



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

Christopher B. Fisher, Esq.
cfisher@cuddyfeder.com

June 24, 2016

BY ELECTRONIC MAIL

Kristen Wilson, Esq.
Corporation Counsel
City of Rye
City Hall
1051 Boston Post Road
Rye, NY 10580
(914) 967-7404

Re: Crown Castle
February 2011 City Right-of-Way Use Agreement
Crown Pole Attachment Specification & Node Locations

Dear Ms. Wilson:

I am writing as a follow up to our June 17, 2016 letter regarding the above referenced matter on behalf of Crown Castle and its affiliate Crown Castle NG East LLC (f/k/a NextG Networks of NY, Inc.)("Crown").

Crown Submissions to the City

It is our understanding that Crown has filed various materials with the City as part of its request for administrative permits under the RUA and an additional equipment box specification, including but not limited to:

- a. An existing and proposed photosimulation of the new equipment box;
- b. A map of existing (9) and proposed (73) pole locations in Rye;
- c. A spreadsheet list of proposed pole locations in Rye (73) that included information on the installation type;
- d. A copy of Crown's NYS PSC CPCN;
- e. A copy of the exiting City RUA and a draft proposed amendment;
- f. Two third party MPE power density safety reports for the antenna configurations proposed for use by Crown on utility poles in the right-of-way;
- g. Baseline coverage and maps with the original 73 node locations in Rye identified;
- h. A spreadsheet list of the revised 56 pole locations in Rye; and
- i. A powerpoint presentation prepared by Crown;

Further, I'm advised that the dimensions of the larger equipment cabinet are approximately 7" taller, 3" deeper and 8.5" wider than the existing cabinets (i.e. a volume difference of approximately .1 cubic feet).



City Administrative Approvals for SEQRA Purposes are Type II Exempt

As noted in our prior correspondence, Crown's request is for administrative permits issued by the City under Sections 3 and 5 of the RUA as previously approved by the City Council in 2011 (i.e. City Manager sign off of the list of new node locations and any City Engineer approval issued in the normal course for other similarly situated telecommunications and utility companies like Cablevision, Verizon Fios, Fiber Companies and Consolidated Edison). These are clearly Type II actions for SEQRA purposes. See 6 NYCRR 617.5(c)(11), (19) and (7) and the NYS DEC SEQRA Handbook. We also believe that the City Council's review in this matter involves matters exempt as Type II under 6 NYCRR 617.5(c)(19), (26) and/or (31) as related to interpreting the RUA on the new equipment box specification as substantially conforming to the Exhibit A specifications.

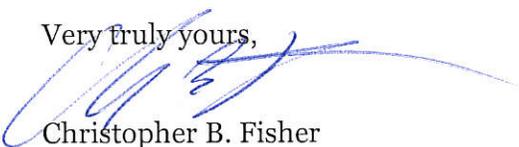
Even if "unlisted", an Environmental Impact Statement Could Not be Reasonably Required under SEQRA

Notwithstanding the foregoing and to avoid any procedural questions, we enclose in the alternative a Short EAF with Part 1 filled out and signed by Crown. This only to the extent someone might procedurally argue City Council action is an "unlisted" action for SEQRA purposes. Moreover, because this project is limited to equipment attached to utility company distribution poles in the right-of-way with no visual impacts different in degree or kind than existing poles, Crown installations or other utility installations such as Con Ed transformers, Verizon FIOS boxes, Cablevision wires and WiFi nodes or other equipment routinely installed for utility services in Rye, we submit that even if not Type II, a negative declaration would be required based on the questions listed in Part 2 of the Short EAF and the criteria for significance in 6 NYCRR § 617.7(c)(1-3). Clearly an Environmental Impact Statement could not be required under SEQRA prior to issuance of administrative approvals under the RUA and any amendment to the RUA for the additional equipment box specification.

July 13th City Council Meeting

We would ask that you advise the City Council regarding SEQRA and to the extent you deem appropriate have them address the Short EAF and SEQRA criteria for determinations of significance at its July 13, 2016 continued hearing. Thank you for your consideration of this letter on behalf of our client.

Very truly yours,


Christopher B. Fisher

cc: Mayor Joe Sack and Members of the City Council
Crown Castle

Short Environmental Assessment Form

Part 1 - Project Information

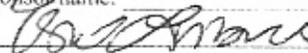
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. 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.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Crown Additional Equipment Specification & Additional Utility Pole/Attachment Locations			
Project Location (describe, and attach a location map): All City Rights-of-Way - Existing and Additional Pole/Attachment Location Map 4/8/16 and 6/09/16 Revised Pole Location and Installation List			
Brief Description of Proposed Action: Crown and the City entered into a Right-of-Way Use Agreement in 2011 as authorized by the City Council. Sections 3 and 5.1 provide for City administrative review and approval of Crown's third party pole attachments and any new pole locations and equipment installations. Crown has proposed an additional equipment specification and a current list of additional utility pole locations and where it plans to install equipment.			
Name of Applicant or Sponsor: Crown Castle NG East LLC (f/k/a NextG Networks of NY, Inc.)("Crown")		Telephone: 203-919-0896	
Address: 131-05 14th Avenue		E-Mail: Esme.Lombard.Vendor@crowncastle.com	
City/PO: College Point	State: NY	Zip Code: 11356	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres		N/A - All work in City ROW which is previously disturbed	
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): _____ <input checked="" type="checkbox"/> Parkland The project is confined to City ROW. Due to the nature of the project, it necessarily is near all types of land uses in the City of Rye and as such all boxes have been checked.			

<p>5. Is the proposed action,</p> <p>a. A permitted use under the zoning regulations? New poles and pole attachments in City ROW not subject to zoning</p> <p>b. Consistent with the adopted comprehensive plan? Telecommunications use of ROW not in 1985 plan</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>N/A</p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>
<p>6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? New poles and pole attachments consistent with other utility infrastructure (transformers, wifi antennas, Fios boxes, etc)</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p>	
<p>7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: The project is not located in any CEA. City of Rye streets do adjoin CEA's in some areas per the DEC Environmental Mapper. There is no at grade construction in any CEA.</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p>	
<p>8. a. Will the proposed action result in a substantial increase in traffic above present levels?</p> <p>b. Are public transportation service(s) available at or near the site of the proposed action? Yes, but N/A - project has no occupancy</p> <p>c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? same</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	
<p>9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: Project does not involve any habitable or occupiable structures for purposes of the state energy code. All construction is done in accordance with utility company tariffs and electrical code standards</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p>	
<p>10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: N/A - no water supply required</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: N/A - no wastewater supply required</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? No utility pole location is known to be listed on the State or National Register of Historic Places</p> <p>b. Is the proposed action located in an archeological sensitive area? No utility pole location is known to be in an archeological sensitive area</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	
<p>13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? City streets may adjoin areas of wetlands or waterbodies as shown on the DEC Environmental Mapper</p> <p>b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: All improvements are proposed on utility poles with no at grade encroachment into any adjacent wetland or waterbody.</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p>	
<p>14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:</p> <p><input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional</p> <p><input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban City streets</p>			
<p>15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? City streets</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>16. Is the project site located in the 100 year flood plain? All improvements are above grade on utility poles</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,</p> <p>a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES</p> <p>b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Crown - by Esme Lombard</u> Date: <u>June 23, 2016</u>		
Signature: <u></u>		

Project: Date:

***Short Environmental Assessment Form
Part 2 - Impact Assessment***

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Project: Date:

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

 Name of Lead Agency

 Date

 Print or Type Name of Responsible Officer in Lead Agency

 Title of Responsible Officer

 Signature of Responsible Officer in Lead Agency

 Signature of Preparer (if different from Responsible Officer)

PRINT FORM