



Phillips Lytle LLP

Via E-Mail and U.S. Mail

December 22, 2021

Village of Muttontown Board of Trustees
One Raz Tafuro Way
Syosset, NY 11791
Attn: Dr. James Liguori, Mayor

Village of Muttontown Site and
Architectural Review Board
One Raz Tafuro Way
Syosset, NY 11791
Attn: Vinny Scialli, Chairperson

Village of Muttontown Planning Board
One Raz Tafuro Way
Syosset, NY 11791
Attn: Richard Murcott, Chairperson

Village of Muttontown Building Inspector
One Raz Tafuro Way
Syosset, NY 11791
Attn: Leslie O'Neill, Building Department
Clerk

Re: New Cingular Wireless PCS, LLC d/b/a AT&T
Application for Special Use Permit
One Raz Tafuro Way
Syosset, NY 11791
SBL: 25-46-102; 25-46-107; 25-46-109; 25-46-113

Dear Dr. Liguori, Members of the Village of Muttontown Board of Trustees,
Chairperson Murcott, Members of the Village of Muttontown Planning Board,
Chairperon Scialli, Members of the Village of Muttontown Site and Architectural
Review Board, and Clerk O'Neill:

As you know, we represent New Cingular Wireless, PCS, LLC d/b/a AT&T ("**AT&T**"
or "**Applicant**") with respect to the proposed development of a new wireless
telecommunications facility ("**Project**") consisting of an approximately 160' tall
monopine with faux foliage extending to a total height of 165' tall and associated
ground-based equipment ("**Proposed Facility**") to be located within an equipment
compound ("**Equipment Compound**"), on a portion of an approximately 8.74 acre area
of land consisting of four separate parcels (SBL: 25-46-102; 25-46-107; 25-46-109; 25-46-
113), located at One Raz Tafuro Way ("**Site**") in the Village of Muttontown ("**Village**"),

KAITLIN N. VIGARS

DIRECT 518 618 1221 KVIGARS@PHILLIPSLYTLE.COM

ATTORNEYS AT LAW



Nassau County (“**County**”). The Site is owned by the Village and is the location of Village Hall, as well as other associated Village offices.

AT&T previously submitted an application for a SUP to the Village of Muttontown Board of Trustees (“**Board of Trustees**”) along with an application for a building permit (these applications collectively “**Prior Application**”) from the Village of Muttontown Site and Architectural Review Board (“**SARB**”). Subsequently, AT&T made substantial revisions to its application materials, withdrew the Prior Application, and, by letter dated October 12, 2021, submitted a new, revised application for: (1) a SUP from the Board of Trustees in accordance with Code § 190-75; (2) modifications of bulk requirements from the Village of Muttontown Planning Board (“**Planning Board**”) in accordance with Code § 190-9; and (3) a building permit from the SARB in accordance with Code § 190-50 (“**Application**”). In response to the Application, the Village, by letter dated October 29, 2021 (“**Village Comment Letter**”), provided certain comments on the Application. Thereafter, by letter dated December 7, 2021, AT&T provided a response to the Village Comment Letter and submitted additional documentation as requested by the Village (“**Application Supplement**”).

As noted in further detail below, any further comments on the Application were due to AT&T within ten days of the date of the Application Supplement. To date, no further comments have been received from the Village. Accordingly, on behalf of the Applicant and as set forth more fully below, we write to: (1) establish the timeframe pursuant to federal law within which the Village must issue determinations on the requests for zoning approvals contained in the Application; (2) request that the Board of Trustees, Planning Board, and SARB place the Application on the agendas for their next regularly scheduled meetings; and (3) request that the Board of Trustees initiate coordinated review of the Project pursuant to the State Environmental Quality Review Act (“**SEQRA**”).

**SHOT CLOCK ANALYSIS PURSUANT TO THE TELECOMMUNICATIONS ACT
OF 1996 (“TCA”)**

As noted in the Application, the TCA requires, among other things, that municipalities act on an application for the development of a wireless telecommunications facility



“within a reasonable period of time . . . taking into account the nature and scope of such request.” 47 U.S.C. § 332(c)(7)(B). Pursuant to the TCA’s implementing regulations, the presumptively reasonable timeframe for processing applications that do not involve collocation on an existing structure is 150 days. 47 C.F.R. § 1.6003(c)(1)(iv). This 150 day shot clock begins running on the day that the application is submitted. *Id.* at § 1.6003(e). Where a municipality timely provides an applicant with proper written notice that its application is incomplete, the shot clock will be tolled until the applicant submits the documents and information identified by the municipality as necessary to render the application complete. *Id.* at § 1.6003(d)(2). The shot clock begins to run again once an applicant provides its response to the notice, and will only be tolled again if, within 10 days of when the applicant provides the supplemental filing, the reviewing municipality notifies the applicant that its supplemental filing was insufficient to render the application complete. *Id.* at § 1.6003(d)(3). In order to toll the shot clock, any additional comments made during this subsequent 10 day period must be directly related to the initial notice of incompleteness. *Id.* at § 1.6003(d)(3)(iii).

As noted in the Application, the Proposed Facility is subject to the 150 day shot clock set forth in the TCA’s implementing regulations. This shot clock began to run on October 12, 2021, when the Application was submitted to the Village and was thereafter tolled on October 30, 2021, the day after the Village provided the Village Comment Letter. *Id.* at § 1.6003(d)(2)(i). At the time that the Village provided the Village Comment Letter, 18 days of the shot clock had elapsed and there were 132 days remaining on the shot clock. The shot clock began to run again on December 7th, 2021, when the Application Supplement was provided to the Village which responded to all comments provided. More than 10 days have passed since the Application Supplement was provided to the Village and no further comments have been received from the Village. Accordingly, as more than ten days have passed since the filing of the Application Supplement, the **shot clock expiration is set and will expire on April 18, 2022**, at which time the Village is required to issue all determinations on the approvals requested in the Application.

In order to assist the Village in meeting its obligations under the shot clock, AT&T will continue to work with the Village and stands ready to appear at public hearings at any time, including any special meetings that may be necessary to comply with the requirements of the TCA and shot clock codified thereunder. Additionally, in the spirit



of cooperation, we note that if the Village reasonably requires any additional information, AT&T will endeavor to provide such information promptly. However, any future request will not toll the shot clock.

NEW YORK STATE VILLAGE LAW TIMING OBLIGATIONS

In addition to the TCA's timing requirements, state law establishes certain timing requirements that are applicable to any application for zoning approvals. As relevant to the Application, N.Y. Village Law § 7-725-b(6) states that a Village board reviewing an application for special use permit must hold a public hearing on any application for SUP within 62 days of receipt thereof. Accordingly, in accordance with the timing requirements established by state law, the Village must immediately schedule a public hearing on the Application. See N.Y. Village Law § 7-725-b(6).

CONCLUSION

The Proposed Facility will fill a significant existing coverage gap in the Village, providing much needed wireless coverage. Coverage provided by the Proposed Facility will serve an important safety function as it will provide Village residents with a reliable form of communication, which includes communication to first responder agencies in the event of an emergency and communication on AT&T's emergency first responder network, FirstNet. Accordingly, the Proposed Facility is an important public safety and infrastructure improvement that will benefit the Village and its residents.

On behalf of the Applicant, and in order to meet the timing requirements established by state and federal law, we respectfully request that: (1) the Board of Trustees, Planning Board and SARB place the Application on the agendas of their next regularly scheduled meetings; (2) the Board of Trustees schedule a public hearing on the Application at its earliest convenience; and (3) the Board of Trustees initiate coordinated review of the Application pursuant to SEQRA.

Thank you for your consideration of this matter. We look forward to an opportunity to appear before the Village to discuss the Application. In the meantime, if you have any questions regarding the Project or the Application please contact me directly.



Village of Muttontown
Page 5

December 22, 2021

Very truly yours,
Phillips Lytle LLP

By /s/ *Kaitlin N. Vigars*

Kaitlin N. Vigars

KNV

cc: Keith Corbett, Esq. (via email)
Kimberly R. Nason, Esq. (via email)
Victoria Brennan (via email)
Joe D'Alto (via email)