

August 2, 2022 – Special Meeting

A special meeting of the Gardiner Town Board was held this evening at 7 PM for the purpose discussion on Wireless Edge Towers II. This meeting was held as a hybrid, in person and on Zoom. Present were Supervisor Majestic and Councilmembers Carucci, Richman, Walls and Wiegand. There were approximately 12+ audience members present.

**TOLLING AGREEMENT AMENDMENT**

On motion of Councilmember Walls, seconded by Councilmember Wiegand and carried, the Supervisor was authorized to sign the second amendment to the Tolling Agreement extending the “Shot Clock” review to August 31, 2022, nunc pro tunc.

**RESOLUTION – LEASE AMENDMENT**

**Resolution No. 128 - DATED: August 2, 2022**

A regular meeting of the Town Board of the Town of Gardiner, Ulster County, New York, was convened in public session and via videoconference and/or teleconference pursuant to NYS Laws Ch. 1 of 2022 and Executive Order 11, as amended, on August 2<sup>nd</sup>, 2022 at 7:00 p.m., local time. A live transmission was available to the public as described in the notice of hearing attached hereto. The meeting was recorded and a full transcript is required to be prepared to the extent required by such Executive Order.

The meeting was called to order by Supervisor Majestic, and, upon roll being called, the following members were (Note: Where members are marked Present, specify whether In Person at the Town Hall, 2340 State Route 44/55, Gardiner, New York, via Videoconference, or via Teleconference):

	Present	Absent
Supervisor Marybeth Majestic	VIA In Person	
Councilmember Warren Wiegand	VIA In Person	
Councilmember Laura Faye Walls	VIA In Person	
Councilmember Carol Richman	VIA In Person	
Councilmember Franco Carucci	VIA In Person	

The following resolution was offered by Councilmember Walls, seconded by Councilmember Wiegand to wit;

**RESOLUTION AUTHORIZING AMENDMENT TO LEASE AGREEMENT WITH WIRELESS EDGE TOWERS II, LLC**

WHEREAS, the Town of Gardiner (the “Landlord”) and Wireless Edge Towers II, LLC, a Delaware limited liability company and successor-in-interest to Wireless Edge Westchester Group, LLC (the “Tenant”) have previously entered into a Wireless Telecommunications Facility Lease Agreement dated as of March 3, 2011 (the “Lease”), pursuant to which Landlord has leased to Tenant a portion of the property located at 630 South Mountain Road, Town of Gardiner, County of Ulster, State of New York, as more particularly described therein (the “Leased Premises”); and

WHEREAS, the Tenant has proposed certain amendments to the Lease upon the terms, conditions and provisions set forth in the First Amendment to the Wireless Telecommunications Facility Lease Agreement in the form on file with the Town Clerk (the “Lease Amendment”); and

WHEREAS, the Town Board previously considered the potential environmental effects of entering into the Lease and determined that it would not have a significant effect on the environment, and the proposed modification to the Lease will not have any additional or different impact which would require further review, and is consistent with the negative

declaration adopted by the Town of Gardiner Planning Board for the proposed tower on March 22, 2022; and

WHEREAS, the Town Board, as the Landlord, has reviewed the terms of the Lease Amendment and finds that the proposed terms are in the best interests of the Town.

**NOW THEREFORE BE IT RESOLVED, that**

1. The Town Board hereby finds and determines that the proposed Lease Amendment is consistent with the Planning Board’s negative declaration adopted on March 22, 2022.
2. The Supervisor is hereby authorized and directed to execute the Lease Amendment substantially in the form on file with the Town Clerk, with such revisions as shall not change the substance thereof and as shall be approved by the officer executing the same. The Supervisor and the other officers of the Town are authorized and directed to perform any and all acts, and to execute and deliver any and all agreements, instruments and other papers necessary or convenient in the determination of such officer on the advice of counsel to accomplish the purposes of this resolution.
3. This resolution shall take effect thirty days after adoption, unless there shall be filed with the Town Clerk a petition signed and acknowledged by the electors of the Town qualified to vote upon a proposition to raise and expend money, in number equal to at least five per centum of the total vote cast for governor in the Town at the last general election held for the election of State offices, protesting against this resolution and requesting that the matter be submitted to the qualified electors of the Town at a referendum in the manner provided by Article Seven of the Town Law.
4. Within ten days after the adoption of this resolution, the Town Clerk is hereby authorized and directed to cause to be published at least once in the in the Times Herald-Record, being a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town, and to be posted on the sign board of the Town maintained pursuant to the Town Law, a notice which shall set forth the date of adoption of this resolution and contain an abstract thereof, concisely stating its purpose and effect and specifying that this resolution was adopted subject to a permissive referendum.

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

<u>VOTE</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
Supervisor Marybeth Majestic	X		
Councilmember Warren Wiegand	X		
Councilmember Laura Faye Walls			
Councilmember Carol Richman		X	
Councilmember Franco Carucci	X		

The foregoing resolution was thereupon declared duly adopted. Councilmember Richman voted nay.

**RESOLUTION APPROVING THE SPECIAL USE PERMIT FOR WIRELESS EDGE TELECOMMUNICATIONS FACILITY TOWER**

**Resolution No. 129-Approve Special Use Permit - Wireless Edge Telecommunications Facility Tower - Offered by Councilmember Wiegand**

WHEREAS, the applicant, Wireless Edge Towers II, LLC (the “Applicant”), submitted an application dated October 8, 2021, for site plan and special use permit approval to construct an approximately 110-foot tall wireless telecommunications facility tower (“WTF”) (120 feet with a municipal antenna) on property owned by the Town of Gardiner located at 630 South Mountain

Road, identified as SBL 93.3-1-27 (the “Property”), in the RA Zoning District (the “Project”); and

WHEREAS, the Project is depicted on a site plan prepared by On Air Engineering, LLC entitled “Wireless Edge Site # WEC-NY-17 Gardiner-2” dated April 28, 2021 and last revised on August 23, 2021 (the “Site Plan Set”), and

WHEREAS, pursuant to Section 220-46A(2) and B(3) of the Zoning Law, a major wireless telecommunications facility tower requires special use permit approval from the Town Board and site plan approval from the Planning Board; and

WHEREAS, the Applicant submitted a Full Environmental Assessment Form (“EAF”) dated October 4, 2021; and WHEREAS, on October 26, 2021, the Planning Board classified the Project as an unlisted action under SEQRA and declared its intent to serve as lead agency in a coordinated review; and

WHEREAS, on December 7, 2021, the Town Board consented to the Planning Board serving as lead agency under SEQRA; and

WHEREAS, the site plan and special use permit application was referred to the Ulster County Planning Board pursuant to Section 239-m of the General Municipal Law, which responded on January 6, 2022, that there is “No County Impact”; and

WHEREAS, on March 22, 2022, the Planning Board adopted a negative declaration, determining that the Project would not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement would not be prepared; and

WHEREAS, duly noticed balloon tests were held on November 13, 2021 and April 2, 2022 in accordance with § 220-46B(4)(a) of the Town Zoning Law with balloons flown at heights of 110, 120 and 140 feet; and

WHEREAS, computer-generated photographic simulations were prepared after the November 13, 2021 balloon test and photo documentation after the April 2, 2022 balloon test to assist with the evaluation of potential visual effects of the proposed WTF; and

WHEREAS, the Town Board held a duly noticed public hearing regarding the special use permit application, which was opened on April 5, 2022 and closed on May 10, 2022, during which time all those who wished to speak were heard and ample time was provided for those wishing to comment; and

WHEREAS, written public comments on the Project were accepted during the application review and until May 15, 2022 (5 days after the close of the public hearing); and

WHEREAS, in reviewing the Project, the Town Board considered all comments and submitted documents, including and not limited to the following:

- 1) All public comments made during the public hearings held on April 5, 2022, April 12, 2022, May 3, 2022 and May 10, 2022;
- 2) Alternative Site Analysis report prepared for the Planning Board by Wireless Edge, dated September 29, 2021;
- 3) A report prepared by Sterling Environmental Engineering, P.C. for the Planning Board, dated October 22, 2021;
- 4) A balloon test Methodology Statement submitted to the Planning Board by Robert Gaudio, dated November 3, 2021;
- 5) A letter submitted by the Ulster County Planning Board, dated November 3, 2021;
- 6) A letter entitled “Response to Lead Agency Request” submitted by Palisades Interstate Park Commission, dated November 19, 2021;
- 7) A report entitled “Visual Resource Evaluation and RF Report” submitted to the Planning Board by Robert Gaudio, dated December 6, 2021;

- 8) A document entitled “Visual Assessment and Photo-Simulations, prepared by APT Engineering, dated December 2021;
- 9) A report prepared by Sterling Environmental Engineering, P.C. for the Planning Board, dated December 17, 2021;
- 10) A letter submitted via email from Jean Gautier and Katarzyna Dubnicka, dated December 26, 2021;
- 11) An email sent by Brian Stiscia, Superintendent of Highways, dated January 14, 2022;
- 12) An email sent by Alina Apteker, dated January 15, 2022;
- 13) A letter submitted by Cheryl Kiviat, dated January 16, 2022;
- 14) An email sent by Anne O’Neill, dated January 20, 2022;
- 15) A letter sent via email from Jonathan Byrne, dated January 24, 2022;
- 16) A report prepared by Sterling Environmental Engineering, P.C. for the Planning Board, dated January 24, 2022;
- 17) An email sent by Eileen Polk, dated January 25, 2022;
- 18) A letter sent via email from Linda Goldsmith, dated January 29, 2022;
- 19) A letter submitted by Sally Hansell, dated February 3, 2022;
- 20) A letter submitted by Sangita Krishnamurthi, dated February 2022;
- 21) A letter submitted by Raina Kiviat, dated February 6, 2022;
- 22) A letter submitted by Sharon Pace, dated February 6, 2022;
- 23) A letter submitted by Sharyn Fogelman, dated February 6, 2022;
- 24) A letter submitted by Mike DiPaola, dated February 7, 2022;
- 25) A letter submitted by Irene Schneider, dated February 7, 2022;
- 26) A letter submitted by Kathy Fehl and Ian Teal in February 2022;
- 27) A letter submitted by Amy Scheinert, dated February 7, 2022;
- 28) A letter submitted by Robert T. O’Brien, dated February 8, 2022;
- 29) A letter submitted by Victoria Chen, dated February 8, 2022;
- 30) A letter submitted by Willa Sio-Cody, dated February 8, 2022;
- 31) A letter submitted by Tim Hunter, dated February 9, 2022;
- 32) A letter submitted by Joy Jacobsen, dated February 9, 2022;
- 33) A letter submitted by Ryan Kiernan, in February 2022;
- 34) A letter submitted by Salvator Schisano in February 2022;
- 35) A letter submitted by Mary D. Madden in February 2022;
- 36) A letter submitted by James Filiault, dated February 10, 2022;
- 37) Memorandum in Opposition, dated February 11, 2022, with accompanying Exhibits A – D, submitted by Andrew J. Campanelli, Esq. on behalf 42 Gardiner residents;
- 38) Supplemental Photo Documentation report prepared by APT Engineering, dated February 14, 2022;
- 39) Supplement to RF Exposure Report prepared by PierCon Solutions, LLC, dated February 14, 2022;
- 40) Freshwater Wetlands and Rare Species Review prepared by Diehlux, dated February 2, 2022 and revised February 14, 2022;
- 41) A response to the Memorandum in Opposition submitted by Robert Gaudioso, dated February 15, 2022;
- 42) A report prepared by Sterling Environmental Engineering, P.C. for the Planning Board, dated February 20, 2022;
- 43) An email sent by Keri Kiernan Giuliano, dated February 21, 2022;

- 44) An appraisal report prepared by Lane Appraisals, Inc. and submitted by Robert Gaudio, dated February 22, 2022;
- 45) An email sent by Jean Tansey, dated February 22, 2022;
- 46) An email sent by Sangita Krishnamurthi, dated February 23, 2022;
- 47) A letter sent via email from Jean Gautier, dated February 27, 2022;
- 48) An email sent by Jonathan Byrne, dated February 28, 2022;
- 49) An email sent by Anthony Brown, dated February 28, 2022;
- 50) An email sent by Tina Betterton, dated February 28, 2022;
- 51) A letter sent via email from Ryan Kiernan, dated March 1, 2022;
- 52) An email sent by Manuela Hoelterhoff, dated March 1, 2022;
- 53) An email sent by Gabriella Cody, dated March 1, 2022;
- 54) An email sent by Chris Pohlman, dated March 1, 2022;
- 55) An email sent by Erin Morgan, dated March 1, 2022;
- 56) A letter sent via email from Linda Goldsmith, dated March 1, 2022;
- 57) An email sent by Ryan Kiernan, dated March 2, 2022;
- 58) An email sent by Linda Goldsmith, dated March 2, 2022;
- 59) An email sent by Justin Riccobono, dated March 2, 2022;
- 60) An email sent by Anne O'Neill, dated March 3, 2022;
- 61) A letter sent via email from Jean Gautier, dated March 6, 2022;
- 62) An email sent by Gabrielle H. Cody, dated March 8, 2022;
- 63) An email sent by Sally Hansell, dated March 16, 2022;
- 64) A letter submitted by Jean Tansey and Matt Warner, dated March 16, 2022;
- 65) An email sent by Sally Hansell, dated March 24, 2022;
- 66) A document with photos entitled "Balloon Test, April 2, 2022, 8am-12pm – 2-Dimensional Photographs do not illustrate the reality of 3-dimensional structures;"
- 67) A comment letter submitted by Jean Gautier, dated April 4, 2022;
- 68) A report prepared by Sterling Environmental Engineering, P.C. dated April 5, 2022;
- 69) A report entitled "Telecommunications Facility Radio Frequency (RF) Site Review," prepared by William P. Johnson, RF Engineering Consultant, dated April 5, 2022;
- 70) An email sent by Ryan Kiernan, dated April 5, 2022;
- 71) An email sent by Jerry Brown, dated April 5, 2022;
- 72) An email sent by Sally Hansell, dated April 5, 2022;
- 73) An email sent by Ryan Kiernan, dated April 5, 2022;
- 74) An email sent by Kate McCabe, dated April 12, 2022;
- 75) An email sent by Kathleen McCabe, dated April 12, 2022;
- 76) An email sent by Kim and Jason Mayer, dated April 12, 2022;
- 77) A letter sent via email from Linda Goldsmith, dated April 12, 2022;
- 78) An email sent by Kay Hoiby, dated April 12, 2022;
- 79) A letter submitted by the Gardiner Open Space Commission, dated April 12, 2022;
- 80) An email sent by Sangita Krishnamurthi, dated April 12, 2022;
- 81) An email sent by Joan Parker, dated April 12, 2022;
- 82) An email sent by William P. Johnson, RF Engineering Consultant, dated April 14, 2022, in response to questions submitted by Jerry Brown on April 14, 2022;
- 83) An article written by Brian Stiscia and published in the Wallkill Valley Times, dated April 19, 2022;

- 84) A letter submitted by the Town of Gardiner Environmental Conservation Commission, dated April 21, 2022;
- 85) An email sent by Jerry Brown, dated April 28, 2022;
- 86) A letter submitted by Robert Gaudioso on behalf of the Applicant, containing a signed and sealed professional surveying certification confirming the location and ground elevation of the tower; a supplement radio frequency engineering analysis on behalf of AT&T; and a Property Study Report with alternative site analysis, dated April 29, 2022.
- 87) An email sent by Jerry Brown, dated May 4, 2022;
- 88) An RF Response Letter submitted by Verizon Wireless, dated May 4, 2022;
- 89) An email sent by Joe Katz, dated May 8, 2022;
- 90) A report entitled Supplemental Report #1, submitted by William P. Johnson, RF Engineering Consultant reviewing reports submitted by AT&T Mobility and Verizon Wireless, dated May 9, 2022;
- 91) A letter submitted by Eugene Ruoff, dated May 10, 2022;
- 92) An email sent by Annie O’Neill, dated May 11, 2022;
- 93) A letter submitted by Linda Goldsmith, dated May 11, 2022;
- 94) An email sent by William P. Johnson, RF Engineering Consultant, dated May 12, 2022;
- 95) An email sent by David Kiviat, dated May 15, 2022;
- 96) A letter submitted by Jean Gautier, dated May 15, 2022;
- 97) An email sent by Ryan and Johanna Kiernan, Keri and John Giuliano, and Marty and Thelma Kiernan, dated May 15, 2022;
- 98) An email sent by Jerry Brown, dated May 15, 2022;
- 99) An email sent by Angela Corsilles and Erik Lium, dated May 16, 2022; and
- 100) Supplemental Report from William Johnson dated June 2, 2022.
- 101) An email sent by Manuela Hoelterhoff, dated June 4, 2022.
- 102) APT Engineering Opinion Memorandum, dated July 7, 2022.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby makes the following special use findings pursuant to Section 220-63 of the Zoning Law:

1. The Project will comply with all applicable land use district, overlay district, floating district, and other specific requirements of this and other chapters and regulations, and will be consistent with the purposes of this chapter and of the land use district in which it is located. The WTF is located in the RA Zoning District, one of three zoning districts in the Town in which such facilities are permitted. § 220-10. The Town of Gardiner is located within the Shawangunk region, which contains significant environmental resources, scenic vistas and hiking trails, and the Property is located within 5 miles of the Minnewaska State Park Preserve and the Mohonk Preserve. The Property is not within any overlay district or the Shawangunk Ridge Protection District.

The proposed location also satisfies the more specific criteria for WTFs set forth in § 220-46B(5) of the Zoning Law. Pursuant to § 220-46B(5)(b), a WTF may not be located in “that area of the Town which lies both west of County Route 7 and at or above an elevation of 400 feet above mean sea level.” The Project proposes the WTF to be located at an elevation of approximately 381 AMSL, which is permitted. This elevation is approximately 59 feet below the road level of South Mountain Road. Further, pursuant to § 220-46B(5)(c), a WTF may not be located within 100 feet of a campground, public park, preserve or recreational trail. The proposed WTF location meets this requirement. The Town Board notes that a conservation easement has

been placed on the adjacent property, but that the property remains private and is not publicly accessible. WTFs may not be located in or within 500 feet of any Hamlet Residential, Hamlet Mixed-Use or Highway Commercial Zoning District, and the proposed location meets this requirement. Lastly, no WTF shall project above or along the Shawangunk Ridge or be visible along the ridge face. The proposed WTF will rise to an elevation of 491 feet AMSL. The Shawangunk Mountain Ridge rises to an elevation of 1,700 feet AMSL. Therefore, the proposed facility will be over 1,200 feet lower than the visible summit of the facing ridgeline.

The proposed WTF complies with the height restrictions in the Zoning Law. Section 220-46B(6)(a)(2) limits the height of a WTF to 15 feet above the average tree canopy. The Town Board has discretion to allow a higher height if the applicant can demonstrate the no additional adverse visual impacts will result from the deviation, but in no case can the WTF exceed 120 feet. The applicant conducted two balloon tests, with balloons at heights of 110, 120 and 140 feet. Based on the tests, the visual assessment estimates that the proposed WTF at 110 feet will be visible year-round in less than 2% of the study area, and that it will be visibly seasonally in about 3.5% of the study area. Except for locations in the immediate vicinity of the Project site, views of the WTF would be limited to the top of the monopole at or above the trees. The Town Board finds that, to the extent that the WTF exceeds a height of 15 feet above the tree line, the applicant has demonstrated that it cannot operate a WTF at a lower height and that there are no additional adverse visual impacts resulting from the deviation. However, the Board does find that there are significant negative visual impacts above 120 feet.

The applicant has demonstrated that it is in compliance with all applicable setbacks, including the requirement that the WTF be located 1 ½ times the height away from the property line. § 220-46B(8)(c).

The applicant has proposed concealment elements to camouflage the monopole by locating it within a forested area, below the ridgeline, and by painting it a neutral gray/brown color to blend in with the trees, Sherwin Williams Thunder Gray 7645, or to paint it in a “mottled” fashion to represent tree bark. The Town Board has considered whether other types of camouflage would be appropriate in this location, such as a monopine, but has determined that such treatment is not appropriate in a deciduous forest, would result in additional height and width, and would likely draw more attention to the WTF.

2. The WTF will not result in excessive off-premises noise, dust, odors, solid waste, or glare, or create any public or private nuisances. The applicant will be required to add a sound absorption enclosure around the generator to reduce any off-premises noise in the event of a power outage.
3. The WTF will not cause significant traffic congestion, impair pedestrian safety or overload existing roads, considering their current width, surfacing and condition, and any improvements proposed to be made to them by the applicant. Outside of the construction period, the Project is not anticipated to generate a change in traffic or create a new demand for public transportation.
4. The Project will be accessible to fire, police and other emergency vehicles. The Property has an existing curb cut onto South Mountain Road and an existing paved drive to the proposed location of the WTF.

5. The Project will not overload any public water, drainage or sewer system, or any other municipal facility. The WTF will not create any new need for public water or sewer, and stormwater will be managed on the Property.
6. The Project will not materially degrade any watercourse or other natural resource or ecosystem, or endanger the water quality of an aquifer.
7. The Project will be suitable for the Property, considering the Property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads. The Property has a significant grade change from South Mountain Road. The WTF is proposed on a lower portion of the Property, which will assist in screening the monopole. See also the discussion in paragraph 1, above.
8. The Project will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas or screening as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town.

The proposed WTF complies with the strict siting guidelines set forth within the Town's Zoning Law, specifically, that the "Facility . . . not be located in that area of the Town which lies west of County Route 7 and at or above an elevation of 400 feet above mean sea level" and "not be located within 100 feet of any campground, public park, preserve or recreational trail." Zoning Law § 220-46B(5)(b) & (c). The Site is located 381 feet above mean sea level, and is not located within 100 feet of any campground, public park, preserve or recreational trail.

The Shawangunk Ridge rises to an elevation of 1700 feet above mean sea level; the top of the proposed WTF would be at an approximate elevation of 491 feet above mean sea level, or 1200 feet lower than the visible summit facing the ridgeline. The WTF monopole will be painted brown/gray to blend with the ridge.

As a condition of approval, the Town is requiring that the applicant provide a decommissioning plan and submit annual inspections demonstrating compliance with RF emission limitations.

The applicant has proposed concealment elements to camouflage the WTF by locating it within a forested area, below the ridgeline, and by painting it a neutral gray/brown color to blend in with the trees, Sherwin Williams Thunder Gray 7645, or to paint it in a "mottled" fashion to represent tree bark. The Town Board has considered whether other types of camouflage would be appropriate in this location, such as a monopine, but has determined that such treatment is not appropriate in a deciduous forest, would result in additional height and width, and would likely draw more attention to the WTF.

9. The Project will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering nonresidential uses that are incompatible with residential use. The WTF is proposed to be located at an existing non-residential site which is already partially disturbed. The proposed location of the WTF limits views by residential properties within the Town.
10. The Project will not adversely affect the availability of affordable housing in the Town.
11. The Project will comply with applicable site plan criteria in § 220-65D.
12. The Project will have no greater overall off-site impact than would full development of the Property with uses permitted by right, considering relevant environmental,



13. social and economic impacts. The WTF will not generate traffic or wastewater or create new need for water resources.

BE IT FURTHER RESOLVED, that the Town Board makes the following findings in accordance with § 220-46B of the Zoning Law:

1. The Applicant has demonstrated that there is a signal capacity and coverage issue within the Town of Gardiner and that the Project will remedy the gap. The Applicant submitted reports from both AT&T Mobility and Verizon Wireless demonstrating the need for the proposed facility, which included propagation plots of wireless coverage under existing and proposed conditions. In reviewing the Applicant's submissions, Mr. William P. Johnson, the Town Board's RF Engineering Consultant, prepared a report entitled, "Telecommunications Facility Radio Frequency (RF) Site Review." In this report, Mr. Johnson confirms that both AT&T Mobility and Verizon Wireless show weak signal strength in the vicinity of the proposed facility that is "insufficient to maintain reliable service in many of the buildings and residences." In addition, Mr. Johnson explains that existing RF coverage at the Property is low with coverage plots in the vicinity showing weak signal levels below -105 dBm. The proposed facility would fill the coverage gap in the vicinity of the Property. In addition to a coverage gap, the area suffers from sector saturation, whereby unreliable service would continue to be an issue if the proposed facility were not constructed, especially as the demand for wireless services continues to increase in the future. The proposed facility would reduce the demand placed on neighboring telecommunication sites by drawing user traffic to the proposed site. Saturated sectors result in slow data speed for digital services and a poor user experience. It is also understood that the existing WTF at Wright's Farm is operating at maximum capacity and is "overloaded."
2. There are no available viable alternate sites. During the review process, no viable necessitating construction of a new tower
3. The Property provides a natural buffer of trees along the road such that the ground equipment will be well concealed at the lower level of the facility.
4. The Project will have a limited impact on community-wide scenic views and the Property is the least intrusive available site for the Project. The top of the proposed facility will rise to an elevation of 491 feet AMSL (the ground elevation being 381 feet AMSL and the tower measuring 110 feet). The Shawangunk Mountain Ridge rises to an elevation of 1,700 feet AMSL. Therefore, the proposed facility will be over 1,200 feet lower than the visible summit of the facing ridgeline. In addition, a publicly noticed balloon test was first performed on November 13, 2021. A supplemental balloon test was completed on April 2, 2022. Two brightly colored balloons were tethered to a crane boom, the arm of which was extended to a top height of 140 feet. A yellow balloon was raised to a height of 110 feet above ground level (the height of the proposed facility) and a red balloon was raised to a height of 140 feet, as requested by the Town. Photographs taken from locations requested by the Town demonstrated that the crane itself is barely discernable in most of the viewpoints. The yellow balloon was visible in certain locations, but the actual monopole will be painted brown/grey, and therefore will be less visible. In addition, in several locations, existing electrical transmission line support poles, solar panels, buildings and/or silos presented much more prominent visual features than that of the crane and balloons.

The Town finds that the red balloon at 140 feet was visible and would defeat the proposed camouflage.

5. The Town Board acknowledges that the Project may be visible from surrounding properties, but finds that this visibility by a small number of private landowners does not rise to the level of a significant community-wide impact, and that other potential locations for the WTF, such as an open field, would result in more visibility of the WTF. However, the Board finds that the impacts of the WTF above 120 feet would be significant.

BE IT FURTHER RESOLVED, that the Town Board hereby grants special use permit approval for the Project, as shown and described in the Site Plan Set, and authorizes the Supervisor or her authorized designee to issue the special use permit after compliance with the following conditions:

1. Payment of all fees and escrow.
2. Approval of the Site Plan Set by the Planning Board.
3. Approval of the Attorney to the Town Board of a decommissioning and removal agreement, whereby applicant would be responsible for the removal of the tower pursuant to §220-46D.
4. Approval of a performance guaranty in an amount approved by the Engineer to the Town in form, substance and manner of execution approved by the Attorney to the Town Board and Town Board.
5. Revision of the Site Plan Set to add the following: Provision and maintenance of an unlit sign at the Project site to be no larger than six square feet and providing adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and the names of the owner and operator of the Project, as well as twenty-four-hour emergency phone numbers, in compliance with § 220-46(B)(14) of the Town Zoning Code.
6. Revision of the Site Plan Set to require the WTF to be painted in a “mottled” gray and brown, including but not limited to the monopole, antennas, arrays and mounting hardware.
7. Revision of the Site Plan Set to include a sound attenuating enclosure around the generator, with proposed design specifications approved by the Town’s consulting engineer.
8. Revision of the Site Plan Set to include a note or detail regarding ice management.
9. Revision of the Site Plan Set to note that the WTF will not be illuminated or contain any lighting, other than safety lights needed for emergency maintenance. Any such safety lights shall be placed on a timer or motion sensor.
10. Revision of the Site Plan Set to require that all utility wires and cables, including electrical wires, servicing the Property and the WTF must be placed underground to the maximum extent practicable.
11. Submission of core drill tests confirming that the WTF can be constructed at the Property, to the satisfaction of the Town’s consulting engineer.

BE IT FURTHER RESOLVED, that the Town Board finds that any extension of the WTF beyond 110 feet (or 120 with a municipal antenna) would defeat the concealment elements of the WTF for purposes of 47 C.F.R. § 1.6100.

BE IT FURTHER RESOLVED, that the Project must comply with the following ongoing conditions of the special use permit:

1. The maximum height of the WTF is limited to 110 feet, with another 10 feet for a potential municipal antenna.
2. Compliance with all requirements for an FCC Controlled Exposure Environment.
3. Placement and maintenance of an unlit sign at the Project site to be no larger than six square feet and providing adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and the names of the owner and operator of the Project, as well as twenty-four-hour emergency phone numbers, in compliance with § 220-46(B)(14) of the Town Zoning Code.
4. Submission of an annual RF Emissions Compliance Report, confirming that the operations are in compliance with FCC standards and guidelines.
5. Submission of RF signal propagation maps showing areas served by the WTF on or about January 1 of each year after construction to assist the Town with planning for future towers.
6. Submission of a Structural/Safety Compliance Report, including a statement by a NYS Professional Engineer that the structural integrity of the wireless telecommunications facility meets the applicable Town and State codes, at least once every two years, which said Compliance Report must be approved by the Town Engineer.
7. Ongoing maintenance of the wireless telecommunications facility, including, but not limited to, the telecommunications equipment, security features, painting and other finishes, camouflage, screening, buffer areas, landscaping and structural integrity, in compliance with § 220-46(B)(18) of the Town Zoning Code.

BE IT FURTHER RESOLVED, that the Town Board hereby requests that the Planning Board and Applicant consider an alternate driveway layout to protect additional trees.

Seconded by Councilmember Walls and carried. Councilmember Richman voted nay.

Supervisor Majestic commented on an e-mail received from a residence who heard discussion on a radio program about the Town of Colonie using cell nodes in order to avoid a build up or need for another tower. Ms Majestic spoke to the Town Supervisor in Colonie and will get a copy of the law that has been created. She also asked wireless Edge to consider this for future expansion.

### **PRIVILEGE OF THE FLOOR**

Linda Goldsmith – stated that she sees adding more antennas as a free for all. Attorney Polidoro explained that any additions or modifications must come before the Board for approval.

### **ADJOURNMENT**

On motion Councilmember Walls, seconded by Councilmember Wiegand and carried, the meeting was adjourned at 7:20 PM.

Respectfully submitted,

Michelle L. Mosher Town Clerk