

**RESOLUTION 19- 27: SEQRA NEGATIVE DECLARATION AND
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

This Resolution is issued pursuant to 6 NYCRR 617 pertaining to Environmental Conservation Law Article 8 (the State Environmental Quality Review Act).

Name and address of Lead Agency: Town of Union Vale Town Board

Name, address and phone number of person who can provide additional information:
Betsy Maas, Supervisor, Town of Union Vale Town Hall, 249 Duncan Road, LaGrangeville,
NY 12540; (845)724-5600

Brief Description of Action: The application requested that the Town of Union Vale Town Board perform a Monroe Balancing Test to consider a proposed wireless telecommunications facility consisting of a 150 foot monopole with antennas, access driveway, together with related equipment within a 4,410± square foot fenced compound within a 5,220± square foot leased area constituting a portion of property identified as tax map parcel 132200-6659-00-960870-0000 and by the street address of 43 Deforest Lane.

SEQOR classification of Action: Unlisted Action

Location of Action: 43 Deforest Lane on real property owned by the Town of Union Vale located in the Town of Beekman, Dutchess County, New York.

PROCEDURAL AND DOCUMENTARY BACKGROUND:

1. The Town of Union Vale Town Board executed an Option and Ground Lease Agreement (herein, the "Agreement") with Homeland Towers, LLC for the lease of a portion of real property identified as tax map parcel 132200-6659-00-960870-0000 and by the street address of 43 Deforest Lane (herein, the "Property") for purposes of installation and maintenance of a 150 foot monopole telecommunications tower and related equipment (herein, the "Facility"), subject to Homeland Towers, LLC, obtaining all necessary approvals. An environmental review was performed and a Negative Declaration issued which related solely to the execution of the Agreement and not in relation to any application which might be submitted pursuant to the Agreement.

2. The Resolution which authorized the Agreement was subject to permissive referendum. A notice of the adoption of the Resolution was duly posted and published pursuant to New York State Town Law Section 90. The period for filing a petition seeking a permissive referendum expired and no such petition was filed.

3. The Property is owned by the Town of Union Vale as part of Tymor Park and is located in the Town of Beekman.

4. Homeland Towers, LLC submitted an application to the Town of Union Vale Town Board dated April 16, 2019 seeking approval for the Facility and requesting that the Town of Union Vale Town Board consider whether the Facility should be immune from local zoning regulations pursuant to the “balancing of interests” test enunciated by the New York State Court of Appeals in Matter of County of Monroe v. City of Rochester, 72 N.Y.2d 338 (1988).

5. The application included the following documents:

- A. Full Environmental Assessment Form.
- B. EAF Mapper Summary Report.
- C. Property Location Map.
- D. Site Plan prepared by APT Engineering, last revised 3/28/19.
- E.. Compound Plan prepared by APT Engineering, last revised 3/28/19.
- F. West Elevation prepared by APT Engineering, last revised 3/28/19.
- G. Custom Soil Resource Report.
- H. National Wetlands Inventory, NY090 – Beekman II – Federal Wetlands.
- I. NY090 – Beekman II – DEC Wetlands.
- J. Environmental Resource Mapper.
- K. NYS OPRHP Cultural Resource Information System (CRIS) Map.
- L. Visual EAF Addendum.

6. By Resolution dated April 18, 2019, the Town of Union Vale Town Board classified the action as an Unlisted Action, declared its intent to serve as Lead Agency and authorized the circulation of the application. The application was circulated to the Town of Beekman Town Board and Town of Beekman Planning Board and neither served a notice declaring intent to serve as Lead Agency.

7. By the same Resolution, the Town of Union Vale Town Board scheduled a public hearing for May 21, 2019 to review whether the application should be exempt from local land use regulations under the standards set forth in Matter of County of Monroe v. City of Rochester, 72 N.Y.2d 338 (1988).

8. Copies of said Resolutions and the application with all supporting materials were mailed to the Town of Beekman Town Board and the Town of Beekman Planning Board on April 24, 2019.

9. An inquiry was made of the Dutchess County Department of Planning and Development as to whether a referral needed to be made to said Department pursuant to General Municipal Law Section 239-m and said Department advised that such a referral did not need to be

made for matters involving the balancing of interests tests set forth in Matter of County of Monroe v. City of Rochester, 72 N.Y.2d 338 (1988).

10. Prior to the submission of the application, a balloon test was conducted on April 17, 2019 with an orange balloon having been flown at the site at a height of 150 feet above ground level for a period of 8 hours, with prior notice having been given to the Town of Beekman Town Board and the residents along Deforest Lane by publication and mailing. (The specifics of the balloon test are described in the Visual Resource Assessment subsequently referenced herein.)

11. On May 20, 2019, the applicant hand delivered supplemental materials to the Town of Union Vale Town Board, the Town of Beekman Town Board and the Town of Beekman Planning Board, said materials consisting of the following:

A. Cover letter of Robert D. Gaudio, Esq., of Snyder & Snyder, LLP, attorneys for Homeland Towers, LLC.

B. Pinnacle Telecom Group Antenna Site FCC RF Compliance Assessment and Report dated April 30, 2019.

C. Affidavit of Raymond M. Vergati dated May 16, 2019 as to alternate sites considered.

D. Verizon Wireless Communications Facility Engineering Necessity Case – “Cumberland” dated May 13, 2019.

E. Saratoga Associates Visual Resource Assessment dated May 14, 2019 consisting of 12-page Report and 14 pages of color Visual Resource Assessment Figures.

F. Certification of APT Engineering as to the Facility meeting ANSI/TIA-222G Structural Standard.

G. Plans prepared by APT Engineering dated May 15, 2019 consisting of Title Sheet and Index, Abutters Plan, Overall Site Plan, Partial Site Plan, Access Driveway Profile and Details, Landscaping Plan, Compound Plan, Elevations, Erosion Control Notes, Erosion Control Details, Site Details, Verizon Equipment Plan & Details, and Verizon Antenna Plan & Details.

12. A presentation of the application was made at the public hearing on May 21, 2019 by Raymond M. Vergati of Homeland Towers, LLC and Robert D. Gaudio, Esq., of Snyder & Snyder, LLC. Questions from the public related to the presentation were answered them. The public hearing was opened and all comments were received by the Town of Union Vale Town Board and then the public hearing was adjourned to June 4, 2019. A notification sign had been posted at the Property in advance of the public hearing.

13. On May 23, 2019, a revised Full EAF was submitted to correct the zoning designation for the Property and a Noise Confirmation Letter was submitted, with said submissions being made to the Town of Union Vale Town Board, the Town of Beekman Town Board and the Town of Beekman Planning Board.

14. The Town of Union Vale Town Board caused an analysis to be made of the RF submissions from by the applicant, retaining Ronald E. Graiff, P.E. for that purpose.

15. Ronald E, Graiff, P.E. submitted his report to the Town of Union Vale Town Board on May 28, 2019.

16. On June 3, 2019, the applicant hand delivered supplemental materials to the Town of Union Vale Town Board, with copies to the Town of Beekman Town Board and the Town of Beekman Planning Board, said materials consisting of the following:

A. Cover letter of Robert D. Gaudio, Esq., of Snyder & Snyder, LLP, attorneys for Homeland Towers, LLC.

B. Further revised Full EAF with all attachments.

C. Alternative site analysis from Verizon Wireless' RF engineer confirming that the Town Hall parcel will not remedy the gap in service.

D. Phase I Archeological Survey from EBI confirming that there are no Historic Properties in the area of potential effects and confirming no adverse effect on archeological resources.

E. Revised Alternate Site Analysis from Raymond M. Vergati including the relevant deed restrictions.

F. Letter from EBI confirming no adverse effects on threatened or endangered species.

G. Property Value Appraisal Report from Lane Appraisals confirming no diminution in property values from proposed Facility.

17. An additional presentation of the application was made at the adjourned public hearing on June 4, 2019 by Raymond M. Vergati of Homeland Towers, LLC and Jordan Fry, Esq., of Snyder & Snyder, LLC. Questions from the public related to the presentation were answered. The public hearing was re-opened and all comments were received by the Town of Union Vale Town Board, and the public hearing was then closed. On that date, a submission was made by the applicant from Verizon Network Engineering dated June 4, 2019 addressing analysis of existing cell towers providing coverage and capacity to the area.

18. On June 6, 2019, in response to comments made at the public hearing about RF emissions, that applicant submitted a letter by email attachment from Pinnacle Telecom Group, LLC dated June 5, 2019 which provided general information about RF emissions from commonly used devices and in areas of common exposure.

19. Because the Property is located in Tymor Park, a recreation park of the Town of Union Vale, it is necessary for the Town of Union Vale Town Board to proceed with the parkland alienation process through the New York State Office of Parks, Recreation and Historic Preservation and the New York State Legislature. The SEQRA review and this Negative Declaration apply to that process, as well as to the Monroe analysis and balancing of interests test.

20. A draft application with supporting documentation has been prepared for submission to the appropriate state legislators and the New York State Office of Parks, Recreation and Historic Preservation, subject to completion of the SEQRA process.

WHEREAS, this determination of non-significance, i.e. negative declaration, is prepared in accordance with Article 8 of the Environmental Conservation Law: the State Environmental Quality Review Act ("SEQRA") and its implementing regulations set forth in 6 NYCRR Part 617 ("Regulations"); and

WHEREAS, the Town of Union Vale Town Board hereby declares itself the Lead Agency involved in this SEQRA review; and

WHEREAS, the Town of Union Vale Town Board has classified this Action as an Unlisted action pursuant to 6 NYCRR § 617; and

WHEREAS, the Town of Union Vale Town Board has caused the preparation of Parts II and III of the FEAF and intends that this negative declaration be attached to it and become a part of it; and

WHEREAS, the Town of Union Vale Town Board has reviewed the Action and all of the above referenced supporting information, public comments and documentation and has determined that there will be no significant adverse environmental impacts associated with the Action; and

WHEREAS, this negative declaration is supported and substantiated by the following conclusions of the Lead Agency:

1. The action will not have a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; nor a substantial increase in potential for erosion, flooding, leaching or drainage problems.

The action calls for the installation of an "unmanned" facility. Neither a well, nor a septic system will be installed. All improvements will be installed outside of the wetlands and wetland buffers on the Property. The tower and related equipment will not generate solid waste and will have no impact on air quality. Erosion and drainage impacts were addressed in the Erosion Control Notes, Erosion Control Details and Site Details submitted by the applicant. Although construction vehicles will generate modest traffic impact during periods of construction, following completion of construction, almost no traffic will be generated by the site. The construction period has been estimated as 2-3 months.

The site plan shows that the fenced-in compound will be located outside of the buffer zones for the two wetlands that are partially on the Property.

The partial site plan shows that the compound will be enclosed by an 8 foot high chain link fence with brown privacy slats. There will be evergreen landscape screening installed with approximately 23 evergreen trees used. The Landscaping Plan shows that 8 foot high Norwegian Spruces will be installed.

2. The action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources.

The site consists of 16.2 acres of land and only about one-half of an acre will be disturbed. The action will have no impact on fish as there are no waterbodies or watercourses being disturbed. Since such a small percentage of the land will be disturbed, the project will have no significant impact on resident or migratory wildlife species.

The applicant submitted a letter from EBI Consulting dated June 3, 2019 regarding threatened and endangered species. Although the Property may be a site involving Indiana Bats, the applicant will only be able to cut and remove trees and habitat for such bats during periods permitted by the US Fish and Wildlife Service and must obtain any required permits from such Service. EBI's letter noted no evidence for actual habitat of the Northern Long-eared Bat at the site. EBI's letter summarized habitat related to Bog Turtles and noted that the applicant will take measures in accordance with USFWS's guidelines involving a pre-construction survey, working education and exclusion fencing. Based upon the contents of the letter and the mitigation measures, there will not be a significant impact on habitat area for threatened or endangered species.

A gravel driveway will be installed for access to the site. It will be 12 feet wide and approximately 470 feet long. It will provide access for construction purposes, but following completion of construction, will only be accessed for maintenance and emergency purposes. It will not be open to the public for use and will be secured by posts and chain. Required silt fencing will be installed and maintained during construction.

The extensive RF analysis documents submitted by the applicant demonstrate the need for the Facility in terms of coverage and capacity. The applicant has submitted satisfactory documentation regarding alternative sites considered.

3. There will be no impairment of the environmental characteristics of a critical environmental area as designated pursuant to section 6 NYCRR 617.14(g), because the property does not include and does not border such an area.

4. The action does not create a material conflict with a community's current plans or goals as officially approved or adopted.

Since the time when Town of Union Vale acquired title to the various parcels of land which comprise Tymor Park, the Town of Union Vale Town Board has controlled all uses of and improvements to the Park. The Park consists of many buildings, fields, trails and land for recreation purposes, but it also consists of residences which are rented, the Town Hall, vehicle and equipment storage buildings and additional improvements not associated with recreation. The Town has pledged, and the Option and Lease Agreement requires, that all net rental income from the Lease be used solely to improve and maintain the Town parks and the structures and improvements now in them or added to them. The action will result in improved cell phone service throughout Tymor Park, which benefits all of its users (many of whom are residents of the Town of Beekman) and promotes the safety and welfare of the people using the Park.

5. The action will not result in the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character.

The site plan shows that the nearest residence is located over 500 feet away from the tower. Although the contemplated Monroe analysis might make the action exempt from local land use regulations, the tower height (150 feet) meets the requirements of both the Town of Beekman Town Code and the Town of Union Vale Town Code. It also meets the roadway setback requirements of both Codes.

The site does not have important historical, archeological, architectural or aesthetic resources. There are presently no improvements on the Property. The applicant submitted a Phase I Archeological Survey Report from EBI Consulting which concluded that the site is not recommended for inclusion on the National Register of Historic Places and recommended a "No Historic Properties" determination. It noted that if, during construction, any artifacts or culturally modified soil deposits are encountered, construction must stop until a qualified archeologist views the finds and makes an evaluation.

The Visual Resource Addendum prepared by Saratoga Associates used an area of a two-mile radius from the proposed Facility. Deforest Lane was described as an 1,100-foot-long unpaved dead-end street currently serving 7 single family residences. There are 9 residences within 1,000 feet of the Facility.

The Visual Resource Addendum summarized the methodology and standards used. It reported that "no actual visibility" was identified during the April 17th balloon test in the viewshed from Tymor Park, nor in the viewshed from the Beekman Recreation Park. For residential areas within a 1-mile radius, it reported that views of the Facility "will be

substantially screened by intervening dense mature woodland vegetation – even during winter leaf-off season”. For Deforest Lane, it reported that “the Facility will be directly visible above the intervening tree line” when viewed from the intersection with Route 55, but the view becomes increasingly screened as one moves eastward towards the Facility. In the Summary and Conclusion Section of the Report, the NYSDEC Visual Policy is referenced, and the Report provides that “it is clear that any remaining project visibility is not of a size or extent that it would constitute an unacceptable magnitude. Nor does the Facility affect a sufficient number of public viewers or geographic area where the Facility can reasonably be deemed to be visually important as defined by SEQRA.” It concludes: “As such the proposed Project will not result in an adverse visual impact”. The Town Board accepts the findings and conclusions of the Report.

6. The action will not result in a major change in the use of either the quantity or type of energy.

The applicant will connect to the existing electrical utility grid and will install underground utilities on the site. An on-site emergency back-up generator will be installed within the fenced compound for use during temporary power outages. The noise from the generator will not exceed any noise regulations which could apply.

7. The action will not result in the creation of a hazard to human health.

The Report submitted by Pinnacle Telecom Group entitled Antenna Site FCC RF Compliance Assessment and Report indicates that the FCC has established a limit for general population maximum permissible exposure levels for continuous human exposure to radio frequency (RF). The analysis found that at ground level, the tower with all antennas installed would produce a maximum level of 2.0026 percent of the FCC MPE level. The Report also describes this as 45 times below the FCC MPE limit.

8. The action will not result in a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses.

As above stated, the site consists of 16.2 acres of land and only about one-half of an acre will be disturbed. The Park as a whole consists of over 500 acres of land, so use and intensity of use by this action is minimal. The action will improve cell phone service in the Park, so it is a benefit and a promotion to the safety and welfare of all users of the Park. In addition, when the site is no longer in use, the improvements must be removed and the site returned to its prior state. A performance bond or other security will be required for this purpose.

9. The action will not encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.

As stated above, the Facility will be “unmanned”. The Facility is not open to the public and, following completion of construction, would only be accessed by maintenance personnel.

10. The action will not result in the creation of a material demand for other actions that would result in one of the above consequences.

The action will not result in the creation of a material demand for anything. Please see number “9” above.

11. The action will not result in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.

None of the above criteria results in a significant impact on the environment and the combination of any impacts will also not result in a substantial adverse impact.

12. This action does not involve two or more unrelated actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria above listed.

This action is a stand-alone action which does not involve any related actions.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Union Vale Town Board has determined that the Action will not have any significant adverse impact on the environment; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Union Vale issues this Negative Declaration in relation to the Town Board’s decision on the Monroe balancing of interests test, the New York State parkland alienation process and the issuance of a Municipal Home Rule Resolution and related documentation, and the approval of the application for the Facility; and

BE IT FURTHER RESOLVED, that the Town of Union Vale Town Board hereby issues this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and its implementing Regulations and authorizes the Supervisor to execute Part III of the FEAF; and

BE IT FURTHER RESOLVED, that the Town of Union Vale Town Board hereby authorizes the filing this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations.

_____ proposed the following Resolution, which was seconded by _____. A copy of this Resolution will be appended to the minutes of the meeting and has been posted on the Town's website.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Maas	_____
Councilman Welsh	_____
Councilman Frazier	_____
Councilwoman Kelley	_____
Councilman McMorris	_____

The resolution was thereupon declared duly adopted.

DATED: Union Vale, New York
June 6, 2019

Andrea Casey, TOWN CLERK