

**VILLAGE OF HIGHLAND FALLS
COUNTY OF ORANGE
STATE OF NEW YORK**

**RESOLUTION NO. _____,
November 7, 2022**

RESOLUTION OF APPROVAL AND NEGATIVE DECLARATION PURSUANT TO THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) REGARDING THE LEASE OF LAND TO VERIZON WIRELESS OF THE EAST d/b/a VERIZON WIRELESS TO PLACE A TELECOMMUNICATIONS FACILITY AT 303 MAIN STREET

WHEREAS, the Village Board seeks to lease a portion of the roof of the existing building with space for utility cabling and access thereto to Verizon Wireless of the East d/b/a Verizon Wireless at the Village's property located at 303 Main Street; and

WHEREAS, Verizon Wireless seeks to construct a telecommunications facility consisting of an approximately 26 foot tall stub tower on the roof of 303 Main Street with required utility connections; and

WHEREAS, on August 16, 2021, the Village Board adopted Resolution No. __, which, among other things, granted a Negative Declaration pursuant to SEQRA (defined below) and authorized the Mayor to sign the negotiated lease agreement and related documents; and

WHEREAS, the Village Board was provided the documentation presented by the applicant, including a proposed Land Lease Agreement, Lease Agreement Exhibit and State Environmental Quality Review Act ("SEQRA") Short Environmental Assessment Form regarding this matter for review and comment; and

WHEREAS, it has been determined that the original EAF contained an error regarding the status of the building's listing on the National or State Register of Historic Places; and

WHEREAS, the EAF has been revised to correct this issue; and

WHEREAS, Verizon Wireless has referred this matter to the New York State Historic Preservation Office ("SHPO") to determine whether the proposal would result in any direct impacts on historical structures or properties; and

WHEREAS, SHPO has issued a no effect notice in which it confirmed that the proposed Verizon Wireless collocation on the roof of the Village Hall building will not result in any adverse effects on historic properties; and

WHEREAS, Village representatives have reviewed and discussed the changes to the design of the Verizon Wireless collocation since first approving the lease in August, 2021; and

WHEREAS, the Village Board has reviewed the completed Short Environmental Assessment Form ("EAF"), as revised, for the project; and

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA; and

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District; and

WHEREAS, the approval of the lease and ultimate construction of the facility constitutes an "Action" (6 NYCRR 617.2(b)) subject to SEQRA as the Village Board is approving and authorizing the project (6 NYCRR 617.3(a)). In addition, the Action is not on the Type II (exempt) List (6 NYCRR 617.5); and

WHEREAS, in this case there are no other involved agencies with discretionary approval authority as defined in SEQRA (6 NYCRR 617.2(c) & (t)); and

WHEREAS, although the list of actions on the Type I list (6 NYCRR 617.4) includes any unlisted action that exceeds 25 percent of a threshold in such section which occurs wholly or partially within or substantially contiguous to a historic building, etc., the proposed facility does not exceed 25 percent of any threshold listed in 6 NYCRR 617.4; and

WHEREAS, 6 NYCRR 617.4(b)(7) includes as a Type 1 action any structure over 100' in height in a municipality that does not have zoning regulations pertaining to height; and

WHEREAS, the Village of Highland Falls Zoning Law has regulations pertaining to height; and

WHEREAS, as the action is not on the Type II (exempt) List (6 NYCRR 617.5) and is not on the Type I list (6 NYCRR 617.4), the action is by default deemed "Unlisted."

WHEREAS, an EAF has been prepared and is appropriate for the evaluation of this matter; and

WHEREAS, based upon a review of available mapping, the action is not in an Agricultural District certified under the Agriculture and Markets Law; and

WHEREAS, the Village Board has independently considered both the information provided in the revised EAF, the additional materials submitted by Verizon Wireless, comments from the public, and comments on the proposal provided by the Village Designated Engineer.

NOW, THEREFORE, BE IT RESOLVED, that the Village Board hereby determines that:

1. the approval of the proposed project constitutes an Unlisted action which is subject to SEQRA;
2. Verizon Wireless has the pre-requisite radio station licenses by the FCC to install and operate a personal wireless communications facility in the County of Orange;
3. the action does not involve other agencies that have the ability to issue discretionary determinations (approvals) for the project;
4. the proposed action is not located in an Agricultural District and, while it is located within 500 feet of lands within an Agricultural District, it will not have any ascertainable significant impact on any farm or farming operations;

BE IT FURTHER RESOLVED, that the Village Board, as provided at 6 NYCRR Part 617.6(b)(4) hereby determines a coordinated review of the proposed action is not necessary, and the Village Board shall and can proceed as it is the only involved agency; and

BE IT FURTHER RESOLVED, that the Village Board declares itself as lead agency with respect to SEQRA review of the proposed action; and

BE IT FURTHER RESOLVED, that based upon its review of the project and the revised EAF, and review by the Village Designated Engineer, and upon comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Village Board hereby finds that the proposed construction of telecommunications facility and stub tower at 303 Main Street constitutes an action which will not have a significant adverse environmental impact on the environment and, therefore, does not require preparation of Draft Environmental Impact Statement; and

BE IT FURTHER RESOLVED, that this determination is based in part, upon the following facts and conclusions:

SEQRA Status

This matter is an unlisted action under SEQRA as it does not qualify as any of the actions on the Type II list that are not subject to review (6 NYCRR 617.5) and does not fit within the description of any of the actions identified on the Type I list (6 NYCRR 617.4). Although 6 NYCRR 617.4(b)(9) provides that certain actions proposed on historic properties can constitute a Type 1 action if such actions exceed 25% of one of the Type 1 thresholds, the proposed action does not exceed 25% of any such threshold. The threshold in 6 NYCRR 617.4(b)(7) concerning height does not apply due to the fact that such subsection is only relevant if the local municipality does not have zoning regulations concerning height. That is not the case in the Village of Highland Falls. Additionally, even if the action was deemed a Type 1 action, we find that our finding of no significant impacts would not change simply as a result of the designation of the action. The site is not identified by Orange County as being in a certified agricultural district (6 NYCRR 617.4(b)(8)). Even if it were, nothing in the application exceeds 25 percent of any threshold established elsewhere in that section (Id.). Thus, the action is properly characterized as an Unlisted action under SEQRA.

Introduction

The purpose of the communications facility is to provide an adequate and safe level of emergency and non-emergency Verizon Wireless communications services to portions of the Village of Highland Falls.

Impact on Land

This project will result in a small to negligible impact on land. The project site is located on a developed parcel which is in municipal use. Ingress, egress and utility services (power and telephone/fiber) will originate from Schneider Avenue. The communications facility will be unmanned and visited for routine maintenance purposes approximately 3-4 times per year by Verizon Wireless (only as needed). As such, this project will not have any impact on existing water and sewage services. In addition, neither pedestrian nor vehicular access will be significantly impacted. Adequate parking is provided for infrequent maintenance visits.

Impact on Water

The proposed Communications Facility will not result in any significant impact upon (a) any water body, protected or non-protected, (b) surface or groundwater quality or quantity, or (c) drainage flow or patterns, inclusive of surface water runoff. There are no regulated wetlands located in close proximity to the work.

Impact on Air

This project will not result in any significant impact on air quality. The Communications Facility proposed does not involve or concern any air quality issues, permit or otherwise. As previously mentioned, this Communications Facility will be unmanned, and visited for routine maintenance purposes approximately 3-4 times per year by Verizon Wireless (only as needed). Therefore, no significant traffic-based impact(s) exist.

Impact on Plants and Animals

Although the EAF identifies the Northern Large Eared Bats as potentially being located at the property, the proposed Communications Facility will not result in any significant impact on threatened/non-threatened or endangered/non-endangered species of plants or animals, including the Northern Long Eared Bat. The land is fully developed and built out. The identification of the Northern Long Eared Bat was via the EAF Mapper database and only indicates that such species may inhabit the general area. This project, which involves a roof-mounted collocation will not adversely affect this bat species.

Impact on Agricultural Land Resources

The proposed Communications Facility will have no impact on agricultural land resources as the property is built out. In addition, the property is not listed as being a farm operation within an agricultural district certified under the Agriculture and Markets Law, Article 25-AA, Section 303 and 304.

Impact on Aesthetic Resources

The proposed Communications Facility will result in a negligible to minor impact on aesthetic resources, or no significant visual impact depending on location and view. The facility is relatively short in height and existing vegetation and buildings around the site will serve to buffer and shield the facility from view. In addition, an existing stub tower and other related municipal antennae are located on the building, rendering the addition not foreign, unusual or inconsistent with the existing setting.

Impact on Historic and Archeological Resources

Village Hall is listed on the State Register of Historic Places. However, due to the existing municipal communication infrastructure that is currently located on the roof of the Village Hall building, we find that adding the proposed Verizon Wireless infrastructure is consistent with the existing use of the structure and, as such, will not result in any significant negative impacts. We also recognize and rely on SHPO's conclusion that the proposed collocation will not adversely impact local historic properties in the area. The proposed Communications Facility will not result in any significant impact on site(s) or structure(s) of historic, prehistoric or paleontological importance. The Applicants determined that there would be no direct effect and no visual effect on historic properties.

Impact on Open Space and Recreation

The proposed Communications Facility will not result in any significant impact on the quantity or quality of existing or future open spaces or recreational opportunities given the small size of the facility and its placement on a lot in municipal ownership and use.

Impact on Critical Environmental Areas

This project will not impact any Critical Environmental Area(s). According to the NYSDEC website, there are no Critical Environmental Areas in the immediate vicinity.

Impact on Transportation

This project will not result in any significant impact on existing transportation systems. The proposed Communications Facility will be unmanned, and visited by Verizon Wireless approximately 3-4 times each year for Verizon Wireless (only as needed) for maintenance and inspection purposes. There will be a slight increase in vehicle trips during the approximately two month construction time frame associated with work vehicles and delivery trucks. The amount of additional vehicles is comparable to the amount associated with the construction of a single family home. Main Street/Schneider Avenue are well maintained and will have no difficulty handling this small number of additional trips.

Impacts on Energy

The proposed Communications Facility will not result in any significant impact on the community's sources of fuel or energy supply. First, an adequate source of power exists at the existing service lines in the vicinity of the project. Second, it is estimated that the Communications Facility will require approximately the same number of kW hours of power as a 3-4 bedroom house per year to operate, an impact which is not considered to be significant and which will not cause the need for any major electrical upgrades.

Noise and Odor Impacts

This project will not result in any significant environmental impact due to objectionable odors, noise or vibration. Any such impact(s) will be temporary and minor in nature and confined to the construction phase. A backup generator is not proposed.

Impact on Public Health

The proposed Communications Facility will not negatively impact the public health and safety.

Without limitation to this evaluation, the Village is prohibited by the Telecommunications Act of 1996 from regulating the placement, construction and modification of personal wireless service facilities 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 USC 332 [c] [7] [B] [iv]. Due to the height of the antennas, the facility (a) will comply by a wide margin with the requirements of the Federal Communications Commission (FCC) concerning radio frequency (RF) emissions (i.e., operate at a composite ground level below 1% of the applicable FCC exposure limits); and (b) be categorically excluded from local regulation under applicable federal law.

Impact on Growth and Character of Community or Neighborhood

This project will result in a negligible impact on the character of the existing community. Although a variety of land uses exist in the general vicinity, the impact on such uses (if any) is typically visual in nature when considering a telecommunications facility. As previously stated, visibility of the proposed Communications Facility will be minor or insignificant in nature and scope.

NEGATIVE DECLARATION

After reviewing the Short EAF submitted herewith, together with the documentation provided by the Applicant and the information provided by the Village Designated Engineer, the Village Board of the Village of Highland Falls hereby concludes that an Environmental Impact Statement (EIS) will not be required for the public utility Communications Facility proposed because (a) this Action will result in no adverse environmental impacts, or (b) the identified adverse environmental impacts will not be significant (*see* 6 NYCRR § 617.7(a)(2)).

AND,

BE IT FURTHER RESOLVED, that

- (1) the Village Board of the Village of Highland Falls, based upon (i) its thorough review of the Short EAF, Parts 1 and 2, along with any and all other documents prepared and submitted with respect to this proposed action and its environmental review, and (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR 617.7(c), hereby makes a negative determination of environmental significance (“Negative Declaration”) in accordance with SEQRA for the above referenced proposed action, and determines that no Environmental Impact Statement will be required; and
- (2) the Village Mayor of the Village of Highland Falls is hereby authorized and directed to complete and sign as required the determination of significance, confirming the foregoing Negative Declaration, the fully completed and signed EAF and determination of significance, is attached hereto and incorporated by reference in this resolution; and

BE IT FURTHER RESOLVED, that this Determination of No Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and

BE IT FURTHER RESOLVED, the Village Clerk is authorized and directed to file this resolution as is required by law and do all that is necessary in order to fully effectuate the determinations contained herein.

IT IS FURTHER RESOLVED, that the Village Board hereby approves the Lease Agreement as revised and authorizes and directs the Village Mayor to execute the required documents to effectuate this agreement including a Memorandum of Lease.

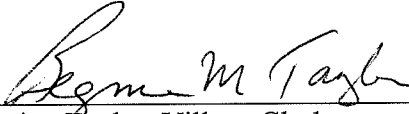
IT IS FURTHER RESOLVED, that the Village Board confirms that pursuant to Section 240-29(V) 2.1(A)(2) of the Zoning Law serves to expressly exempt the proposed collocation from the requirements of the Village Zoning Law and the Village Board approves and authorizes the construction of the telecommunications facility.

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| MOTION BY: <u>Trustee DiSalvo</u> | Voting: Trustee Aylward | <u>AYE</u> |
| | Trustee DiSalvo | <u>AYE</u> |
| | Trustee Guerrero | <u>AYE</u> |
| | Trustee Phillips | <u>AYE</u> |
| SECONDED BY: <u>Trustee Phillips</u> | Mayor D’Onofrio | <u>AYE</u> |

The resolution was duly adopted on November 7, 2022

Regina Taylor, Village Clerk
Village of Highland Falls

I, **Regina Taylor**, Village Clerk of the Village of Highland Falls, do hereby certify that the attached Resolution is a true and accurate copy of the original on file at the office of the Village Clerk of the Village of Highland Falls, 303 Main Street, Highland Falls, New York, 10928

 11/8/2022
Regina Taylor, Village Clerk
Village of Highland Falls