



Central Pine Barrens Joint Planning and Policy Commission

September 17, 2025

Adopted Decision to Deny

Homeland Towers and Verizon Wireless LLC Core Preservation Area

Compelling Public Need Waiver Application

2055 Flanders Road, Flanders, Town of Southampton

SCTM # 900-170-1-41.1

I. The Project and Project Site

On March 5, 2025, Homeland Towers and Verizon Wireless LLC (collectively the Applicant) submitted an application to the Central Pine Barrens Joint Planning and Policy Commission (the Commission) to construct a 150 foot tall wireless communications monopole with space for four private wireless service arrays on a 6.1 acre Project Site in the Core Preservation Area of the Central Pine Barrens.

Timothy C. Hubbard
Member

Maria Z. Moore
Member

Daniel J. Panico
Member

Edward P. Romaine
Member

The Project is “development,” as defined by Article 57 of the Environmental Conservation Law (ECL), and the Applicant requires a waiver of the Long Island Pine Barrens Act’s prohibition on new development in the Core Preservation Area from the Commission to proceed.

The Project Site is located at 2055 Flanders Road (New York State Route 24, in the hamlet of Flanders, in the Town of Southampton. The Project Site is in the Country Residence 60 zoning district and has approximately 278 linear feet of frontage on Flanders Road. It is owned by S&F Riverside Corporation.

According to the Application, a pre-existing non-conforming use of an automobile salvage yard has been present since the 1980s and is currently in operation. A 3,600 square foot two-story building is developed on the Project Site and the remaining area is unvegetated surfaces largely covered by debris. S&F Riverside purchased the property for \$4.5 million on December 30, 2024. Prior to its purchase, Homeland had submitted an application for the Project to the Town of Southampton, which is pending.

II. The Long Island Pine Barrens Protection Act of 1993, the Commission, Development and the Central Pine Barrens Comprehensive Land Use Plan

The Commission was created by the Long Island Pine Barrens Protection Act (the “Act”) adopted in 1993 and codified in Article 57 of the Environmental Conservation Law (ECL). The Act empowered the Commission, to, among other things, oversee development activities within the specially designated Central Pine Barrens Area. Section §57-0107(13) of the ECL defines development to be the “performance of any building activity, . . . , the making of any material change in the use or intensity of use of any . . . land and the creation . . . of rights of access.”

On June 28, 1995 the Commission, in furtherance of its mission and in compliance with the directives set forth in the Act, adopted its Central Pine Barrens Comprehensive Land Use Plan (the “Plan”). Section 4.5.1 of the Plan, states, “[t]he Act requires the prohibition or redirection of development in the Core Preservation Area and sets forth the jurisdiction of the Commission over, and certain requirements for processing, hardship exemptions. The Act authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate hardship according to the conditions and finding of extraordinary hardship” pursuant to subdivision of Section 57-0121(10) of the Act.

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The Project constitutes development as defined by the Act and to proceed, the Applicant must demonstrate a hardship exists pursuant to ECL §57-0121(10) of the Act and receive a hardship exemption from the Commission due to an extraordinary hardship or a compelling public need. The Applicant applied under both criteria.

To establish a hardship, the Applicant must either demonstrate an extraordinary hardship exists under ECL §57-0121(10)(a) if the provisions of the Act are literally enforced and only if demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this title, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:

- (i) Do not apply to or affect other property in the immediate vicinity;
- (ii) Relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or
- (iii) Are not the result of any action or inaction by the applicant or the owner or his or her predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993.

Alternatively, the Applicant can demonstrate an established compelling public need if, based on specific facts, one of the following exists:

- (i) The proposed development will serve an essential health or safety need of the municipality or, in the case of an application serving more than one of the municipalities that the public health and safety require the requested waiver, that the public benefits from the proposed use are of a character that override the importance of the protection of the core preservation area as established in this article, that the proposed use is required to serve existing needs of the residents, and that no feasible alternatives exist outside the core preservation area to meet the established public need and that no better alternatives exist within the county; or
- (ii) The proposed development constitutes an adaptive reuse of an historic resource designated by the commission and said reuse is the minimum relief necessary to ensure the integrity and continued protection of the designated historic resource and further that the designated historic resource's integrity and continued protection cannot be maintained without the granting of a permit.

With regard to the showing, the Applicant may only be approved if it is determined that the following additional standards also are met:

- (i) The granting of the permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area;
- (ii) The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this title; or
- (iii) The waiver is the minimum relief necessary to relieve the extraordinary hardship, which may include the granting of a residential development right to other lands in the compatible growth area that may be transferred or clustered to those lands to satisfy the compelling public need.

III. The Application, SEQRA, Public Hearing, Public Process and Supplemental Materials

Application

On March 5, 2025, the Applicant submitted to the Commission the Application. It contained Part I of the State Environmental Quality Review Act (SEQRA) Full Environmental Assessment Form, a petition on the alleged hardship, a Planning, Zoning and Visual Impact Analysis with appendices prepared by VHB dated February 2025, cultural resources correspondence dated February 17, 2022, and a Site Plan package, dated July 23, 2024, prepared by WFC Architects. Supplemental material was submitted on March 25 including a revised hardship petition with the correct tax map number of the Project Site.

State Environmental Quality Review Act (SEQRA)

The Project is classified as an Unlisted Action under SEQRA. On March 19, 2025, the Commission sought to serve as Lead Agency for purposes of the required environmental review under SEQRA. The Southampton Town Planning Board, the Southampton Zoning Board of Appeals and New York State Department of Transportation responded to the Commission letter. None of the entities objected to the Commission serving as Lead Agency.

In addition to consenting to the Commission serving Lead Agency, the Southampton Planning Board's provided a copy of their May 25, 2023 Pre-Submission report based on Homeland's application to the Town for the Project. The Planning Board also provided a 2024 aerial of the site and an April 10, 2025 report identified as ID #49518.

The Planning Board report outlined a number of significant issues identified by the Board in reviewing the Project including its inconsistency with the 1999 Southampton Town Master Plan and Wireless Master Plan, that the Project Site is within an area identified by the Planning Board as an Avoidance Area, that the Project would require more than one variance from the Town Zoning Board of Appeals including dimensional relief, that the Project is a second use on a site where only one use is permitted, the Project's anticipated visual impacts on aesthetic resources to a viewshed the Planning Board has identified as locally important to the community, and that an approval may set a precedent for future projects locating a cell tower in an important area for preservation of views. An Avoidance Area is defined in the Southampton Town Wireless Plan as a visually and environmentally sensitive area.

In its March 27, 2025 letter the DOT stated that the Project requires a highway permit for proposed work on State Highway 24 and requested the application form 'prm33' and site plans.

To determine the Project's potential impact on flora and fauna resources in the immediate area of the Project Site, the Commission requested a report from the New York Natural Heritage Program. By letter dated June 24, 2025, the Program identified that the Northern Long-eared Bat (*Myotis septentrionalis*), a Federal and State-listed Endangered mammal, has been "documented within 1 mile (nonbreeding) and within 2 miles (maternity colony) of the project site" and noted that individual animals may travel 3 miles from the documented locations.

To determine the Project's potential impact on historic or pre-historic resources in the immediate area of the Project Site, the Commission requested a report from New York State Parks, Recreation and Historic Preservation Office (SHPO). By letter dated May 14, 2025, SHPO noted that the Project is not adjacent to any historic property which is listed or eligible for listing in the National Register of Historic Places and that the proposed tower will have No Effect on Historic Properties.

Public Hearing, Public Process and Supplemental Materials

On March 19, 2025, the Commission scheduled a public hearing for April 16. By letter dated March 25, the Applicant requested an adjournment of the hearing from April 16 to May 21 and an extension of the decision deadline. On April 16, the Commission rescheduled the public hearing to May 21 and granted the extension.

On May 8, in advance of the May 21 hearing, the Applicant submitted additional documentation to the Commission including:

- 1) Site Search Summary corrected affidavit by Homeland Towers dated October 18, 2024;
- 2) Dish Wireless letter dated May 6, 2025 in support of the Application;
- 3) Archaeological Assessment prepared by Dynamic Environmental Associates (DEA) with cover letter dated May 7, 2025

A public hearing was held by the Commission on May 21, 2025. During the Hearing, a Commission Staff Report with six Exhibits (A through F) was presented. The Staff Report described land use and environmental features located in a concentric area expanding one half mile from the Project Site (the “Study Area”). In addition the Staff Report noted prior Commission decisions involving similar applications.

During hearing, the Applicant, through its attorney Robert Gaudioso and VHB’s David Wortman, provided a presentation on the Application. The presentations summarized the materials contained in the Application.

A stenographic transcript was made of the hearing. The hearing was continued to June 18. No member of the public commented. On June 4, the Applicant requested the June 18 hearing be postponed to July 16 to provide additional time to submit more information in the record and to extend the decision deadline to September 17, 2025.

At its June 18 meeting the Commission in furtherance of its SEQRA review and having received no objections, assumed Lead Agency and accepted the Applicant’s request for a decision deadline extension, and adjourned the hearing until July 16.

On July 2, the Applicant submitted additional information with a cover letter and four items including:

- 1) a letter from WFC Architects dated June 4, 2025,
- 2) a letter from Homeland Towers dated June 26, 2025,
- 3) a letter from Scott Perlow (a principal in S& F Riverside) dated June 19, 2025, and
- 4) a letter from New York State Department of Environmental Conservation Division of Fish and Wildlife New York Natural Heritage Program dated March 9, 2022.

At its July 16 meeting, the Commission continued the hearing and accepted the materials offered by the Applicant into the record. The Commission added into the record an article in the East Hampton Star titled “A Small Cell Solution to Improve Poor Service,” dated May 22, 2025. The article explained that shorter and more numerous poles were being developed in East Hampton Town to accommodate wireless coverage gaps. The article was produced to provide an alternative technology for the Applicant to explore to avoid impacts to Core Preservation Area features.

IV. Applicant Statements in Support of the Application

The VHB analysis contained a review of the hardship criteria and statements supporting the Project.

Assertions made by the Applicant included:

- The site is cleared of vegetation to accommodate the facility; it has direct access to a main road; and it has an established commercial or industrial use.
- No other suitable sites were found despite an exhaustive search. Other sites require significant clearing, regrading and disturbance or were too close to existing wireless facilities or residential properties.
- An analysis prepared by VComm Telecommunication Engineering which evaluated an Applicant defined an area of “sufficient radio frequency coverage” that concluded a coverage gap for the Verizon wireless network in the 700 MHz frequency bands and the signal strength is -95 dBm, which the Applicant states is the minimum acceptable received signal level for reliable indoor service to provide voice and low speed data service. The gap, according to the Applicant, necessitates the Project.

To address the whether the extant salvage yard provides the Applicant a beneficial use, the Applicant submitted that:

The requested relief relates to circumstances unique to the Subject Property and thus do not apply to or affect other property in the immediate vicinity, in accordance with criteria (i). The requested relief is intended to address a service deficiency of a public utility and does not arise out of the characteristics of the subject property or personal situation of the applicant in accordance with criterion (ii). The present use and condition of the site have existed since prior to the date of June 1, 1993 referenced in criterion (iii) and are not the result of action or inaction by the applicant or the landowner.

V. The Project Site, Immediate Vicinity and the Study Area

The Project Site is in the Town of Southampton's Country Residence 60 Zoning District. This zoning district provides for, among other things, residential development, on parcels containing a minimum of 60,000 square feet. Notwithstanding, the salvage yard, which was established in the 1980s, is a pre-existing non-conforming automobile junkyard. The Project Site is within 600 feet of the edge of the Core Preservation Area on the north side of SR 24, west of the Project Site. On the south side of SR 24 it spans 0.85 mile to the west and more than 3 miles to the east on the north and south sides of SR 24.

The Plan identifies Scenic Resources which contain landscape patterns and features which are visually or aesthetically pleasing and which therefore contribute affirmatively to the definition of a distinct community or region within the Central Pine Barrens. As per the Plan, scenic areas, open spaces, rural landscapes, vistas, country roads and other factors interact to produce a net effect upon individuals or communities. An important aspect of scenic and aesthetic resources is their *infinite renewability*. Cultural, social and economic activities which are based upon such resources, therefore, can be sustained indefinitely. A segment of State Road 24 is designated as a Scenic Resource. The Project Site is near the middle of the designated Scenic Resource.

The land uses and predominant environmental features of the Commission's Study Area, which contains approximately 450 to 500 acres in the Core Preservation Area, are natural open space contained in public land owned by Suffolk County including Sears Bellows County Park, Maple Swamp and Hubbard County Park. The County Parks extend beyond the Study Area and in total contain more than 3,000 acres of natural open space reaching at points to the Peconic Bay.

East of the site on the north and south sides of Flanders Road is natural open space in the Core. West of the site on the south side of Flanders Road is in the Core boundary to the vicinity of Pleasure Drive. West of the site on the north side of Flanders Road, approximately 600 feet to the north, the boundaries of the Core Preservation Area and Central Pine Barrens are coterminous and do not extend beyond the boundaries of Hubbard County Park. A residential community is present in the Study Area outside of the Central Pine Barrens jurisdictional boundary.

The Study Area contains no other projects decided by the Commission.

VI. Potential Adverse Environmental Impacts

In reviewing the material contained in the Application and the testimony adduced at the public hearings, the Commission finds the Project would result in significant adverse environmental impacts on the resources of the Central Pine Barrens including adverse impacts on the character, and scenic views in the Core and from public open spaces. Supporting this finding is the VHB Visual Impact Analysis which reveals the tower would be visible from locations in a 2,170 acre area surrounding the Project Site. These locations include both locations containing approximately 2,030 acres on the Bay and 140 terrestrial acres. The Project will be visible outside and within the boundaries of the Core where the boundary extends to the shoreline of Hubbard County Park where it meets Flanders Bay in Peconic Bay.

The analysis also estimates the Project may be visible from 2,700 acres of County conservation lands in tidal marshlands along the edge of Flanders Bay including Hubbard County Park in the Core. The Project will be visible from 2,440 linear feet of affected roadway running through the Core Preservation Area, within one-half mile of the Project Site, according to the analysis. According to traffic counts from 2019 (NYSDOT Annual Average Daily Traffic Count), 21,000 vehicle trips occur on State Road 24 on a daily basis. Currently the project site is on a segment of roadway free of non-natural features excepting the pre-existing non-conforming salvage yard use. The Application states the affected viewshed is 3.7 acres along State Route 24, the designated scenic resource, in the immediate vicinity of the Project Site. The Core extends 0.85 miles to the west and more than three miles to the east, therefore, the viewshed covers the Core area.

Potential significant adverse environmental impacts are expected from the Project because the height of the proposed facility exceeds the height of adjacent trees and vegetation by two or three times. These impacts will occur to the Commission identified Scenic Resource.

VII. Commission Review of the Application and Findings

In reviewing a Core Preservation Area Hardship exemption application, the Commission must consider the criteria set forth in ECL §57-0121(10) and determine whether or not the requested relief is consistent with the purposes and provisions of the Act and if granted, would not result in a substantial impairment of the resources of the Central Pine Barrens. The Commission has considered the Application, the Staff Report and Exhibits, and the hearing transcripts to determine whether the Applicant satisfied the elements.

A. ECL §57-0121(10)(a) Extraordinary Hardship Criteria Review

In order to establish a hardship under ECL §57-0121(10)(a)(i), the Applicant is required to demonstrate that the property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this Act, and that this inability to have a beneficial use results from unique circumstances peculiar to the property which do not apply to or affect other property in the immediate vicinity.

The Commission finds the Applicant has not satisfied the element in ECL §57-0121(10)(a)(i), because the Project is not unique and the Project Site has a beneficial use of a pre-existing non-conforming junkyard, a non-residential use in a residential zoning district.

The provisions of the Plan apply to and affect other privately-owned land, whether developed or not, in the immediate vicinity, in the Study Area and in similar areas of the Core Preservation Area. The Commission finds the characteristics of the Site are not unique to this hardship request. The circumstances pertain to the Applicant's and S& F Riverside's personal situation and investment decision to seek to erect the tower on the Project Site or to purchase the property in December 2024, less than one year prior to this application. Neither the Applicant nor S& F Riverside can claim a right to a discretionary right to develop the Project.

In order to establish a hardship under §57-0121(10)(a)(ii), the Applicant is required to demonstrate that the inability to have a beneficial use results from unique circumstances peculiar to the subject property which relate to or arise out of the characteristics of the subject property rather than the personal situation of the Applicant. The Applicant has not provided any documentation demonstrating that the existing salvage yard does not provide "any" beneficial use to S&F Riverside. The Applicant has not identified its interest in the Project Site or how it has or does not have a beneficial use in the same.

In order to establish a hardship under ECL §57-0121(10)(a)(iii), the Applicant is required to demonstrate that the inability to have a beneficial use results from unique circumstances peculiar to the subject property which are not the result of any action or inaction by the Applicant or the owner or his predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993. S&F Riverside purchased the Property in December 2024. Homeland has not provided details concerning its relationship with S&F Riverside or its interest in the Project Site which are not caused by its action or inaction.

The Commission finds the Applicant has not established it has met the criteria in ECL §57-0121(10)(a)(ii) and (iii). The Applicant has not demonstrated that the property suffers from a lack of beneficial use or that it is not due to his personal situation and/or the action or inaction by the Applicant.

B. ECL §57-0121(10)(b) Compelling Public Need Criteria

In order to establish a compelling public need, the Applicant must demonstrate that, pursuant to ECL §57-0121(10)(b)(i), the Project will serve an essential health or safety need of the municipalities in the Central Pine Barrens such that the public health and safety require the requested waiver, that the public benefits from the proposed use are of a character that overrides the importance of the protection of the Core Preservation Area, that the proposed use is required to serve existing needs of the residents, and that no feasible alternatives exist outside the Core Preservation Area to meet the established public need and that no better alternatives exist within the County.

The Commission finds the Applicant has not satisfied the element in ECL §57-0121(10)(b)(i) because it has not been demonstrated that the project is required for public health and safety, the public benefit overrides the importance of the protection of the Core Preservation Area, or that no feasible alternative exist outside of the Core within the County.

A robust record for a compelling public need waiver has not been established. No letters were received from municipal agencies or emergency services expressing a compelling public need for or in support of this Project. The statements of potential need in the Application are conjecture and the statements that imply this need are belied by the outreach to public land managers that did not respond favorably or engage supportively in the Applicant's request to locate this facility on their lands.

While the Applicant asserts an opportunity exists for the Project to be “available for public service entities,” (July 16 Hearing at 16), the Applicant has not provided documentation that any public service entity has requested co-location of its wireless facilities on the proposed tower.

The Application dismissed small Distributed Antenna System (DAS) where antennas are placed on utility poles stating it is a “fine solution in certain circumstances” though not a suitable fit for this area, it has not demonstrated that there are no other suitable sites for the proposed tower outside the Core Preservation Area which extends only 600 feet to the west on the north side of SR 24, 0.85 mile to the west on the south side and more than 3 miles to the east on the north and south sides of SR 24 from the Project Site.

To address non-Core Preservation Area locations, the Applicant submitted VHB “Aerial map with Homeland’s search and proposed site” Report. This report identifies all 30 sites including the Project Site in the “Properties Investigated” by Homeland Towers, dated October 18, 2024. Out of 30 sites listed, 29 sites are in the Core Preservation Area and one is in the Compatible Growth Area, which is located in a Town of Southampton Red Creek Park. This site was discounted because it already contains a wireless tower. However, the Applicant did not provide documentation on why the tower in the Town Park could not be retrofitted or replaced with a tower with greater capacity to achieve the Applicant stated goal on increasing coverage in the cell coverage gap. Thus, from the information submitted by the Applicant, it appears it only examined one non-Core Preservation Area property for the proposed tower. This does not suffice to demonstrate there are no feasible alternatives outside the Core Preservation Area in part because the Core Preservation Area only extends 600 feet to the west on the north side of SR 24 and a distance of 0.85 mile to the west on the south side and more than 3 miles to the east on the north and south sides of SR 24 from the Project Site.

The report concludes for 24 of the sites, “A proposal was sent to the owner via certified mail. The owner did not respond with interest in pursuing a lease with Homeland Towers.” No sites in the Study Area outside of the Central Pine Barrens were evaluated. The Application does not appear to consider or evaluate viable alternative sites, technologies or an alternative that is reduced in scale or magnitude to avoid significant adverse impacts of the Project on the Core, on visual and scenic resources, character and setting of the Core. No demonstration was made that the Project could not go elsewhere in the County, as required for Compelling Public Need.

C. ECL §57-0121(10)(c) Hardship Criteria

In order to establish a hardship, the Applicant must also demonstrate that, pursuant to ECL §57-0121(10)(c)(i), the Project will meet the standard that the granting of a permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the Core Preservation Area.

The Commission finds the Applicant has not satisfied the element in ECL §57-0121(10)(c)(i) because the Project could increase the danger of fire through the storage of 1,500 gallons of propane in a wildfire dependent ecosystem where the Project Site is surrounded by thousands of acres of natural open space and that in the event of a wildfire could be exacerbated by the presence of this flammable fuel.

In order to establish a hardship, the Applicant must also demonstrate that pursuant ECL §57-0121(10)(c)(ii) the Project will be consistent with the purposes, objectives or general spirit and intent of this title. The Plan prohibits development in the Core Preservation Area and requires that development be redirected for the protection of ecologic and hydrologic functions of the Pine Barrens.

The Commission finds that the Project does not achieve the goals and objectives of the Act or the Plan for

the Core Preservation Area. The Project would cause development in the Core, adversely impacting the scenic views, setting, open space and character of the while conflicting with more than one adopted plan. Therefore, the Commission finds the Applicant has not satisfied the element in ECL §57-0121(10)(c)(ii).

In order to establish a hardship, the Applicant must also demonstrate that, pursuant to ECL §57-0121(10)(c)(iii), the Project is the minimum relief necessary to relieve the extraordinary hardship.

The Commission finds that the Applicant has not demonstrated a hardship under either criteria and this provision is thus moot.

VIII. Precedent

The Commission finds the denial of the Hardship Exemption Waiver would be consistent with its prior Hardship Exemption Waiver decisions. The Applicant has not identified precedential matters that support the Application.

In 2015, the Commission approved the application of Rockwell Collins to erect two, 45 foot tall communications towers on an existing site in the Core Preservation Area. The site was developed with 23 other towers, the tower to be constructed was shorter than the Project. Rockwell also provided documentation that the antenna on its tower would be used for the purpose of emergency communications. It is the only FCC-authorized provider of the High Frequency (HF) radio spectrum for emergency backup communications which “assures mission-critical connectivity for dispatch and emergency operations, hospitals, first responders, critical infrastructure, and federal, state, and local agencies. In contrast, Homeland proposes to construct a standalone tower in an area without other tall structures. Homeland has stated that it will offer space on its proposed tower to public entities, no documentation was submitted indicating that a public entity has accepted their offer.

While the Commission has approved Rockwell Collins in the Core, 45 foot towers in an existing communications field, to reduce proliferation of free-standing towers other projects in the Core involved collocation of antennas on existing structures or to replace existing infrastructure. Other tower projects have occurred in the CGA.

IX. SEQRA

The Commission has prepared a Short Form Environmental Assessment Form (SEAF) to analyze the potential adverse environmental impacts of the denying the Application. No such impacts were identified and therefore the Commission issues a negative declaration through the SEAF.

X. Conclusion

The Commission finds that the Applicant failed to establish or provide information sufficient to demonstrate a Hardship for the reasons set forth above. Therefore, the Commission declines to grant the request hardship exemption.

Date: September 17, 2025

Application: Homeland Towers

Present:

Jennifer Juengst, for the Suffolk County Executive
Michelle DiBrita, for the Brookhaven Town Supervisor
Matt Charters, for the Riverhead Town Supervisor
Janice Scherer, for the Southampton Town Supervisor

Record of Motion:

Motion by: Ms. Scherer

Seconded by: Mr. Charters

In Favor: 4

Opposed: 0

Abstain: 0