the proposed use, buildings, structures, freestanding signs and lighting shall be in general harmony with the character and appearance of the surrounding area and that of the Village as a whole.¹⁷

Here, *Homeland* seeks approval for the irresponsible placement of a fourteen (14) story wireless facility in extremely close proximity to residential homes. As will be detailed below, the proposed facility will not be adequately screened and will intrude on the residential community in violation of Section §110-45(B)(3). Moreover, it is impossible for *Homeland* to establish that the proposed facility will be in harmony with the character and appearance of the surrounding area and Village as a whole in violation of Section §110-45(B)(5).

¹⁵ See Section §110-45(B) of the Town/Village Zoning Code.

¹⁶ See Section §110-45(B)(3) of the Town/Village Zoning Code.

¹⁷ See Section §110-45(B)(5) of the Town/Village Zoning Code.

(i) Homeland's Proposed Site is Not in Harmony with the Character and Appearance of the Surrounding Area

The proposed cell tower will inflict dramatic and wholly unnecessary adverse impacts upon the area's aesthetics and character.

Recognizing the likely adverse aesthetic impacts that an irresponsibly placed wireless facility tower would inflict upon nearby homes and residential communities, the Town/Village of Mount Kisco enacted several Zoning Code requirements to regulate wireless facilities' placement to prevent unnecessary adverse aesthetic impacts upon same.

Specifically, Section §110-27.1(F) sets forth Design Guidelines. As set forth in that section, proposed wireless service facilities are required to meet the following guidelines:

- (1) All personal wireless service facilities shall be sited to have minimum adverse visual effect on residential areas, parks or major roadways.¹⁸
- (2) For towers and monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities.¹⁹
- (3) Additional screening may be required to screen portions of the structure from nearby residential property or important views.²⁰

It is beyond argument that the irresponsible placement of *Homeland's* massive fourteen (14) story tower in a residential neighborhood, where no other structures stand more than two (2) stories in height, would cause the massive facility to *stand out like a sore thumb*, dominate the skyline, and inflict substantial adverse aesthetic impacts upon the nearby homes.

¹⁸ See Section §110-27.1(F)(4) of the Town/Village Zoning Code.

¹⁹ See Section §110-27.1(F)(3) of the Town/Village Zoning Code.

²⁰ See Section §110-27.1(F)(3) of the Town/Village Zoning Code.

Moreover, as has been held by federal courts, including the United States Court of Appeals for the Second Circuit, significant and/or unnecessary adverse aesthetic impacts are proper legal grounds upon which a local government may deny a zoning application seeking approval for the construction of a cell tower. *See* Omnipoint, infra.

As an initial matter, *Homeland* has wholly failed to comply with Sections §110-27.1(F) and §110-45(B). Each of these above-referenced sections requires and encourages the placement of a wireless facility in an area that will have the least adverse impact on the community.

It is unreasonable to believe that a one hundred forty-five (145) foot cell tower will be compatible with a residential neighborhood. As will be detailed below, if installed, the tower will cause substantial adverse aesthetic impacts to the surrounding residential community and reduce property values.

Moreover, as is set forth hereinbelow, *Homeland* has failed to provide a shred of *probative evidence* to establish that the wireless communications facility is not injurious to the neighborhood. *Homeland's* application essentially contends that the proposed site is the best possible location for a minimized impact on the surrounding residential properties.

(ii) Evidence of the Actual Adverse Aesthetic Impacts Which the Proposed Tower Would Inflict Upon the Nearby Homes

As logic would dictate, the persons who are best suited to accurately assess the nature and extent of the adverse aesthetic impacts that an irresponsibly placed wireless facility would inflict upon homes in close proximity to the proposed facility are the homeowners themselves.

Consistent with same, The United States Court of Appeals for the Second Circuit has recognized that when a local government is entertaining a wireless communications facility application, it should accept, as direct evidence of the adverse aesthetic impacts that a proposed

facility would inflict upon nearby homes, statements and letters from the actual homeowners, because they are in the best position to know and understand the actual extent of the impact they stand to suffer *See*, *e.g.*, Omnipoint Communications Inc. v. The City of White Plains, 430 F2d 529 (2nd Cir. 2005). Federal Courts have consistently held that adverse aesthetic impacts are a valid basis for denying applications for proposed wireless facilities. *See* Omnipoint Communications Inc. v. The City of White Plains, 430 F2d 529 (2nd Cir. 2005), T-Mobile Northeast LLC v. The Town of Islip, 893 F.Supp.2d 338 (2012).

Annexed as "substantial evidence" of the wholly unnecessary and substantial adverse aesthetic impacts that the irresponsible placement of *Homeland's* fourteen (14) story wireless facility would inflict upon the nearby homes are letters from the owners of those homes who detail, from their personal perspective, the specific adverse aesthetic impacts their homes and residential properties would suffer if the massive facility proposed by *Homeland* were permitted to be built so close to their respective homes.

Annexed collectively herein as Exhibit "A," are letters from: Rex and Anna C. Pietrobono, 2 Sarles Street, Mount Kisco, NY; John G. Pietrobono, 2 Sarles Street, Mount Kisco, NY; Sarah Pietrobono, 2 Sarles Street, Mount Kisco, NY; Caitlin Pietrobono, 2 Sarles Street, Mount Kisco, NY; and Kim Pietrobono, 2 Sarles Street, Mount Kisco, NY.

Within each of those letters, the homeowners personally detail the adverse aesthetic impacts that the proposed facility would inflict upon their respective homes. They have provided detailed and compelling explanations of the dramatic adverse impacts their properties would suffer if the proposed installation of a massive cell tower is permitted to proceed.

The specific and detailed impacts described by the adjacent and nearby property owners constitute "substantial evidence" of the adverse aesthetic impacts they stand to suffer because they

are not limited to "generalized concerns," but instead contain detailed descriptions of how the proposed facility would dominate their views from their "dining room," "bedroom," "bathroom," "family room," "deck," and backyards, and generally from all over their properties.

As detailed therein, the substantial adverse aesthetic impacts that the proposed facility's irresponsible placement would inflict upon the nearby homes are the precise type of injurious impacts that the Town/Village of Mount Kisco Zoning Code was specifically intended to prevent.

(iii) Homeland's Visual Assessment is Inherently Defective and Should be Disregarded Entirely

In a hollow effort to induce the Town to believe that the installation of a massive fourteen (14) story cell tower *would not* inflict a severe adverse aesthetic impact upon the adjacent homes, *Homeland* has submitted a Visual Assessment, which was completed by Saratoga Associates.

As is undoubtedly known to *Homeland*, the Visual Assessment presented to the Board is inherently defective because it does not serve the purpose for which it has been purportedly offered.

Specifically, on July 29, 2020, Saratoga Associates submitted a letter to the Planning Board, where it concluded that the proposed location "was selected to take advantage of a wooded hill to the immediate south of the tower." Essentially the letter contends that the hill will provide a visual screen for the Rolling Ridge residential neighborhood and the Marsh Sanctuary. ²²

The whole purpose for which local governments require photo-simulations of a proposed cell tower is to require applicants to provide the reviewing authority with a clear visual image of the *actual* aesthetic impacts that a proposed installation is going to inflict upon the nearby homes

²¹ See Saratoga Associates July 29, 2020 letter addressed to the Village of Mount Kisco Planning Board.

²² ld.

and residential community.

However, noticeable absent from the Visual Assessment submitted by *Homeland* is any actual photos depicting what the tower will look like from the Rolling Ridge residential neighborhood or the Marsh Sanctuary. Rather, the Visual Assessment is nothing more than a computer-generated viewshed map.

Not surprisingly, applicants often seek to disingenuously minimize the visual impact depictions, by *deliberately omitting* from any such photo-simulations, any images <u>actually taken</u> from the nearby homes that would sustain the most severe adverse aesthetic impacts.

In Omnipoint Communications Inc. v. The City of White Plains, 430 F2d 529 (2nd Cir. 2005), the United States Court of Appeals for the Second Circuit explicitly ruled that where a proponent of a wireless facility presents visual impact depictions wherein they "omit" any images from the actual perspectives of the homes which are in closest proximity to the proposed installation, such presentations are inherently defective, and should be disregarded by the respective government entity that received it.

As was explicitly stated by the federal court:

"the Board was free to discount Omnipoint's study because it was conducted in a defective manner. . . the observation points were limited to locations accessible to the public roads, and no observations were made from the residents' backyards much less from their second story windows" Id.

Omnipoint Communications Inc. v. The City of White Plains,

430 F2d 529 (2nd Cir. 2005),

A simple review of the Visual Assessments submitted by *Homeland* reflects that it does not include a single image taken from <u>any</u> of the nearby homes that will sustain the most severe adverse aesthetic impacts from the installation of the massive tower, which *Homeland* seeks to construct in such close proximity to those homes.

Homeland's Visual Assessment does not even contain photos taken from public roads. The maps submitted by Homeland were selected to minimize the appearance of the adverse aesthetic impact, and in no way accurately depict the images those homeowners will see, each and every time they look out their bedrooms, kitchens, or living room windows, or sit in their backyards.

This is the exact type of "presentation," which the federal court explicitly ruled to be defective in Omnipoint.

As such, in accord with the federal court's holding in <u>Omnipoint</u>, *Homeland's* Visual Assessments should be recognized as inherently defective and disregarded entirely.

(iv) The Proposed Installations Will Inflict Substantial and Wholly Unnecessary Losses in the Values of Adjacent and Nearby Residential Properties

In addition to the adverse impacts upon the aesthetics and residential character of the area at issue, such a massive cell tower's irresponsible placement in such close proximity to nearby residential homes would contemporaneously inflict upon such homes a severe adverse impact upon the actual value of those residential properties.

As established by the evidence submitted herewith, if *Homeland* is permitted to install the wireless facility it proposes in such close proximity to nearby homes, it would inflict upon the homes dramatic losses in property value, to the extent that the homeowners would suffer significant losses in the values of their residential properties.

Across the entire United States, both real estate appraisers²³ and real estate brokers have rendered professional opinions that simply support what common sense dictates.

 $^{^{23}}$ See e.g. a February 22, 2012 article discussing a NJ appraiser's analysis wherein he concluded that the installation of a Cell Tower in close proximity to a home had reduced the value of the home by more than 10%, go to http://bridgewater.patch.com/articles/appraiser-t-mobile-cell-tower-will-affect-property-values.

When large cell towers are installed unnecessarily close to residential homes, such homes suffer material losses in value, typically ranging from 5% to 20%.²⁴

In the worst cases, cell towers built near existing homes have caused the homes to be rendered wholly unsaleable.²⁵

As has been recognized by federal courts, it is perfectly proper for a local zoning authority to consider as direct evidence of the reduction in property values that an irresponsibly-placed wireless facility would inflict upon nearby homes, the professional opinions of licensed real estate brokers (as opposed to appraisers) who provide their professional opinions as to the adverse impact upon property values that would be caused by the installation of the proposed cell tower *See* Omnipoint Communications Inc. v. The City of White Plains, 430 F2d 529 (2nd Cir. 2005). This is especially true when they possess years of real estate sales experience within the community and the specific geographic area at issue.

As evidence of the adverse impact that the proposed cell tower would have upon the

172366931.html.

²⁴ In a series of three professional studies conducted between 1984 and 2004, one set of experts determined that the installation of a Cell Tower in close proximity to a residential home reduced the value of the home by anywhere from 1% to 20%. These studies were as follows:

The Bond and Hue - *Proximate Impact Study* - The Bond and Hue study conducted in 2004 involved the analysis of 9,514 residential home sales in 10 suburbs. The study reflected that close proximity to a Cell Tower reduced price by 15% on average.

The Bond and Wang - Transaction Based Market Study

The Bond and Wang study involved the analysis of 4,283 residential home sales in 4 suburbs between 1984 and 2002. The study reflected that close proximity to a Cell Tower reduced the price between 20.7% and 21%.

The Bond and Beamish - Opinion Survey Study

The Bond and Beamish study involved surveying whether people who lived within 100' of a Cell Tower would have to reduce the sales price of their home. 38% said they would reduce the price by more than 20%, 38% said they would reduce the price by only 1%-9%, and 24% said they would reduce their sale price by 10%-19%.

²⁵ Under FHA regulations, no FHA (federally guaranteed) loan can be approved for the purchase of any home which is situated within the fall zone of a cell tower. *See* HUD FHA HOC Reference Guide Chapter 1 - hazards and nuisances. As a result, there are cases across the country within which: (a) a homeowner purchased a home, (b) a cell tower was thereafter built in close proximity to it, and (c) as a result of same, the homeowners could not sell their home, because any buyer who sought to buy it could not obtain an FHA guaranteed loan. *See, e.g.* October 2, 2012 Article "...Cell Tower is Real Estate Roadblock" at http://www.wfaa.com/news/consumer/Ellis-County-Couple--Cell-tower-making-it-impossible-to-sell-home--

property values of the homes that would be adjacent and/or in close proximity to it, annexed hereto as Exhibit "B" are letters setting forth the professional opinions of licensed real estate professionals, who are acutely familiar with the specific real estate market at issue, and who submit their professional opinions that the installation of the proposed massive fourteen (14) story tower would cause property values of the affected homes to be reduced by eighteen (18%) to twenty percent (20%) (or more), and would make those homes more difficult to sell, even at reduced purchase prices.

Given the significant reductions in property values that the proposed installation would inflict upon the nearby homes, the granting of *Homeland's* application would inflict upon the residential neighborhood the very type of injurious impacts that the Town/Village Zoning Code was specifically intended to prevent. Accordingly, *Homeland's* application should be denied.

D. Homeland's Application Does Not Comply with the Requirements for Granting a Special Permit

A simple review of the record reflects that *Homeland's* application must be denied because such application, and all of its supporting submissions, wholly fail to establish that the application complies with the requirements and limitations of Section §110-27.1(E) of the Town/Village of Mount Kisco Zoning Code regarding special permit applications.

As is set forth in Section §110-27.1(B), all new personal wireless service facilities shall only be allowed if the Planning Board issues a special permit.

Pursuant to Section §110-27.1(E), "[a]pplicants for special permits for establishment or construction of personal wireless service facilities shall meet all of the following criteria:

(1) The proposed personal wireless service facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are

located within and outside the Village, by colocation or otherwise.

- (2) The colocation of existing personal wireless service facilities only within the Personal Wireless Service Facilities Overlay District shall be strongly preferred to the construction of new personal wireless service facilities.
- (3) the maximum height for a tower or monopole shall be 80 feet above ground level or the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Village, whichever is less.
- (4) The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.
- (5) all personal wireless service facilities shall be separated from all residential dwellings by a distance of no less than 500 feet.

Homeland has failed to proffer probative evidence sufficient to establish a need for the proposed tower at the location and height proposed, or that the granting of its application would be consistent with the Smart Planning requirements of the Town Zoning Code.

The apparent intent behind the provisions of §110-27.1(E) of the Town/Village of Mount Kisco Zoning Code was to promote "smart planning" of wireless infrastructure within the Town.

Smart planning involves the adoption and enforcement of zoning provisions that require that cell towers be *strategically placed* so that they minimize the number of towers needed while saturating the Town with complete wireless coverage (i.e., they leave no gaps in wireless service), while contemporaneously avoiding any unnecessary adverse aesthetic or other impacts upon homes and communities situated in close proximity to such towers.

Entirely consistent with that intent, Section §110-27.1(E)(1) requires that the proposed "facility is required to provide service to locations which the applicant is not able to serve with existing facilities." Additionally, Section §110-27.1(E)(2) requires colocation when possible, and Section §110-27.1(E)(3) places limits to the height of proposed facilities. Thus, these sections

were adopted as smart planning provisions to regulate cell towers' "placement" to minimize their potential negative impacts.

To enable Boards to determine if a proposed cell tower would be consistent with smart planning requirements, sophisticated zoning and planning boards require site developers to provide direct evidentiary proof of:

- (a) the precise locations, size, and extent of any geographic gaps in personal wireless services that are being provided by a specifically-identified wireless carrier, which provides personal wireless services within the respective jurisdiction and
- (b) the precise locations, size, and extent of any geographic areas within which that identified wireless carrier suffers from a capacity deficiency in its coverage.

The reason that local zoning boards invariably require such information is that without it, the boards are incapable of knowing: (a) if, and to what extent a proposed tower will remedy any actual gaps or deficiencies which may exist, (b) if the proposed height for a tower is the minimum height needed to remedy such gaps, and (c) if the proposed placement is in such a poor location that it would all but require that more towers be built because the proposed tower did not actually cover the gaps in service which actually existed, thereby causing an unnecessary redundancy in cell towers within the Town.

In the present case, *Homeland* has wholly failed to provide any hard data to establish that the proposed placement of its tower would, in any way, be consistent with the smart planning provisions. By virtue of same, it has failed to provide actual probative evidence to establish: (a) the *actual location of* gaps (or deficient capacity locations) in personal wireless services within the town, and (b) why or how their proposed massive cell tower would be the best and/or least intrusive means of remedying those gaps.

(i) Homeland Has Failed to Submit Probative Evidence to Establish
The Need for The Proposed Tower at The Height and Location Proposed

To the extent that applicants seeking to build cell towers seek to have their applications reviewed under the "Public Necessity" standard established in <u>Consolidated Edison Co. v. Hoffman, 43 N.Y.2d 598 (1978)</u>, the applicant must prove that the new cell tower it proposes is "a public necessity that is required to render safe and adequate service" and that there are compelling reasons why their proposed installation is more feasible than at other locations. *See* <u>T</u> Mobile Northeast LLC v. Town of Islip, 893 F.Supp.2d. 338 (2012).

Within the context of zoning applications such as the current application which has been filed by *Homeland* herein, the applicant is required to prove [1] that there are gaps in a specific wireless carrier's service, [2] that the location of the proposed facility will remedy those gaps, and [3] that the facility presents a "minimal intrusion on the community." <u>Id</u>.

As has been clearly enunciated by the Court in T-Mobile, where a local zoning board denies a cell tower application, and

"[E]ven one reason given for the denial is based upon substantial evidence, the decision of the local zoning body cannot be disturbed [by a federal court]"

T Mobile Northeast LLC v. Town of Islip, 893 F.Supp.2d. 338, 354 (2012).

(ii) Homeland Has Failed To Meet Its Burdens

It is beyond argument that *Homeland* has failed to meet its burdens of proving: (a) that its proposed tower is a Public Necessity, (b) that, as proposed, its tower would present a minimal intrusion on the community," (c) that its proposed placement would minimize its "aesthetic intrusion" or (d) that denial of its applications would constitute a "prohibition of personal wireless services" within the meaning of 47 U.S.C.A. §332(7)(B)(i)(II).

As an initial evidentiary matter, glaringly absent from Homeland's application is any

"hard data," which could easily be submitted by the applicant, as probative evidence to establish that: (a) there is an actual Public Necessity for the tower being proposed, which (b) not only necessitates the installation of a new tower, but (c) requires it to be built at the specifically chosen location (d) on the specifically chosen site (as opposed to being built upon alternative less-intrusive locations), and (e) contemporaneously requires that it be built at an elevation no lower than the height now being proposed by *Homeland*.

(iii) Hard Data and the Lack Thereof

The most accurate and least expensive evidence used to establish the location, size, and extent of both *gaps* in personal wireless services and areas suffering from *capacity deficiencies* are two specific forms of *hard data*, which consist of: (a) dropped call records (b) actual drive test data.

Unlike "expert reports," RF modeling and propagation maps, all of which are most often manipulated to reflect whatever the preparer wants them to show, *hard data* is straightforward and less likely to be subject to manipulation, unintentional error, or inaccuracy.

Dropped call records are generated by a carrier's computer systems. They are typically extremely accurate because they are generated by a computer that already possesses all of the data pertaining to dropped calls, including the number, date, time, and location of all dropped calls suffered by a wireless carrier at any geographic location, and for any chronological period.

With the clicks of a few keystrokes, each carrier's system can printout a precise record of all dropped calls for any period of time, at any geographic location, and the likelihood that someone would enter false data into a carrier's computer system to materially alter that information is highly unlikely.

In a similar vein, actual drive test data does not encompass and does not typically involve

the type of manipulation that is almost uniformly found in "computer modeling," the creation of hypothetical propagation maps, or "expert interpretations" of actual data, all of which are so easily manipulated, that they are essentially rendered worthless as a form of probative evidence.

Actual raw drive test data consists of actual records of a carrier's wireless signal's actual recorded strengths at precise geographic locations.

As reflected in the record of this case, *Homeland* has not provided either of these forms of *hard data* as probative evidence.

Instead, *Homeland* has provided only a vague analysis provided by VComm Telecommunications Engineering, regarding existing and potential coverage. A simple review of the submissions from *Homeland* reflects that they contain no hard data, *whatsoever*.

As is reflected within VComm's report, the maps presented were not actually based on any hard data recorded from any actual drive test, simply because no such drive test was conducted. Concomitantly, the maps do not possess any probative value in establishing: (a) the existence of any location of any significant gap in personal wireless service, or are suffering in any capacity deficiency, much less (b) the location and geographic size of any actual gap in service or area suffering from a capacity deficiency.

Without providing a shred of hard data to support the same, and after manipulating the actual data, *Homeland* arrived at what was undoubtedly their pre-determined conclusion that *Homeland* "needs" to have this massive one hundred forty-five (145) foot tower, to enable *Verizon* to provide reliable wireless services within the Village.

E. Homeland's Provided Analysis Regarding its Wireless Coverage is Contradicted By Verizon's Own Actual Coverage Data

As is a matter of public record, *Verizon* maintains an internet website at the internet domain address of http://www.verizonwireless.com.

In conjunction with its ownership and operation of that website, *Verizon* contemporaneously maintains a database that contains geographic data points that cumulatively form a geographic inventory of *Verizon's actual current* coverage for its wireless services.

As maintained and operated by *Verizon*, that database is linked to *Verizon's* website and functions as the data-source for an interactive function, which enables users to access *Verizon's* own data to ascertain both: (a) the existence of *Verizon's* wireless coverage at any specific geographic location, and (b) the level, or quality of such coverage.

Verizon's interactive website translates Verizon's actual coverage data to provide imagery whereby areas that are covered by Verizon's service are depicted in red, and areas where Verizon has a lack (or gap) in coverage are depicted in white.

Contemporaneously, the website further translates the data from *Verizon's* database to specify the actual *coverage* at any specific geographic location. Exhibit "C," which is being submitted together with this Memorandum, is a true copy of a record obtained from *Verizon's* website²⁶ on October 13, 2020.

This Exhibit depicts *Verizon's* actual wireless coverage at 180 South Bedford Road, Town/Village of Mount Kisco, New York, that being the specific geographic location at which *Homeland* seeks to install its proposed tower under the claim that *Homeland* "needs" such tower to remedy a gap in *Verizon's* personal wireless service at and around such location.

²⁶ http://www.verizonwireless.com.

As reflected within Exhibit "C," *Verizon's* own data reflects that there is no coverage gap in *Verizon's* service at that precise location, or anywhere around or in close proximity to it.

Homeland's submissions are entirely void of any hard data or probative evidence that establishes that Homeland needs the proposed tower. Verizon's data affirmatively contradicts what it placed in its application. As such, it is beyond argument that Homeland has wholly failed to submit documentation that "demonstrates and proves" that Homeland's proposed tower is necessary for Verizon to provide personal wireless services within the Town/Village.

As such, *Homeland's* application should be denied.

POINT II

Homeland's Application Must Be Denied Because The Proposed Location Fails to Afford Any Meaningful Fall Zone or Safe Zone

Remarkably, *Homeland* proposes to place its desired one hundred forty-five (145) foot wireless tower without any meaningful *fall zone* or *safe zone*, which is typically required for monopole towers.

As is detailed above, to be granted a Special Permit, the applicant must demonstrate to the Planning Board that

- (1) The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.²⁷
- (2) all personal wireless service facilities shall be separated from all residential dwellings by a distance of not less than 500 feet.²⁸

Here, demonstrated on page SP-1 of *Homeland's* Site Plans, the proposed facility is located within twenty-five (25) to one hundred (100) feet from the nearest residential dwelling property line in violation of Section §110-27.1(E)(5).²⁹

Due to the well-documented dangers that the irresponsible placement of monopole cell towers present, local governments across the entire United States have enacted and enforce zoning provisions to ensure that the installation of such towers includes a fall zone or safe zone of sufficient size to preserve the health and safety of their residents.

As detailed herein, and as supported by the evidence submitted herewith, the four principal dangers that irresponsibly placed monopole cell towers present are structural failures, fires, ice fall,

²⁷ See Section §110-27.1(E)(4) of the Town/Village Zoning Code.

²⁸ See Section §110-27.1(E)(5) of the Town/Village Zoning Code.

²⁹ See page SP-1 of Homeland's Site Plans.

and debris fall.

Due to the speed at which such cell towers are being constructed in the United States, and a desire on the part of *site developers* to build them as cheaply as possible, quality control over the manufacture, construction, and maintenance of monopole cell towers is nearly non-existent.

Not surprisingly, structural failures of monopole cell towers and monopole fires occur far more often than the public is aware of. Such failures and fires often result in a monopole cell tower collapsing to the ground, presenting a severe risk of property damage, injury, or death.

The two most common causes of the failure and complete collapse of a monopole cell tower are baseplate failures (*See* Exhibits "D" and "E") and fires (*See* Exhibits "G" and "H").

Baseplate failures cause the entire tower to collapse³⁰, and fires either cause the tower to "warp" or collapse in a flaming heap.³¹ In addition to baseplate failures, monopole collapses are also caused by failures of flanges, joints, and bolts.

Although it is not widely publicized, even brand new monopoles are known to fail, in dramatic fashion, often going from being 165 feet "tall" to 165 feet "long," in a matter of seconds.

By way of example, annexed hereto as Exhibit "D" is a photograph of a new 165-foot cell tower which failed and collapsed, with the remains of the monopole landing more than half a football field from its base, crushing a Fire Chief's vehicle in the process. Annexed hereto as Exhibit "E" is a mere sampling of images of collapses, which were due to baseplate failure.

Monopoles, such as the one being proposed by Homeland, are, by far, the most susceptible

³⁰ To see dramatic images of a 165-foot tower having collapsed at a firehouse, crushing the Fire Chief's vehicle, go to www.firehouse.com/news/10530195/oswego-new-york-cellular-tower-crushes-chiefs-vehicle, or go to Google and search for "Oswego cell tower collapse."

To see videos of modern towers bursting into flames and/or burning to the ground, go to http://www.youtube.com/watch?v=0cT5cXuyiYY&NR=1 or http://www.youtube.com/watch?v=y__NKVWrazg, or simply go to *Google*, and search for "cell tower burns."

to fires and collapse due to fire. See Exhibits "G" and "H," which respectively include a sampling of images of monopoles, which suffered fires, and articles regarding the same.

For at least the past decade, engineering firms have conducted thorough analyses of the causes of such failures and fires and have proposed safer designs for monopole cell towers. Still, site developers generally do not avail themselves of the safer designs, simply because of cost. At https://www.towernx.com/downloads/Monopole_Structures_Current_Issues.pdf, one can view an engineering report that was completed by structural engineers. That report clearly documents instances of both structural failures of, and fires on, monopole cell towers (with images), and provides recommended structural upgrades to prevent such failures and fires.

It is beyond argument that granting *Homeland's* application would violate the intent of the setback requirements set forth in the Town/Village Zoning Code. As proposed by *Homeland*, its installation would afford the adjacent neighbors and invitees on the subject site, no meaningful fall zone or safe zone, thereby exposing them to the well-documented dangers that the lack of an adequate fall zone presents.

There are four (4) principal dangers that have induced local governments to adopt specific setback requirements for cell towers, which serve as the reason why required setback distances are invariably tied directly to the height of monopole cell towers. Those well-documented dangers consist of structural failures, fires, ice fall, and debris fall, each of which are documented immediately hereinbelow.

A. Structural Failures

As reflected within Exhibits "D," "E, "G" and "H" and as confirmed within an engineering report which can be found at

https://www.towernx.com/downloads/Monopole_Structures_Current_Issues.pdf, the most common causes of the collapse of monopole cell towers are component failures at the base of the tower, and fires. When such failures occur, an entire sixty thousand (60,000) pound steel tower will collapse with its wreckage landing at a distance equal to, or sometimes greater than, the height of the tower itself.

The danger of such a collapse cannot be overstated. While deaths from cell tower collapse have been documented, most of the fatalities are workers who work on the towers or emergency response personnel who are injured or killed when responding to a cell tower collapse and/or fire.

Annexed hereto as Exhibit "F" is an article about an incident involving the death of several individuals resulting from the collapse of two cell towers. While the article indicates that two victims had been identified, a third victim, who was also killed in the collapse, was a firefighter, responding to the scene to provide emergency assistance to the workers.

B. Fire

At least once per month, a monopole cell tower somewhere in the U.S will burst into flames, and an unspecified number of them will, thereafter, proceed to collapse in a flaming heap.

The most notorious example was a monopole cell tower in Wellesley, MA, which erupted into flames on a main thoroughfare, and the entire tower proceeded to collapse in flames.

Meanwhile, hundreds of drivers drove past it.

To watch a color video of that event, simply go to *YouTube* and perform a search for "Cell Tower Burns to the ground." The results will include one or more color videos of the flaming tower collapsing as motorists drove by.

Annexed respectively hereto as Exhibits "G" and "H" are photographs depicting, and articles describing, a mere sampling of well-documented monopole cell tower fires.

C. <u>Ice Fall</u>

A natural, but well-known danger that is also associated with the placement of monopole cell towers in close proximity to homes or public areas, is "ice," and the genuine risk that can come during the winter-early spring, when ice, which has formed upon an installation, begins to melt, comes loose, and hurdles to the ground.

With one hundred fifty (150) feet being the most common height of monopole cell towers in New York, a physicist prepared a formal report detailing the speed of ice chunks, which are commonly known to fall after a winter thaw, based upon a tower height of 150 feet.

Annexed hereto as Exhibit "I" is a true copy of a physicist's report dated April 16, 2013, which calculates the speed of ice falling from a one hundred fifty (150) foot cell tower at sixty-seven (67) miles per hour.

As logic would dictate, if chunks of ice fell from a height of eleven (11) stories, they could seriously injure or kill anyone they strike. Anyone coming in close proximity to the *undersized* fenced-in compound proposed by *Homeland* would be well within the proposed tower's ice fall zone.

Worst of all, chunks of ice falling from cell towers generate no noise, and as such, anyone in such danger area would receive no warning before being struck by same.

D. Debris Fall

Finally, there is also the danger associated with debris fall, which pertains to those cases within which entire sections of a monopole (up to ten feet in length), antennas, or decorative pieces of a tower, actually fail and fall off.

"Fake tree" monopoles, including the "monopine" being proposed by *Homeland*, are known to have their "decorative elements" literally fall off the structure. When they do, they become dangerous projectiles that hurl towards the ground. Annexed hereto as Exhibit "J" is an image from a video posted by ABC7, KVIA news, Florida, which can be viewed at that stations' website, and is an example of same where a "decorative frond" fell from a cell tower and "sliced through" a man's car.

Other debris fall cases often occur during routine maintenance work on the cell tower, during which a portion of a tower, an attachment on the tower, or a tool used to work on the tower, are caused to fall from the Tower.

Much like falling ice, falling debris exposes anyone in the debris fall zone to extreme danger of personal injury or death if the falling debris or tools strike them. Exhibit "K" is a photographic image of a worker's lump hammer, which, after being dropped from a too closely placed tower, crashed through the roof of a nearby structure.

While the rest of the Country is actively enacting and enforcing ordinances to require safe zones around monopoles to protect their citizens and the public from the well-documented dangers described hereinabove, it would behoove the Town/Village of Mount Kisco to apply its Zoning Ordinance similarly.

Granting *Homeland's* application to construct its massive tower at the specific location it proposes would clearly violate the intent of the Town/Village of Mount Kisco's Zoning Code

because it would virtually guarantee that the adjacent neighbor's property, and any licensees who visited that area upon the site owner's property, would be within or would have access to, the fall zone, ice fall zone, and debris fall zones of the proposed tower.

Accordingly, *Homeland's* application should be denied.

POINT III

§ 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 Would Allow *Homeland* to Increase the Height of the Proposed Wireless Facility Without Further or Prior Zoning Approval

As substantial as the adverse impacts upon the nearby homes and communities will be if the proposed wireless communications facility was constructed at the one hundred forty-five (145) foot height currently proposed by *Homeland*, if such facility were to be built, *Homeland* might unilaterally choose to increase the height of the facility to as much as one hundred sixty-five (165) feet. The Town would be legally prohibited from stopping them from doing so, due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012.

§6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 provides that notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, a State or local government may not deny, and shall approve, any eligible request for a modification of an existing wireless facility or base station that does not substantially change the physical dimensions of such facility or base station. *See* 47 U.S.C. §1455(a).

Under the FCC's reading and interpretation of §6409(a) of the Act, local governments are prohibited from denying modifications to wireless facilities unless the modifications will "substantially change" the physical dimensions of the facility, pole, or tower.

The FCC defines "substantial change" to include any modification that would increase

the height of the facility by more than ten (10%) percent of the height of the tower, plus the height of an additional antenna, plus a distance of ten (10) feet to separate a new antenna from the pre-existing top antenna, up to a maximum height increase of twenty (20) feet.

Considering the even more substantial adverse impacts which an increase in the height of the wireless communications facility to one hundred seventy (170) feet would inflict upon the homes and communities nearby, *Homeland*'s application should be denied.

Once again, this is especially true since *Homeland* has not even established that the proposed tower is actually needed to provide wireless coverage within the Town.

POINT IV

To Comply With the TCA, *Homeland*'s Application Should Be Denied in a Written Decision Which Cites the Evidence Provided Herewith

The Telecommunications Act of 1996 requires that any decision denying an application to install a wireless facility: (a) be made in writing, and (b) be made based upon substantial evidence, which is discussed in the written decision. *See* 47 U.S.C.A. §332(c)(7)(B)(iii).

A. The Written Decision Requirement

To satisfy the requirement that the decision be in writing, a local government must issue a written denial which is separate from the written record of the proceeding, and the denial must contain a sufficient explanation of the reasons for the denial to allow a reviewing court to evaluate the evidence in the record supporting those reasons. *See, e.g.* MetroPCS v. City and County of San Francisco, 400 F.3d 715(2005).

B. The Substantial Evidence Requirement

To satisfy the requirement that the decision be based upon substantial evidence, the decision must be based upon such relevant evidence as a reasonable mind might accept as

adequate to support a conclusion. "Substantial evidence" means "less than a preponderance, but more than a scintilla."

Review under this standard is essentially deferential, such that Courts may neither engage in their own fact-finding nor supplant a local zoning board's reasonable determinations. *See e.g.* American Towers, Inc. v. Wilson County, Slip Copy 59 Communications Reg. P & F 878 (U.S.D.C. M.D. Tennessee January 2, 2014)[3:10-CV-1196]

To ensure that the Board's decision cannot be challenged under the Telecommunications Act of 1996, it is respectfully requested that the Board deny *Homeland*'s application in a separate written decision, wherein the Board cites the evidence upon which it based its final determination.

Conclusion

In view of the foregoing, it is respectfully submitted that *Homeland*'s application for approval to build its proposed wireless communications facility should be denied in its entirety.

Respectfully Submitted,

Andrew J. Campanelli

VILLAGE/TOWN OF MOUNT KISCO STATE OF NEW YORK

In the Matter of the Application of:

Homeland Towers, LLC

EXHIBITS IN OPPOSITION

Application for Site Plan Approval, Special Use Permit and Steep Slope Permit

Premises: 180 S. Bedford Road

Tax Parcel ID#:

80.44-1-1

Zoning:

CD - Conservation Development District

EXHIBITS IN OPPOSITION

Respectfully Submitted,

Andrew J. Campanelli Campanelli & Associates, P.C. 1757 Merrick Avenue, Suite 204 Merrick, NY 11566

Attorneys For:

Rex Pietrobono, 2 Scarles Street, Mount Kisco, New York

Exhibit List

A	Adverse Aesthetic Impact Letters
В	Real Estate Professional Opinion Letter
C	Verizon Coverage Map for the Proposed Location
D	Image of Oswego Cell Tower Collapse
E	Images of Collapsed Towers
F	Article pertaining to Fatalities in Kansas Cell Tower Collapse
G	Images of Cell Tower Fires
Н	Articles regarding Cell Tower Fires
I	Physicist's Report re Ice Fall
J	Article Pertaining to Decorative Element of Cell Tower "Slicing Through" a car.
K	Image of Hammer Which Crashed Through the Roof of a Structure

2 Sarles Street Mount Kisco, New York 10549 October 12, 2020

Planning Board Village/Town of Mount Kisco 104 Main Street Mount Kisco, NY 10549

RE: 180 South Bedford Road: Cell Tower Aesthetic Impact Statement—Rex Pietrobono

Dear Planning Board Members:

This letter is from Anna and Rex Pietrobono, addressing the negative aesthetic impact of Homeland Tower's proposed installation of a 140 ft cell tower just outside of our westerly property line near the South Bedford Road entrance to Wildlife Preserve and Marsh Sanctuary.

We purchased our home in 1996 and have raised our three daughters here—all of whom still reside with us due in large part to our beautiful and unique, stone terraced and manicured, two-acre property that is blessed with natural wooded surroundings. Each of us uses our property on a daily basis whether for jogging around our perimeter path, walking alongside our cats, exploring the natural rock outcroppings with their varied moss and mushroom species, having afternoon tea or coffee as the sun approaches the tree-lined horizon, and often observing an abundance of wildlife traversing the very area where Homeland Towers asks permission for its diametric use. In summary, that westerly location is our best view.

The north of our property closely fronts a major thoroughfare. To the east, we closely border Sarles Street, a narrow road serving many residential properties to the south, but which are out of sight. And, our rear yard to the south abuts a dense wooded area of deciduous trees which limit the sunlight in that location.

Thus, our sole prized vista is the western portion of our property. This western viewscape is not only seen and enjoyed from outside, but is literally framed like a piece of artwork by a large 10 ft x 4.5 ft picture window in our second floor master bedroom. It is also the backdrop to the first floor wall of sliding glass doors alongside extra double-hung windows, as well as the corner of our front porch. We see this view every morning as we open our curtains, throughout the day, and as the final picture of the day as we draw them to a close.

If a special use permit is granted to Homeland Towers to replace our only clear and serene view with an enormous steel tower, the value of our property will unequivocally decrease. Homeland Tower's 14 story steel monument could only be *partially* screened at best. More than 30 full growth trees have been marked to be cut down by Homeland Towers. And, even that limited screening would only be temporary since virtually every existing tree extolled as 'screening' is in various stages of death and dying, due to choking vines as thick as a person's forearm being allowed to strangle the life out of them for years.

As if the view of the steel tower itself isn't bad enough, one of Homeland Tower's engineers announced during the aforementioned walking tour that the entire concrete base pad (with all of its power, generators, transformers, and future additions, etc. to be added on top of it) will have to be heightened by more than 10 ft of added dirt. Therefore, not only would the steel tower be 140 ft tall, but it would also sit atop an elevated pad at least 10 ft above the natural ground level habitat. Pushing the steel monolith even higher and bringing its base, housing, and equipment into our full view. Moreover, that massive pad would fill-in the existing natural ravine, effectively transforming the natural geography of that critical point where deer, turkeys, box turtles, and an abundance of species of birds all migrate through on a regular basis.

While most of us would like improved cell service, that does not excuse the capricious selection by the landlord and Homeland Towers of the outermost perimeter of a 24+ acre parcel of land to locate their cell tower; in doing so, ensuring the degradation of my family's quality of life, enjoyment of our property, and the intrinsic value of our home. This profit-driven endeavor by Homeland Towers comes with a commensurate financial impact borne by my family. Homeland Towers acknowledged the disparate negative impact to our home at the start of a walking tour with the Planning Board on October 2, 2020. By way of alternative sites on that parcel, we suggested the mountain top where the flat foundation of an old tennis court remains, has an open canopy above, and is surrounded by large healthy trees more than sufficient to screen the cellular base and pole.

The proposed solar farm project needs to be mentioned here otherwise both projects *de facto* continue to be segmented as to their overall impact upon the 180 South Bedford Road parcel. The subject parcel falls short of the 25 acre threshold for a solar farm. Both projects should be redirected to a commercial district such as the vacant land across from the Mount Kisco Post Office, which as of the date of this Memo, has an "AVAILABLE" sign posted on its fence. We have suggested that Radio Circle location as an off-site *alternative* to this 180 South Bedford Road site and *not in addition to* a future Sunrise Solar Solutions, LLC application.

As submitted, these proposed projects are incompatible with the 180 South Bedford Road property. If you are still going to look at these applications, however, consider that had the solar farm design been scaled back to fit within the buffers and boundaries, it would have taken on a different more topographically balanced configuration. You have to ask yourself why the solar applicant insists on pushing its project so far east, when there is an open field due west. It leads me to believe the solar applicant has another agenda envisioned—including a quick sale to some other solar company. Further, the odd vertical shape of the proposed solar farm suggests that the open field is being reserved for potential future project expansion.

In light of the foregoing and more, it is respectfully asked that the application for a special use permit for a cell tower in that location be denied.

Sincerely,

Anna C. Pietrobono

Rex M. Pietrobono

October 7, 2020

2 Sarles Street
Mount Kisco, New York 10549

Planning Board Village/Town of Mount Kisco 104 Main Street Mount Kisco, NY 10549

RE: 180 South Bedford Road; Cell Tower Aesthetic Impact Statement—John Pietrobono

Dear Planning Board Members:

My name is John Pietrobono. I have lived at 2 Sarles Street, Mount Kisco, NY 10549 with my brother Rex and his family since 1996. I make this statement to you to describe the adverse aesthetic impact that I and my brother's family will suffer in perpetuity if the Homeland Towers application to build a 145 ft cell tower next to our home is approved.

The views from the living room, dining room, bedrooms, and backyard will forever be diminished by the presence of this 14 story eyesore. Instead of looking out our rear windows at the deer and wild turkeys that frequent our property, I'll be looking at a 145 ft unsightly cell tower tower that is completely out of proportion to anything in the area.

Several years ago we had to jump through hoops to get approval to rebuild our existing porch on our existing footprint. Yet now you seek to throw out all rules and regulations to approve this ridiculous project. My brother Rex had to argue to remove six dying trees on our property. The removal of a seventh tree was denied approval, though in poor condition and posing a danger to our house. Yet now you're set to approve the removal of many more trees from a natural setting to make room for a massive tower that doesn't belong there.

If you have any doubts about the adverse aesthetic impact of this monstrosity, drive to the park and ride on route 172 at I-684.

A 145 ft cell tower will ruin our view, lessen our quality of life and lower our property value. I urge the board to deny this proposal. Thank you.

John G. Pietrobono

An 12. Fetrobons

Planning Board Village/Town of Mount Kisco 104 Main Street Mount Kisco, NY 10549

Dear Planning Board Members,

My name is Sarah Pietrobono and I have resided at 2 Sarles Street, Mount Kisco, NY 10549 since the day I was born here in 1998. This is a residence I love dearly for its beautiful, natural scenery. I can remember running and playing through the trees as a child, and now I spend a great deal of time outdoors on this property taking walks here every day. I often sit on our patio to enjoy the beautiful view of the forest and sunsets as well. The addition of a cell tower would completely destroy the view I've enjoyed so much for the past 22 years of my life. If the cell tower is constructed, not only will it be a giant, 145-ft. tall blemish on the otherwise pristine forest, but it will also produce an awful, intolerable humming noise.

The tower's presence and hum will undoubtedly negatively impact the wildlife that flourishes here as the location of the tower is being squeezed between the small space between our property and a nature preserve. Seeing and hearing the beautiful bird calls each morning as I have my morning cup of iced tea is something I cherish, but this will inevitably be destroyed by the tower and its humming.

It is for the reasons I've stated above that I implore you to deny the construction of this cell tower in this location as it simply is not the right location for a cell tower, and instead, find a more suitable, alternative location that is not so close to a residence and nature preserve.

Sincerely Sarah Pietrobono

2 Sarles Street Mount Kisco, New York 10549

October 7, 2020

Planning Board Village/Town of Mount Kisco 104 Main Street Mount Kisco, NY 10549

RE: 180 South Bedford Road: Cell Tower Aesthetic Impact Statement—Caitlin Pietrobono

Dear Planning Board Members:

My name is Caitlin Pietrobono and have lived at 2 Sarles Street, Mount Kisco, NY 10549 since 1996. This impact statement is personally written to you to describe the adverse impact that me, my family, and the community at large would suffer if the Homeland Towers application for the proposed 14-story, 145 ft cell tower next to our home were approved.

Firstly, the tower will be extremely close to our home and property. Secondly, the tower will border on the Marsh Sanctuary and endanger the existing ecosystem. To build this monument to technology merely a few feet away from an existing monument to nature is an affront. An Environmental Impact Review must be undertaken to fully assess the effects on the environment, according to SEQR. The local flora and fauna will be forced out of their natural habitat and pushed towards civilization. A foreseeable issue would be the displacement of the deer population within the wooded area which could cause an increase in traffic incidents involving deer. In fact, during a walkthrough of the proposed location for the tower, a large male deer was forced onto our property and ran by me only feet away. This is not a natural occurrence and was caused by the presence of multiple cars and people. The only place for the displaced animals to go is into the community.

I walk the fringes of our property at least once a day accompanied by my cats. The tower will be close enough to impose multiple negative effects, including noise and vibration pollution. This would affect me directly as I would consistently be in close proximity to a radiation-emitting tower. While I understand safety precautions will be undertaken, as a chronically ill person, I am at high risk for adverse effects. In event of malfunction or aberration, there is a direct risk of the tower affecting my well-being.

Please reconsider the placement of such a disruptive piece of equipment.

9

Sincerely.

Caitlin Pietrobono

Planning Board
Village/Town of Mount Kisco
104 Main Street
Mount Kisco, NY 10549

Dear Planning Board Members:

My name is Kim Pietrobono. I currently reside at 2 Sarles Street, Mount Kisco, NY 10549, just as I have my entire life for 24 years. One of my greatest sources of pride is where I grew up and the wonderful childhood, and life, it has afforded me. I am fortunate to have been raised on a bucolic, and idyllic refuge (from surrounding commercialism) that has always inspired me to provide my future children with an upbringing like that of my own; surrounded by the same kind of unadulterated natural beauty as our property.

Slowly but surely the surrounding commercialism has started closing in on our property and threatens to extend into our figurative sanctuary, and literally, the Marsh Sanctuary next door. When nearby properties were taken over, we accepted the change despite our reservations. However, I refuse to accept Homeland Tower's proposal of building a 145-foot cell tower right within our setbacks and buffer zones—this project literally and figuratively hits too close to home.

The proposed location of the cell tower within our setbacks and buffer zones is not only wrong morally, but also logistically, aesthetically, and fundamentally. First of all, the purpose of a setback is to separate two land uses so that conflicts and impacts are minimized, and to protect individuals and property from natural hazards. The existence of these zones recognizes the fact that nature and individuals need protection from harmful imposition, and to encroach upon them is ethically questionable.

Secondly, the idea of unnecessarily cutting down numerous trees and flora in order to erect an unnaturally large, metal tower within eyeshot of a NATURE PRESERVE (Marsh Sanctuary Nature Preserve), comes across as neglectful. It's a **nature preserve**. That means to

preserve nature. Having to point out something so rudimentary feels insulting to the intelligence of everyone involved.

Granting this project takes everything from us. It takes away our past, our present peace of mind, and our potential futures. It erases the beautiful landscape that I've enjoyed my entire life, creates stress and uncertainty in already trying times, and devastates our financial prospects.

We stay and we lose, we leave and we lose. If we stay we have to live with a giant, metal, humming tower defiling our virgin landscape. If we leave, that would mean somehow we managed to find a buyer interested in a property with the cell tower so close to it, sold it at a reduced price, and abandoned the land which we have loved, manicured, enjoyed, and taken care of for so many years. No matter how you frame it, we come out the losers in this scenario. And all I can ask is, why?

I would like to emphasize that I am not opposed to the project as a whole. I recognize the need for a cell tower in the area to help with the holes in our service coverage. But the tower needs to be built in a different location—one that doesn't unnecessarily decimate the surrounding nature or the value of our property.

Kim Pietrobono

William Raveis Real Estate Katonah Office 95 Katonah Avenue Katonah, NY 10536

October 6, 2020

Planning Board Village/Town of Mount Kisco 104 Main Street Mount Kisco, NY 10549

RE: Proposed Cell Tower-180 South Bedford Road Entrance

Dear Mount Kisco Planning Board:

My name is Dorothea ('Dee') Roider. I have been a Realtor Estate Broker in Westchester County, New York for the last 34 years, during which time I have held the position as the number one listing agent for 24 consecutive years. In my career I have handled over \$200,000,000 dollars in properties listed and sold.

I am also a life-long resident of Mount Kisco, and as such, I have always been active in local community causes. I am a member of professional organizations including the National Association of Realtors, New York State Association of Realtors, and Hudson Gateway Multiple Listing Services.

It has been brought to my attention that the location of a 145 ft cell tower has been proposed at 180 South Bedford Road in a spot situated between the Pietrobono home, Marsh Sanctuary, and South Bedford Road.

In my professional opinion, the installation of the proposed tower in that location would certainly have a negative impact on and reduce the value of the residence located at 2 Sarles Street, Mount Kisco, NY 10549 by approximately 20%; making said home less saleable, even at a reduced purchase price.

While I understand there may be a need in our community for improved cellular telephone coverage in nearby areas, such a project in that location would create a disproportionately adverse financial impact upon the 2 Sarles Street residence.

In my experience, I have had prospective buyers decline suggested properties for as little as being located near power lines. Having a 145 ft cell tower within such close proximity to the property would certainly reduce its number of potential buyers. I am sure that any potential buyer would have a lot of questions about the cell tower, and, because of all the notice about the proposed cell site and my obligation to my clients, this information would have to be disclosed to any future buyer. Thus, limiting the number of buyers that would be willing to purchase the property.

Sincerely, Dee Roile

Dee Roider

Coldwell Banker Residential Brokerage Katonah - Bedford 165 Katonah Ave, Katonah, NY 10536

October 7, 2020

Planning Board Village of Mount Kisco 104 Main Street Mount Kisco, NY 10549

RE:

Cell Tower Proposed for 180 South Bedford Road, Mount Kisco, NY 10549

Members of the Mount Kisco Planning Board:

It has come to my attention that Homeland Towers and Verizon Wireless intend to build a 140 foot tall telecommunications structure located very closely to Route 172 and the Pietrobono home at 2 Sarles Street, Mount Kisco, New York 10549, as well as the neighboring Marsh

Sanctuary Wildlife Preserve caretaker's house.

As a practicing real estate agent in this area for the past forty-three (43) years and, presently, an associate realtor for Coldwell Banker in Katonah—Bedford, I can affirm that a significant number of buyers will not be interested in purchasing a house, even as nice as the Pietrobono home, with a cell tower so close to it. As it stands today, the present view at the Pietrobono residence is the same as when they bought it in 1996, i.e. wildlife, woods, and roads with no direct view of any other buildings. The introduction of a tall steel tower would undoubtedly NEGATIVELY IMPACT their property value.

In my professional opinion, the installation of such a commercial cellular tower structure would have a significant adverse aesthetic impact upon the Pietrobono home causing it to suffer a

reduced property value of roughly 18%.

There are other geographic locations in the immediate area which would be far less impactful and concealed from open view of nearby residences and all of the people driving into Mount Kisco. I am confident in the Mount Kisco Village and Town officials to find a suitable location which does not unfairly and adversely impact one of their residential homes.

Very truly yours,

Mariangela Cavapaioni Mariangela Cavanque

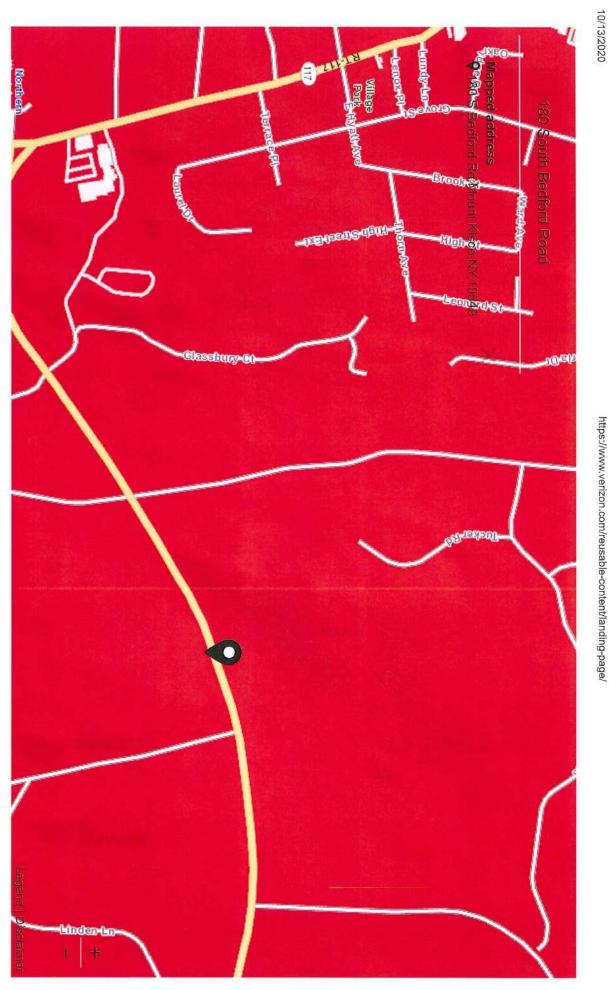


EXHIBIT D

FREHOUSE

HOME | HOME | BSWEGO, NEW YORK CELLULAR TOWER CRUSHES CHIEF'S VEHICLE

Oswego, New York Cellular Tower Crushes Chief's Vehicle

Within a matter of seconds Thursday morning, the cellular tower behind the Oswego Fire Department's eastside station went from being 165 feet tall to being 165 feet long.

NOVEMBER 14, 2003



VIEW GALLERY

STEVE YABLONSKI/OSWEGO BUREAU CHIEF

It stretched for more than half the length of a football field, causing considerable damage but no injuries.

Within a matter of seconds Thursday morning, the cellular tower behind the Oswego Fire Department's eastside station went from being 165 feet tall to being 165 feet long.

Winds, in excess of 55 mph toppled the tower in an easterly direction; the fire chief's vehicle and a section of a fence were crushed.

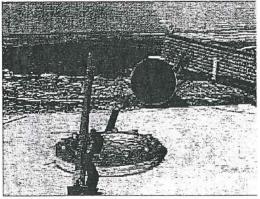
There were no injuries, Chief Ed Geers reported.

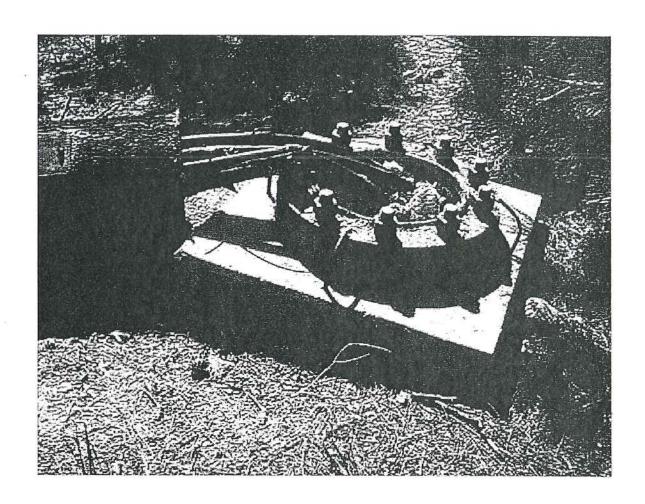
Firefighters quickly cut off the power to the tower, Deputy Chief Mark McManus added. "Nobody got hurt, but it got the adrenaline pumping," he said.

The tower fell in the best possible spot, the chief said.











Two Men Identified, Tower Related Fatalities Increasing In Kansas

By WIBW, Ariana Cohen | Posted: Tue 11:48 AM, Mar 25, 2014 | Updated: Mon 1:56 PM, Aug 17, 2015

BLAINE, Kan. (WIBW) The two workers who died after two communications towers collapsed near Blaine Tuesday have been identified and the Federal Occupational and Health Administration is involved in the investigation.

Pottawatomie County Sheriff Greg Riat has identified the men as 25-year-old Seth Garner of Saint Peters, Missouri and 38-year-old Martin Powers of Saint Charles, Missouri.

They died Tuesday while working at the 250 foot level of the telecommunication tower that collapsed. Riat said Powers died at the scene and Garner at a local hospital.

13 News has learned the two men had worked for Wireless Horizon of Saint Louis for less than five months. Wireless Horizon is a subcontractor working for the Union Pacific Railroad.

The two men were dismantling an old tower which was right next to a new tower when the accident happened, destroying both towers.

Michael Moon, Acting Director for OSHA (Occupational Safety and Health Administration), says there were 13 tower related fatalities last year and 4 so far this year.

"They are in a very high risk job. in 2013, we were more than double in the number of fatalities for tower related incidents than we were in 2011 and 2012 combined," said Moon.

This isn't the first time Wireless Horizon employees have been killed. According to http://www.wirelessestimator.com/breaking_news.cfm, in 2005, an Illinois technician was killed after falling 120 feet. Wireless Horizon was fined \$1,500.

And in West Virginia, five people have died on or around cell phone towers in the past eight months.

Their deaths are attributed to towers collapsing and equipment failures, according to http://www.wvgazette.com, a West Virgina online newspaper.

"There isn't a specific cause that we can say but they are all preventable, should be preventable, if employers would just simply take a few extra moments and a few extra precautions to check and see what they are doing," said Moon.

Moon told 13 News they had investigators on site Wednesday near highway 16 and Rock Creek Road where the incident happened. He said the investigation could take up to 6 months. Violations could mean a fine anywhere from \$7,000-\$70,000.

https://www.wibw.com/nome/headlines/Two-Kansas-Towers-Reported-Down-Possible-Injuries-252268221.html?hpt=us_bn9



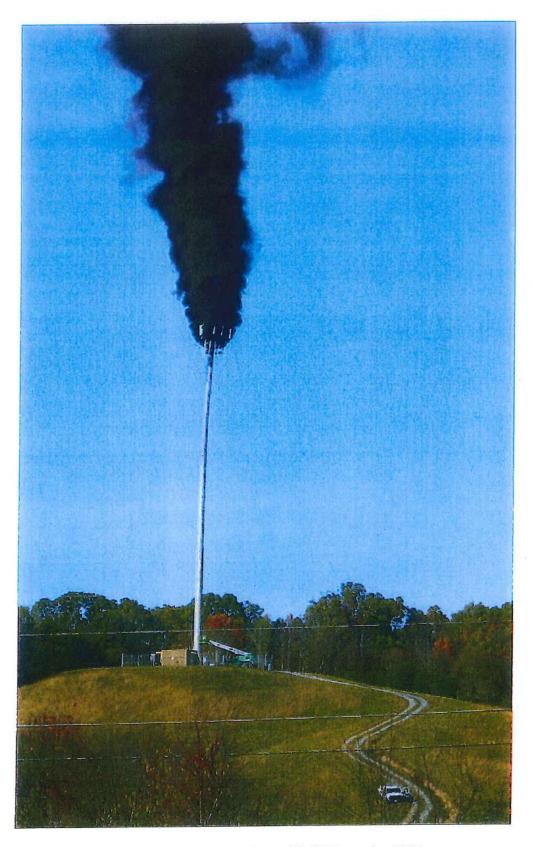
Wellesley, MA January 2009



Philadelphia, PA June 2013



Montgomery MD June 2015



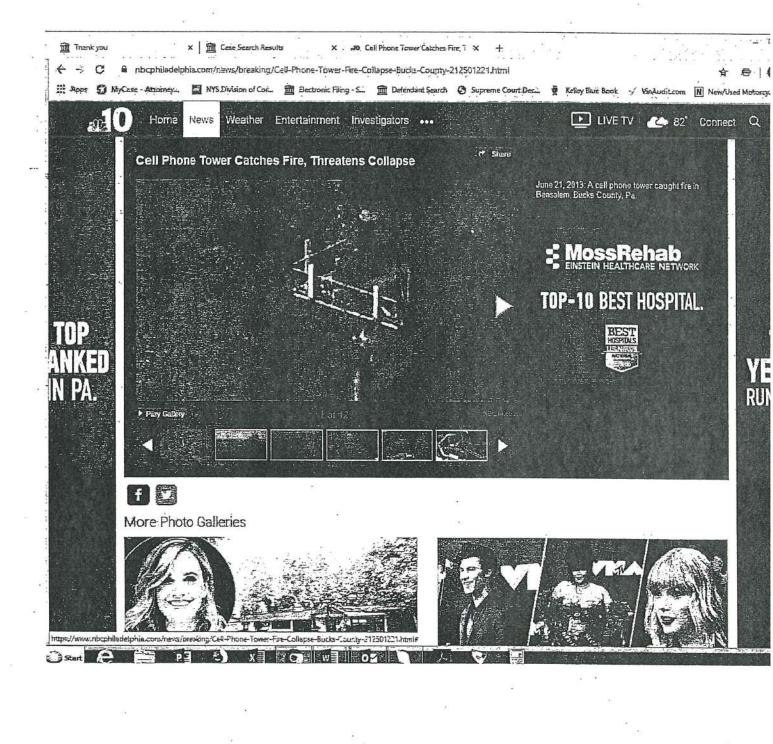
Greenville TN November 2014



Lilburn, GA December 2011



Newport, VA June 2015



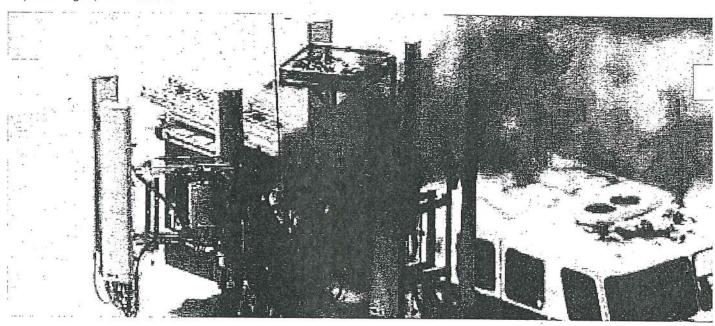
Hotelda

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Cellphone tower catches fire in Sanford

Updated: Aug 21, 2013 - 4:15 PM



SANFORD, Fla. - A cellphone tower caught fire Wednesday in Seminole County, according to fire rescue officials.

The fire happened on Historic Goldsboro Boulevard while cell tower crews were doing welding work, officials said.

Officials said there were four employees working on the tower at the time of the fire, and one off-site.

"They (workers) got down before we even got fire crews on the scene," said Sanford Fire Chief Tim Robles.

They were adding shaft and phalanges, fire officials said.

The workers realized they had to get down fast. They didn't have time to lower the bucket so they secured it and got down on their own.

Businesses were evacuated and roads within a 170-foot radius of the 127-foot tower were closed.

The city fire marshal said the heat made the metal expand, causing the tower to lean southward and said there was concern at one point that the tower would fall.

Once the fire was watered down and the metal cooled, it amazingly righted itself, the fire marshal said.

https://www.wftv.com/news/local/cell-phone-tower-catches-fire-seminole-co/271605586

https://www.gwinnettdailypost.com/archive/cell-tower-fire-closes-rockbridge-road-evacuates-day-care/article_c799bdd9-1162-52a6-8cd7-7784653883ae.html

Cell tower fire closes Rockbridge Road, evacuates day care

Josh Green Dec 1, 2011



Firefighters work to extinguish a fire at a cell phone tower at Rockbridge and Lilburn-Stone Mountain roads near Lilburn on Friday.

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ON AR HOW

THE SEAR HARRITY SHOW

3 PM - 6 PM (EDT)

There are currently no traffic incidents.

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CURRENT CONDITIONS
Partly Cloudy, H 92° L 77°



MOBNES Partly Cloudy, H 92° L 77°

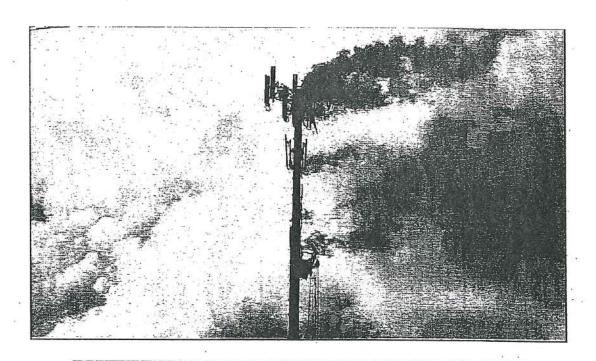


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THE LATEST NEWSGAST

LOCAL



CELL PHONE TOWER BURNING, COULD FALL

79°

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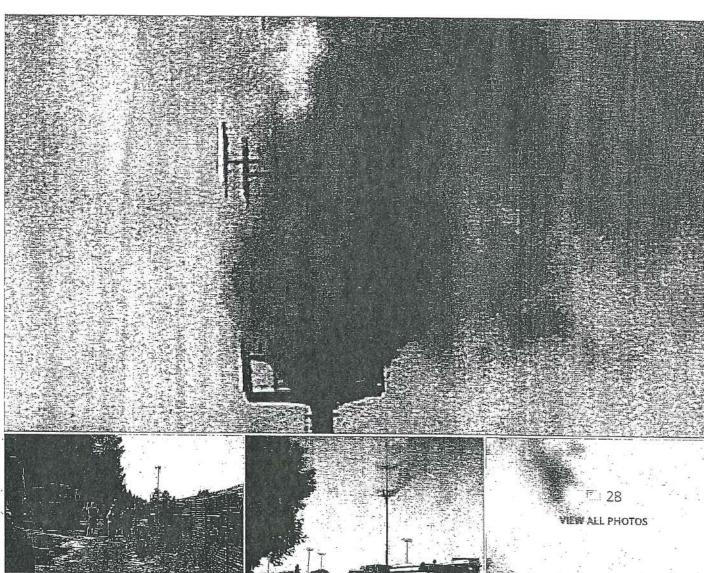
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OPTENTIBEILEN,

Cell tower fire near Thurston High sends up smoky plume

by News Staff Saturday, September 13th 2014





TE

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NJ Cell Tower Leans Dangerously After Cables Catch Fire: Cops

Published May 16, 2013 at 11:59 AM





A cell phone tower caught fire in New Jersey Thursday morning, prompting the structure to lean dangerously to its side, police said,

Police said the cell phone tower tilted five or six feet to one side after its cables caught fire.

The tower is on the edge of the fire department's academy in Middletown.

The leaning tower is not close to any buildings, any authorities are trying to determine if they can upright it or it needs to be removed.

-Brian Thompson contributed to this report

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UPDATED: Cell Tower May Collapse After Fire

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Friday, 1:48 p.m.:

Residents of the Bensalem Woods complex remain out of the their homes due to safety concerns, Bensalem police say.

PECO crews were called to the scene to de-energize electric service to the tower.

As of 1:45 p.m., the tower is still standing, but it is leaning over the Public Works facility.

Thackeray Crane representatives are at the scene to see what can be down with the leaning tower.

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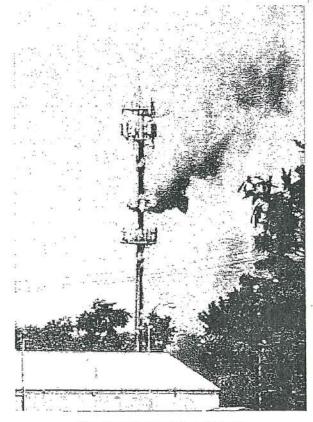
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Credit: John Buczek







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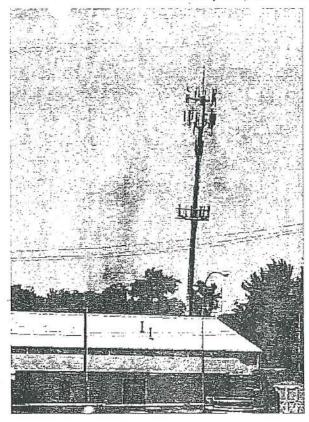
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Credit: Neal K Sanderson/Submitted

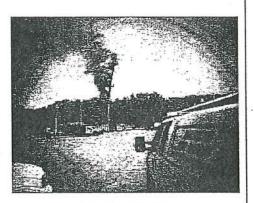
More to follow.

Original story:

A cell phone tower off Byberry Road at the Bensalem Township Public Works Complex is reported to be on fire and may collapse, according to reports.

The tower is leaning and officials could be heard on the scanner order evacuations for the Bensalem Township complex and nearby

Bensalem



A photo of the fire. Credit: Twitter.com/Bensalem_Fire

Woods housing complex.

According to NBC 10, the township's Public Works manager confirmed the tower may fall on their facility.

Photos from the scene show smoke and flames billowing from the tower. A fire official said the tower was "well involved."









UPCOMING EVENTS



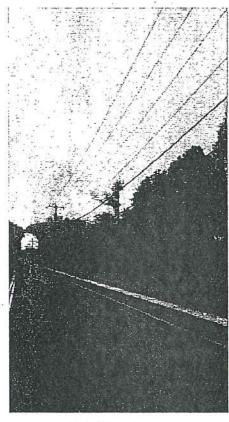
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Firefighters ...ere heard on the radio staging crews in preposition for a possible collapse.

Emergency crews responded to the scene just after 11 a.m.

Bensalem Public Safety Director Fred Harran said on 6abc's noon newscast that crews were working on the tower around the time the fire is believed to have started.



Credit: Chris Doster

Alleged Arsonist
Firefighter Charged in
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UPDATED: SWAT Standoff Escalated After Man Shot At Officers, Cops Say December 20, 2014 In "Cops, Courts and Fire" Hulmeville Residents Pack Meeting Room For Hearing On Proposed Cell Tower March 12, 2015 In "Government" Fire and Iron Children Without Parents Designer Bag Bingo

September 7 @ 5:00 pm - 10:00 pm

Toastmasters Meeting September 12 @ 6:45 pm - 9:00 pm

Midnight Madness with the Cairn's Women's Tennis Team September 13 @ 8:30 pm

Bucks County Event Venue Show September 19 @ 4:30 pm - 7:00 pm

Toastmasters Meeting September 26 @ 6:45 pm - 9:00 pm

View All Events



Tom Sofield

Tom Sofield has covered news in Bucks County for seven years for both newspaper and online publications. Tom was honored at the Pennsylvania Newspaper Association Foundation's Keystone Press Awards for his coverage of President Obama's visit to Falls Township and his reporting has been featured

around the globe. When he's not covering news in the area, Tom enjoys checking out the newest restaurants and bars, exploring forgotten places of industry in the area, going to local parks and spending time with his friends and family. If there's one thing you should know about Tom, he is a local news junkie through and through. Email: tom@levittownnow.com Phone: 215-431-1001 → Tom Sofield

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LAS VEGAS SUN

Cell tower fire closes U.S. 95 exit ramp at Jones Boulevard

By William D'Urso

Published Monday, Feb. 4, 2013 | 2:10 p.m.

Updated Monday, Feb. 4, 2013 | 4:20 p.m.

A fire on a Verizon Communications Inc. cell phone tower has forced authorities to shut down the U.S. 95 exit and on-ramps to Jones Boulevard.

The fire started about 11: 30 a.m. when welders were working to reinforce the structure with additional metal plates, Las Vegas Fire & Rescue spokesman Tim Szymanski said.

Szymanski said the ramps were closed because the tower is leaning toward NV Energy power lines.

He said workers were using a crane to take the tower down in sections that was to take about an hour. He said power in the area was shut down while the work is under way.

The ramp remains closed, and it is unclear when traffic will be allowed through, Nevada Highway Patrol Trooper Loy Hixson said.

Workers from NV Energy and Verizon are on scene, but authorities did not know if power to homes or cellphone coverage had been affected.

Welders were working on tower when the fire started, Szymanski said.

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Spark ignites cell tower fire

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Obituaries

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Posted: Monday, January 6, 2014 10:37 pm

The Brownsville Herald

A welder's torch sparked a fire to a cellphone tower late Monday morning in Brownsville, Fire Chief Lenny Perez

Brownsville police cordoned off the area around the tower near East Polk, East Taylor and East 26th streets shortly after 11 a.m.

Sparks from the welding ignited insulation on the wires,

There weren't any visible flames around noon, but smoke could be seen periodically escaping from the body of the tower as residents watched.

Brownsville Public Utilities Board spokesman Ryan Greenfeld said workers cut power to the high-voltage antenna so the fire department could control the fire.

Some residents lost power but it was restored by 1 p.m., Greenfeld said.

The antenna will be disconnected until it is replaced, he



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Brad Doherty/The Brownsville Herald

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A Brownsville Public Utilities Board employee in a bucket truck maneuvers into position to disconnect electrical lines near a cell phone tower at 25th and East Taylor streets that had been on fire. The Brownsville Fire Department said welding sparks ignited the

Posted in Local News on Monday, January 6, 2014 10:37 pm.

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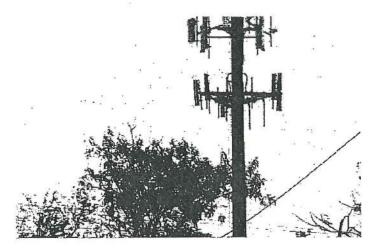
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Cell Tower News: Cell tower catches fire; Crown Castle operates as REIT

By Jarad Matula on JANUARY 10, 2014

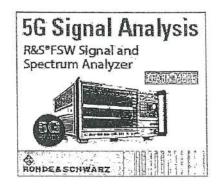
Cell Tower News, Towers, Wireless



Welcome to our weekly collection of all the top cell tower news stories, where we cover global, national, regional, local and distributed antenna system stories. It's the first full week back to work of the new year and it seems that news is happening everywhere. This week's edition is jam-packed with more stories than any previous cell tower news update. A cell tower fire broke out in Texas; Solid and CommScope continue to up their DAS game; and Crown Castle is now operating is a real estate investment trust. But what exactly does that mean? For this answer and more, click on the news stories below and enjoy.

National/global news:

- A spark from a welder's torch caused a cell tower to catch on fire in Brownsville, Texas.
- As of Jan. 1, Crown Castle is now operating as a REIT.
- T-Mobile US and Verizon Wireless will swap spectrum in a deal valued at \$3.3 billion.
- The Federal Communications Commission looks to update RF exposure rules.
- Who's to blame? A year after a tragic tower climber fall, no one is willing to take the responsibility.
 Read this fascinating article that examines each party.
- AGL posted an article on why this will be a strong year for smaller cell tower companies.
- Vertical Consultants will be participating in a Strafford webinar on Jan. 9 to discuss rooftop cell tower
- Inside Towers explains how recent studies show that broadband and tower jobs are driving employment in this country.





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Welding Sparked Cell Phone Tower Fire: Official

Officials figured out what caused the fire that left a cell phone tower leaning, ready to collapse By Karen Araiza

Published Jun 21, 2013 at 11:46 AM | Updated at 3:54 PM EDT on Jul 8, 2013



Police tell us two welders were working on the tower when flames erupted almost 80 feet in the air. NBC10's Deanna Durante reports with the latest. (Published Friday, June 21, 2013)



Crews Work to Knock Down Cell Phone Tower



Big Cat Still in Search of Forever Home



Employee Shoots, Kills Robbery Suspect Inside Metro PCS Store



Toy Company Hasbro Is Saying Goodbye To Plastic

Welders were working 70 feet in the air on a cell phone tower in Bensalem, Bucks County when sparks set off an intense fire ten feet above them. They tried to put it out, but ended up having to race down to get help.

"They rappelled quickly. . .and called 911," said Fred Harran, Public Safety Director for the township.

The fire spread quickly and left the tower, which stands nearly 10 stories high, leaning over precariously. Authorities were afraid gravity would win out and it would come crashing down on top of the township's Public Works Building. But there are also homes and an apartment complex nearby. Anyone who could see the tower burning, could also see it bending and swaying from the heat.

"If the tower was to come down instruments on top of the towers could have become projectiles, exploded on crash and shrapnel may have injured kids playing

THIS AFTERNOON'S TRENDING STORIES





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NJ Cell Tower Leans Dangerously After Cables Catch Fire: Cops

Published May 16, 2013 at 11:59 AM





A cell phone tower caught fire in New Jersey Thursday morning, prompting the structure to lean dangerously to its side, police said.

Police said the cell phone tower tilted five or six feet to one side after its cables caught fire.

The tower is on the edge of the fire department's academy in Middletown.

The leaning tower is not close to any buildings, any authorities are trying to determine if they can upright it or it needs to be removed.

-Brian Thompson contributed to this report

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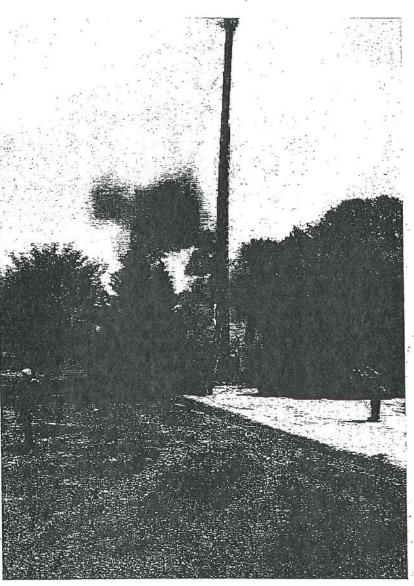
Cell phone tower near Heritage High School catches fire

POSTED 1:00 PM, JUNE 16, 2015, BY BECCA MITCHELL, UPDATED AT 04:13PM, JUNE 16, 2015



This is an archived article and the information in the article may be outdated. Please look at the time stamp on the story to see updated.

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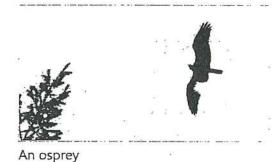


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Osprey nest, electrical problem sparked Poulsbo cell tower fire

POULSBO — An osprey nest and an electrical malfunction ignited the cell phone tower fire that closed down State Route 305 for 12 hours Monday in the Lemolo area. Kitsap County Deputy Fire Marshal Tina Turner said an electrical malfunction at a lighted beacon on top of the 150-foot tower caught the bird's nest on fire before 4 a.m. Monday. Turner said the birds likely damaged the beacon or its 110-volt power wire while building their nest, contributing to the fire.

By Tad Sooter
Tuesday, June 21, 2011 9:22pm | NEWS NORTH KITSAP



POULSBO — An osprey nest and an electrical malfunction ignited the cell phone tower fire that closed down State Route 305 for 12 hours Monday in the Lemolo area. Kitsap County Deputy Fire Marshal Tina Turner said an electrical

malfunction at a lighted beacon on top of the 150-foot tower caught the bird's nest on fire before 4 a.m. Monday. Turner said the birds likely damaged the beacon or its 110-volt power wire while building their nest, contributing to the fire.

The fire spread from the top of the tower down through its hollow interior, burning through electrical cable insulation, Poulsbo Fire Battalion Chief Bruce Peterson said. The tower was glowing red nearly to its base when fire crews arrived. Firefighters allowed the fire to burn out on its own.

The tower leaned precariously, raising concern it could fall across the highway. The state Department of Transportation closed both lanes of SR 305 and detoured traffic through Lemolo. Verizon, which operates the tower



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Cell phone tower to be taken down following fire

NEWS | Dec 02, 2011

By Alexis Stevens, The Atlanta Journal-Constitution

NONE — The engineers and owners of a cell phone tower in Gwinnett County that was damaged by fire will begin the process of taking it down Saturday, authorities said.

Fiber optic cable on the tower caught fire Friday afternoon, forcing road closures in the Lilburn area.

A telecommunications company was welding on the 150-foot tower, in the 500 block of Rockbridge Road, when the fire sparked shortly before 3 p.m., according to Capt. Tommy Rutledge with the Gwinnett County Fire Department.

After the fire was extinguished, fighters remained on the scene for several hours and were wetting down the area around the tower in preparation for any falling embers or the possibility of the tower falling, Rutledge said. The tower was leaning slightly and firefighters created a "collapse zone" in the event it falls, he said.

Rockbridge Road was temporarily closed between Arcado Road and Lilburn-Stone Mountain Road while firefighters battle the blaze, according to Cpl. Jake Smith of the Gwinnett County Police Department. Miller Road also was shut down at the intersection of Lilburn-Stone Mountain Road, Smith said.

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A crew was dispatched to the scene to cut the power supply to the tower, Rutledge said.

Five homes and a daycare center were evacuated as a precaution. About 20 children and 10 adults were moved to a parking lot across the street, away from the hazardous area, Rutledge said.

Bethany Lee told the AJC her home was one of those evacuated. She and other neighbors were concerned about the possibility of the tower falling, she said.

"I am amazed that it did not collapse," Lee said. "That was our biggest worry because all of our homes would have been in grave danger."

No injuries were reported.

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Fire in Pr. George's Cell Phone Tower Extinguished

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By Ruben Castaneda Washington Post Staff Writer Friday, April 14, 2006; 2:42 PM

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Prince George's County firefighters this morning extinguished a fire that broke out in a cell phone tower in Temple Hills where contract workers were applying additional support beams, a fire department spokesman said.

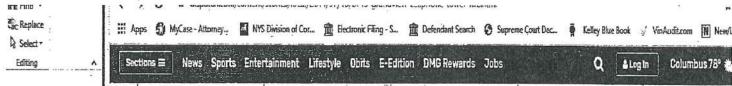
The fire ignited around 11:10 a.m. in the 5300 block of Beech Place, said Mark Brady, chief spokesman for the county fire department. Contract workers were using a welder to apply the support beams, and plastic pipeway inside the tower caught fire, Brady said.

It took county firefighters about a half hour to put out the blaze, Brady said. Firefighter used a 100-foot tower ladder to help extinguish the blaze. Fire and heavy smoke was visible from the top of the tower to about three-quarters of the way down, he said.

Adverthement The tower at one point leaned to one side, and about a dozen workers from a nearby waste management company were briefly evacuated, Brady said.

After the tower cooled, it straightened out, Brady said. The tower, owned by the cell phone company Sprint, sustained about \$75,000 in damage, and Sprint officials said they will replace the tower, he said. No injuries were reported.

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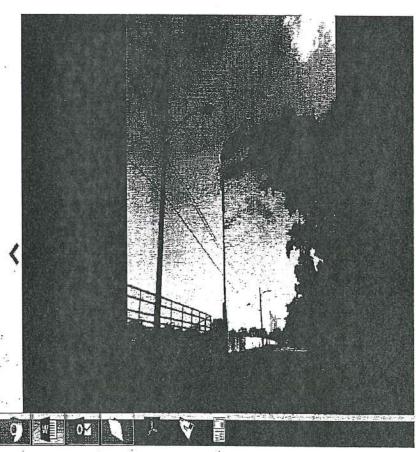


Cell phone tower catches fire in Grandview



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FIREHOUSE

HOME | HOME | MARYLAND CELL TOWER DESTROYED BY FIRE

Maryland Cell Tower Destroyed by Fire

The leaning tower straightened up after it cooled down.

APRIL 14, 2006

Prince George's County firefighters battled a blaze at a cell phone tower in Temple Hills Friday morning.

Units were called to the 5300 block of Beech Place just before 11 a.m. for a 125-foot tower on fire and leaning.

"People see it, and they see this large, humongous metal structure, and it's on fire," Mark Brady, of Prince George's County Fire and EMS. "And the only thing combustible about it is the wiring and the conduit inside of it, and that's exactly what was on fire."

According to the fire department, contractors doing welding work accidentally ignited conduit and wiring inside of the tower shaft. The heat caused the tower to lean, and a waste management company was evacuated.

Authorities said the fire was extinguished in about 35 minutes, and once the tower cooled down, it moved back into a vertical position.

The tower, which is owned by Cingular, was declared a total loss, and the integrity of the tower was compromised, so the tower was scheduled to be dismantled. A mobile tower will be set up until a new permanent structure can be built. Cell phone service may be spotty in the area until the mobile tower is erected.

Damages from the fire are estimated at \$75,000.

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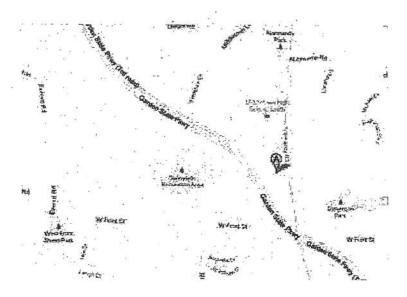
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Update: Cell tower fire unrelated to Middletown police communication interruption

Posted May 16, 2013



Middletown police are operating their radios on a secondary frequency after a fire at a cell tower on Normandy Road knocked out communications.

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By Ashley Peskoe | NJ Advance Media for NJ.com

MIDDLETOWN – Authorities have determined the cell tower fire on Normandy Road was unrelated to the police department's main radio channel going down.

The fire, which has since been extinguished, started around 11:20 a.m. on a Normandy Road cell tower that crews were working on, police said.

The Middletown Police Department's main radio frequency went out shortly after, and was originally believed to be caused by the fire. However, police said at around 2:20 p.m. that they determined the department does not have any equipment on the cell tower and that the radio problem is unrelated.

Police are still working to determine what's wrong with the main radio channel and are operating on a secondary channel. The department's phones are also working, police said.

Editor's Note: This story was originally published at 12:49 p.m.

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An Analysis of Cell Tower Ice Falls

(www.symdesign.us/icefall)

Dr. Dennis L. Rogers

April 16, 2013 .

Abstract: The following is an estimate of the effects of ice falling from cell towers. The velocity of impact and distance of impact from the tower are calculated for the type of ice fragments expected due to freezing rain on the flat surfaces of the tower and antenna structures. These calculations are not intended to be comprehensive but do show the magnitude of effects to be expected.

Introduction: Freezing rain can cause ice to build up on on the flat surfaces of the antenna elements arrayed around a cell phone tower and also on the tower itself. The photo to the right shows such an antenna array. Since these surfaces are oriented vertically one would expect the ice to form primarily in almost flat sheets oriented vertically to the ground. The thickness of these sheets could be up to 6 cm thick due to freezing rain. In what follows I will consider the fate of such a sheet of ice that has detached from the cell tower surface. This could be due to heat from the antenna currents melting a thin layer next to the tower or antenna element. Indeed such ice falls have been observed.

The Physics: The sheet of ice will be subject to two forces: the downward force of gravity and the force exerted by wind resistance. The force of gravity is constant and equal to:

Cell Phone Tower Antenna array in Kent NY.

Eq 1
$$F_{grav} = Mg$$

where $g=9.8 \text{m/s}^2$ is the acceleration of gravity, and M is the mass of the ice sheet in kg. In what follows I will assume the use of MKS units in the calculations.

The force due to wind resistance depends on the actual geometry of the piece of ice but is roughly proportional to the area exposed to the wind, A, the square of the velocity, v, at which it falls and the drag coefficient, C_d, which depends on the exact shape of the ice fragment. Using the EIA-222-C standard for calculating wind forces on antenna structures, the wind force can be written:

Eq. 2
$$F_{wind} = F_0 A v^2 C_d$$

where
$$F_0 = 0.26 \frac{nt - s^2}{m^4}$$

No Wind: The simplest case is where there is no wind blowing. The wind resistance is then only due to the velocity at which the object is falling. The downward acceleration, a, is then given by:

Eq. 3
$$a = \frac{dv}{dt} = \frac{F_{total}}{M} = \frac{-Mg + F_0 A v^2 C_d}{M} = -g + \frac{F_0 A v^2 C_d}{M}$$

For the thin sheets oriented vertically, the second term, the wind resistance force, will be negligible and the ice will fall primarily due to the force of gravity. The cases in which the ice sheet is not oriented vertically will not be considered. Assuming a tower height of 50 meters (about 150 ft) and only gravitational forces, the ice sheet would reach a velocity of 31 m/s or about 67 mph before hitting the ground. Assuming the flat surfaces of the antenna structures are 1 meter sq in size and that the ice is 6 cm thick this would result in a piece of ice weighing approximately 54 kg (119 lbs) striking into the ground with a speed of 67 miles per hour. Since the wind resistance is negligible for vertically oriented sheets, this speed will be independent of the size of the ice sheet.

With Wind: With wind, of course, the ice can move in the direction of the wind before reaching the ground. A sheet of ice can experience considerable force from the wind, especially if the flat side of the sheet is perpendicular to the wind. In this case there is an equation of motion for both the vertical direction and the direction in which the wind is blowing. Vertically the equation is the same as in the no wind case:

Eq 4.
$$a_z = \frac{dv_z}{dt} - g + \frac{F_0 A v_z^2 C_d}{M}$$

while in the direction of the wind:

Eq 5.
$$a_x = \frac{dv_x}{dt} = \frac{F_0 A (v_w - v_x)^2 C_d}{M} - \frac{F_0 A v_x^2 C_d}{M}$$

where a_x is the acceleration in the direction of the wind, v_w is the velocity of the wind and v_x is the velocity of the ice in the direction of the wind. The first term is the force on the windward side of the sheet and the second term is the force on the opposite side of the sheet due to normal wind resistance. The amount the ice travels in the direction of the wind depends on the thickness of the sheet, with thinner sheets traveling further. These equations have been solved to determine the amount of travel in the direction of the wind that the ice sheet would travel before impacting the ground. Again assuming a 1 meter-sq sheet, the figure below shows the distance from the tower the ice sheet would fall for four different thicknesses and weights:

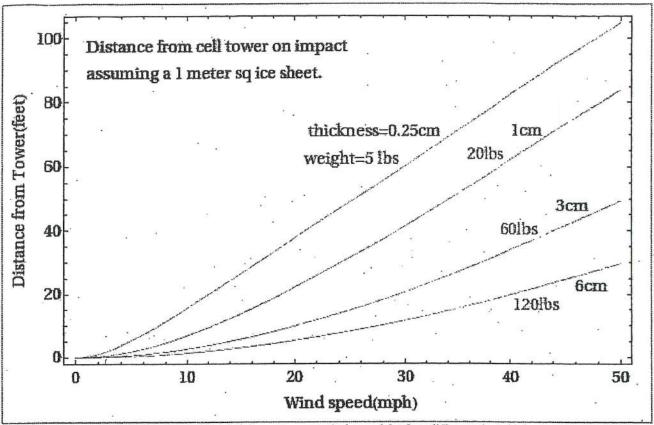
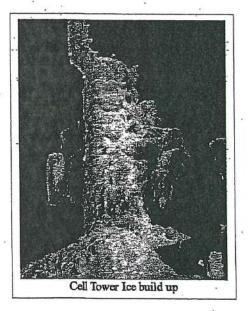


Figure 1. Distance of ice fall from tower vs wind-speed for four different sheet thicknesses

As in the no wind case, the ice sheet would be traveling at approximately 67 mph on impact. Obviously, thinner sheets can travel further from the tower. Note also that, since the weight of the sheet is proportional to it's area, the distance it falls from the tower will be approximately independent of it's cross sectional area.

Summary: This analysis has shown that for one case, that of thin sheets of ice falling from the vertical part of the antenna structures, the ice fall can be a dangerous problem with the ice fragments weighing over a hundred of pounds impacting the ground at almost 70 mph. It also shows that wind conditions can cause these fragments to fall as much as 100 feet from a 150 foot tower with smaller, thinner sheets falling the furthest distances. Of course, as the photo to the right illustrates, in reality the problem can be more complex with the ice fragments being composed of a combination of both snow and ice and the ice build up being more extensive than envisioned in this analysis with possibly even more severe consequences. Therefore care must be taken in positioning these towers to place them sufficiently distant from other structures and places where people may live and work.



* Dr. Rogers received his Phd in theoretical solid stated physics from the University of California at Davis in 1977. Since then he has worked at IBM Research in Yorktown Heights NY for 27 until 2005. Since then he has formed the company Symbiotic Designs and is developing cell phone applications and energy saving devices.



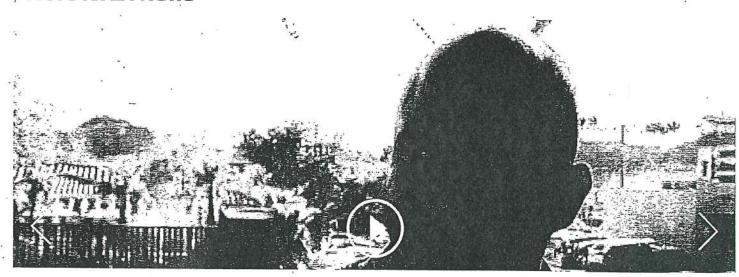
Decorative Frond Falls From Palm Tree Cell Phone Tower, slices through man's car

Posted: Nov 16, 2012 10:28 AM MST Updated: Aug 23, 2016 02:20 AM MDT

ABC-7's Matthew Smith Reports on a decorative frond from palm tree cell phone tower striking a car while a man was driving. From February 2012.

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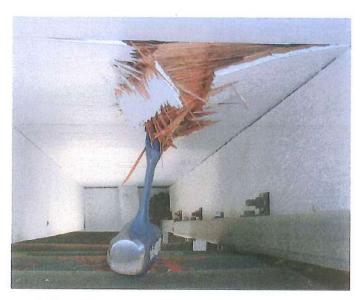


Figure 2 - Hammer Fall from Tower

In order to protect the public, a radial "fall distance" is generally specified from the tower with respect to public access areas. This radius should be flexible based upon circumstances (e.g. the nature of the land and the likelihood of public egress), but it should be certified by a competent engineering study.

Tower structures are specified by the industry-developed TIA/EIA 222-F standard; this is the only "complete" standard with respect to towers in that it deals with all manner of load, ice and wind conditions. The EIA-222 standard, which is periodically updated (the current revision is "F", the next revision, due next year, will be "G"), should be utilized by engineering personnel to ensure the safety of the public, since they are more rigorous than the corresponding BOCA or Civil Engineering standards which do not specifically refer to tower structures.

Specifying other standards in addition to EIA can create conflicts. For instance, the EIA standard calls for a two hundred percent safety margin for some tower components. The corresponding structural standard permits a safety factor of one hundred sixty percent, and in some cases, only one hundred twenty-five percent. The single exception to this rule are the standards promulgated by Wisconsin DILHR, which are designed to work in tandem with EIA-222, and result in a new structure which is approximately 30% stronger than would otherwise be the case. This is good for a new structure, but the DILHR rules also conspire to reduce the number of additional colocated carriers which can be placed on *existing* structures, thereby aggravating the site shortage referred to in Section 1.2.

An important issue with respect to tower safety is ice loading. Typically, cell towers are designed to survive winds of 73 miles per hour with ½" of radial ice. While this specification does not violate the EIA standard, it represents a set of conditions which has been realized more than once within the last 20 years. However, it is precisely these types of overstress conditions which are contained within the 200% EIA and 30% DILHR safety margins. For properly

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