



TOWN OF YORKTOWN
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

This is a resolution adopted by the Town Board of the Town of Yorktown at a special meeting held on Tuesday, February 24, 2023.

WHEREAS, the Town of Yorktown owns a parcel of real property located at Route 6 and Hill Boulevard, Jefferson Valley, Town of Yorktown, County of Westchester, New York and shown on the Tax Map of the Town as Parcel 16.12-1-31 (hereinafter referred to as the “subject premises”); and

WHEREAS, the Town Board of the Town desires to lease a portion of the subject premises to Homeland Towers, LLC for the purpose of constructing, establishing, and maintaining a radio transmission tower facility for its use and that of its subtenants, licensees and customers, which facility includes a tower and associated facilities, including radio transmitting and receiving antennas, communications equipment, and related cables, wires, conduits, air conditioning equipment and other appurtenances, as shown on a certain plan for said purpose as submitted to the Town Board; and

WHEREAS, the Town Board of the Town finds that it is in the best interest of the Town to lease a portion of the subject premises with access, as set forth in a certain Lease, a copy of which is annexed hereto as Exhibit A, and as shown on the aforementioned plan, (hereinafter referred to as the “Lease Area”) to Homeland Towers, LLC, a New York limited liability company having a place of business at 9 Harmony Road, 2ND Floor, Danbury, Connecticut 06810. As shown by the Town’s consultant, CityScape, and the Radio Frequency Justification report submitted by Homeland Towers there is a gap in wireless communications in the area of Jefferson Valley. The proposed facility will remedy that gap in service and provide support for at least four wireless carriers and the Town’s public service entities as detailed in the Lease and on the Site Plan; and

WHEREAS, the construction of the facility and access and utilities also requires a Town wetland permit from the Town Board and an act of the New York State Legislature to alienate parkland based on a Home Rule request from the Town Board; and

WHEREAS, in accordance with Article 8 of the Environmental Conservation Law (the State Environmental Quality Review Act) and 6 NYCRR Part 617 of the implementing regulations, the Town Board declared its intention to be lead agency and circulated its intention to all Involved Agencies, including the New York State Department of Conservation, which did not object to the Town Board acting as Lead Agency. Thereafter, the Town Board declared itself Lead Agency in a coordinated review and classified the action to be an UNLISTED Action; and

WHEREAS, the Town Board of the Town has reviewed the Environmental Assessment Form submitted for the project and all supporting documentation and comments; and

WHEREAS, the Town Board of the Town hereby issues a negative declaration of significance pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, in that it has determined that the proposed action, namely entering into the aforementioned Lease, the wetland permit and the Home Rule request and parkland alienation will not have a significant environmental impact and that a Draft Environmental Impact Statement will not be prepared. A copy of the Negative Declaration is attached hereto as Exhibit B; and

WHEREAS, a duly noticed public hearing was held and continued on January 17, 2023. All persons interested were given an opportunity to speak. The County Department of Planning and the New York City Department of Environmental Protection confirmed that neither has jurisdiction over this project. The project was referred to the New York State Department of Environmental Conservation, which did not object to the project. The project was referred to and extensively reviewed by the Town Planning Board, Advisory Board on Architecture & Community Appearance, Conservation Board, the Town Engineer, and the Tree Conservation Advisory Commission, which provided comments that have been addressed by Homeland Towers.

WHEREAS, the agreement between the parties is for Town property not presently being utilized by the Town and not anticipated to be needed by the Town over the term of the agreement and the agreement is for fair market value based on an appraisal commissioned by the Town, and in the best interests of the Town and its residents. The subject premises is not feasible to be used as parkland given its location adjacent to Con Edison transmission lines, its small size and the fact that the vast majority is encumbered with wetlands. No further Town permits or approvals are required other than the wetland permit being granted herein, and a stormwater, excavation and building permit. Pursuant to Section 300-59.C.2 of the Town Code, “wireless telecommunications facilities located on property owned or leased by the Town of Yorktown shall be exempt from the requirements of this section [Section 300-59]”. See also Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702. Accordingly, no other zoning approvals are required; and

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town hereby authorizes and approves the wetland permit and the lease of the subject premises with access to Homeland Towers, LLC, upon the terms and conditions contained in the Lease (subject to the approval of the Town Attorney) annexed hereto as Exhibit “A” and incorporated herein by reference thereto;

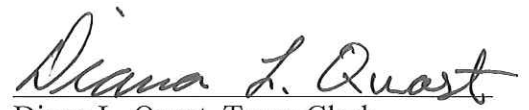
BE IT FURTHER RESOLVED, that pursuant to Section 64(2) of the Town Law of the State of New York, this Resolution is adopted by the Town Board of the Town subject to a permissive referendum; and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to post and publish notice of this Resolution in accordance with Article 7, Section 90 of the Town Law of the State of New York within 10 days of the date hereof; and

BE IT FURTHER RESOLVED, the Town Board, in accordance with Chapter 178 of the Town Code, hereby grants the necessary wetland permit based upon the following findings and conditions:

- 1) The proposed regulated activity is consistent with the policy of Chapter 178 of the Town Code and measures have been put in place to preserve, protect and conserve wetland functions and the benefits they provide, by preventing the despoliation and destruction of wetlands identified on, and within vicinity of, the Property;
- 2) The Facility is consistent with the land use regulations governing wetlands application in the Town of Yorktown and the local legislation is at least as restrictive as the laws of New York State regarding wetlands protection;
- 3) The Facility is compatible with the public health and general welfare, and does not require the use of water nor does it produce any odors, fumes, wastewater and is unmanned facility requiring only infrequent service visits by a single technician;
- 4) The Facility cannot practically be relocated on the site so as to eliminate or reduce the intrusion into the wetland and associated wetland buffer as the entire Property is encompassed by wetlands or associated wetland buffer areas;
- 5) Measures have been put in place, to minimize the degradation to or loss of any part of the wetlands and the wetland buffer and minimizes any adverse impacts on the functions and benefits that the identified wetlands provide, such as:
 - The Facility and associated access drive have been strategically located within the upland portion of the site.
 - All driveways, turnaround areas, facility compound area, and equipment pads will consist of pervious surfaces.
 - A retaining wall will be installed to prevent grading into the wetland proper.
 - Tree removal has been reduced and represents the minimum required. While 62 caliper inches of trees will be removed, a total of 78 caliper inches will be installed through installation of replacement trees.
 - There will be a wetland creation area and wetland buffer restoration in the form of grading and installation of native plantings, including 21 trees, 22 shrubs, 300 perennials, and over 4,000 s.f. of native seed mix.
 - Any runoff from the gravel compound area will sheet flow through the wetland creation area before discharging to the Town and NYSDEC regulated wetland;
- 6) The proposed construction of the Facility is in compliance with the standards set forth in 6 NYCRR 665.7(e) and 66S.7(g), as amended.
- 7) The permit shall be conditioned on the following requests by the Town Engineer:
 - a. Provide a detail of the proposed retaining wall.
 - b. Post a \$2,000 erosion control bond.
 - c. Pay the 8% engineering inspection fee.
 - d. Provide stormwater calculations, and at a minimum provide a stormwater management system to capture and treat the runoff as determined by the water quality volume calculation (WQv).

BE IT FURTHER RESOLVED, that the Town Board of the Town hereby authorizes the Supervisor to execute any and all documents necessary to give effect to this resolution, including authority to sign the Lease, Request a Bill Number and a Home Rule request with regard to same.


Diana L. Quast, Town Clerk
Master Municipal Clerk

Date: February 24, 2023

To: Homeland Towers, LLC

cc: Thomas P. Diana, Town Supervisor
Dan Ciarcia, Town Engineer
John Landi, Building Inspector
John Tegeder, Director of Planning
Adam Rodriguez, Town Attorney
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