



## Phillips Lytle LLP

Via E-Mail and Hand Delivery

July 20, 2022

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**"), Nassau County ("**County**"). The Site is owned by the Village and is the location of

KAITLIN N. VIGARS

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ATTORNEYS AT LAW



Village Hall, as well as other associated Village offices. In order to facilitate the Project, the Village has entered into a lease for a portion of the Site with AT&T.

Previously, in correspondence dated October 12, 2021, AT&T submitted an application for necessary zoning approvals to the Village of Muttontown Board of Trustees (“**Board of Trustees**”), Village of Muttontown Planning Board (“**Planning Board**”), Village of Muttontown Site and Architectural Review Board (“**SARB**”), and Village of Muttontown Building Inspector (“**Application**”). In connection with that Application, we, on behalf of AT&T appeared at a meeting of the Village of Muttontown Zoning Board of Appeals (“**ZBA**”), held on May 19, 2022, during which the ZBA opened a public hearing on the Application.

On behalf of AT&T, and as set forth more fully below, we submit this letter (“**Second Application Supplement**”) in response to the comments made at the public hearing.

Enclosed you will find 10 copies of the Second Application Supplement with the following exhibits attached hereto and made part hereof:

<b>Exhibit A:</b>	Copy of Village Variance Letter
<b>Exhibit B:</b>	Survey

**PROJECT DETAILS**

Applicant: New Cingular Wireless PCS, LLC

Applicant Address: One AT&T Way  
Bedminster, NJ 07921

Attorney Contact: Phillips Lytle LLP  
Attention: Kaitlin N. Vigars, Esq.  
30 S. Pearl Street  
Albany, New York 12207  
(518) 618-1221  
E-mail: kvigars@phillipslytle.com



Project Location: One Raz Tafuro Way  
Syosset, New York 11791

Parcel ID: Tax Section 25, Block 46, Lot 102  
Tax Section 25, Block 46, Lot 107  
Tax Section 25, Block 46, Lot 109  
Tax Section 25, Block 46, Lot 113

Property Owner: Village of Muttontown  
One Raz Tafuro Way  
Syosset, New York 11791

Zoning District: E-3 Residence District

### APPLICATION HISTORY

As noted above, we, on behalf of AT&T, filed the Application on October 12, 2021. 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, including additional documentation as requested by the Village (“**Application Supplement**”). No further comments were received from the Village and, in a letter dated December 22, 2021, we wrote to the Village confirming its timing obligations pursuant to state and federal law (“**First Shot Clock Letter**”).

Subsequently, in a call on January 7, 2021, the Village’s counsel requested that AT&T address certain follow up questions in writing (“**Village Clarification Request**”). In correspondence dated January 13, 2021, we wrote to the Village to provide a response to the Village Clarification Request and, in correspondence dated February 9, 2022 (“**Second Shot Clock Letter**”), we wrote again to the Village to request that the Village proceed with its review of the Application by scheduling meetings of the relevant boards and placing the Application on the agenda for such meetings. Thereafter, in correspondence dated March 22, 2022 and received March 30, 2022 (“**Village Shot**”).



**Clock Letter**”), the Village’s counsel wrote to articulate the Village’s position with respect to its timing obligations under state and federal law. Contemporaneously, in a letter dated March 30, 2022 (“**Village Variance Letter**”), the Village also wrote to outline certain variances that must be obtained from the ZBA before the Village would process the Application.

In connection with the Village Variance Letter, we, at the Village’s request, participated in a conference call with representatives of the Village and the Village’s counsel on April 7, 2022 to discuss the Application, the Village’s process for review of same, and the Village’s requests made in the Village Variance Letter. During this conference call, the Village requested additional materials related to its request that the Applicant obtain certain variances from the ZBA and clarified its process for reviewing the Application. Specifically, the Village’s counsel advised that the SARB and Planning Board functioned in an advisory capacity to the Village’s other boards and that specific approvals from the SARB and Planning Board as requested in the Application were not required.

Following this conference call, in correspondence dated April 15, 2022 (“**Shot Clock Extension Letter**”), we wrote to the Village to provide the information requested in the Village Variance Letter and to offer an extension of the federal timeframe for the Village’s review of the Application (i.e., the Shot Clock) until May 18, 2022. The Village subsequently placed the Application on the agenda for the ZBA meeting on May 19, 2022 and in an email dated May 12, 2022, we agreed to the Village’s request for extension of the Shot Clock until May 19, 2022. Thereafter, in the spirit of cooperation, AT&T worked with the Village to negotiate further extension of the Shot Clock and, in correspondence dated June, 9, 2022, offered further extension of the Shot Clock until August 19, 2022, which the Village accepted.

#### **APPLICANT RESPONSE TO COMMENTS RECEIVED AT THE PUBLIC HEARING**

As noted above, the ZBA opened a public hearing on the Application during its regularly scheduled meeting on May 19, 2022. At that meeting, we received a number of questions and comments on the Project, including comments and questions from the ZBA as well as comments from the public. For your reference, the comments received



during the public hearing are summarized below with the Applicant's response thereto included in italics.

**1. Mr. Levitt, a member of the ZBA, as well as members of the public requested information regarding alternatives considered for the Project.**

*APPLICANT'S RESPONSE: As stated during the public hearing, please see **Exhibit C** to the Application Supplement, which includes an affidavit from Victoria Brennan, site acquisition consultant for AT&T, describing: (a) efforts to identify a site that will fill AT&T's existing coverage gap in the Village; and (b) the lack of feasible alternatives to the existing Site.*

**2. Mr. Levitt, a member of the ZBA, questioned whether Applicant's lease with the Village provided a sufficient level of site control as required for an applicant for zoning approvals.**

*APPLICANT'S RESPONSE: As discussed in the Application and stated during the public hearing, AT&T leases the Site from the Village ("**Lease**"). Pursuant to the Code, a lease is sufficient to establish site control necessary to make an application for zoning approvals. Code § 1-17B(4) (defining owner as "[a]ny person having legal title, control or possession of real or personal property or said person's executor, legal representative, agent, lessee, or officer"); see Code § 172-2 (defining applicant within the context of a tree permit as "[t]he owner, contract vendee or lessee of real property"); 190-73 (contemplating that an applicant for a wireless telecommunications facility would be a lessee of real property where the telecommunications facility is proposed). Although, as discussed at the public hearing, the lease does give AT&T the ability to terminate the lease if it is unable to secure necessary government approvals for the Project, such termination clause in no way impacts the validity of the Lease or AT&T's rights thereunder. Indeed, as also discussed at the public hearing, this provision is typical for development projects, including important infrastructure projects similar to the Facility. See *Steel Los III v. Power Auth. of State*, 21 Misc.3d 707, 717 (Nassau Cty. 2008) (rejecting argument that lease was insufficient for purposes of site control and finding that a lease was sufficient for purposes of site control absent an explicit requirement for fee ownership and further noting that leases were commonly used to demonstrate site control). Finally, we note that the Lease expressly authorizes AT&T to apply for any necessary approvals related to the development of the Facility and requires the Village to reasonably assist AT&T in making such applications.*



**3. Mr. Levitt asked for more information regarding the Applicant’s representation in the Application that wireless telecommunications facilities were considered public utilities under New York law subject to a need-based standard for zoning approvals.**

*APPLICANT’S RESPONSE:* As discussed in the Application, the Application Supplement, and detailed during the public hearing, it is well settled that wireless telecommunications facilities are considered public utilities for zoning purposes. See Cellular Tel. Co. v Rosenberg, 82 N.Y.2d 364, 371 (1993); Lloyd v. Town of Greece Zoning Bd. of Appeals, 292 A.D.2d 818, 819 (4th Dep’t 2002). Accordingly, such facilities are subject to a lesser standard for granting zoning approvals than other uses. Lucas v. Planning Bd. of Town of LaGrange, 7 F. Supp. 2d 310, 323 n.8 (S.D.N.Y. 1998) (“cellular providers are . . . entitled to wider zoning latitude in order to provide their public services”); see DeCarr v. Zoning Bd. of Appeals for Town of Verona, 154 A.D.3d 1311, 1312 (4th Dep’t 2017). On an application for an area variance, this lesser standard requires only that a wireless telecommunications provider demonstrate a need for its facilities and that the needs of the broader public would be served by granting an approval. Omnipoint Commc’ns, Inc. v. Town of LaGrange, 658 F.Supp.2d 539, 555 (S.D.N.Y. 2009); see Sprint Spectrum L.P. v. Willoth, 176 F.3d 630, 647 (2d. Cir. 1999) (recognizing that under New York law “applications for the construction of cell sites necessary to remedy gaps in a service area that currently prevent a wireless service provider from providing adequate service to its customers are subject to a more lenient treatment under zoning laws”); Consol. Edison Co. of New York v. Hoffman, 43 N.Y.2d 598, 608-610 (1978) (“[I]t has long been held that a zoning board may not exclude a utility from a community where the utility has shown a need for its facilities.”); see also Rosenberg, 82 N.Y.2d at 372 (in a seminal case concluding that cellular telephone companies are public utilities and subject to a diminished need-based standard for zoning approvals). Additionally, where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced. See N.Y. SMSA Ltd. P’ship v. Vill. of Floral Park Bd. of Trs., 812 F.Supp.2d 143 (E.D.N.Y. 2011). We note that courts have consistently upheld and reaffirmed these principles. See, e.g., Site Acquisitions, Inc. v. Town of New Scotland, 2 A.D.3d 1135, 1136-1137 (2003); Nextel Partners, Inc. v. Town of Fort Ann, 1 A.D.3d 89, 93 (2003).

**4. Mr. Levitt requested further information regarding how the need for the Facility aligned with the definition of “adequate coverage” as stated in the Code. Members of the public also questioned the need for the Facility and**



**alleged that the information provided in the Application was inconsistent with their experience.**

*APPLICANT'S RESPONSE: As discussed in the affidavit of Neil Arceo, the Applicant's radio frequency ("RF") consultant, which was provided with the Application as Exhibit G, as well as in the Application Supplement, and at the public hearing, the Facility is required to fill a coverage gap in the Village. Although we acknowledge that the Village's definition of adequate coverage states that "[i]t is acceptable for there to be holes within the intended coverage area," such definition is inconsistent with federal law. Specifically, 47 U.S.C. § 332(c)(7)(B) limits local zoning authority over wireless telecommunications facilities and, among other things, states that a local government or instrumentality thereof "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." See Sprint Spectrum L.P. v. Willoth, 176 F.3d 630, 639 (2d Cir. 1999) (affirming federal statutory limitations over local zoning authority to regulate the placement of wireless telecommunications facilities). As applied, courts have found that this prohibition means a municipality may not reject an application for siting of a wireless telecommunications facility if the proponent has shown that: (1) a significant gap exists in wireless coverage; and (2) that its proposed facility is the least intrusive means to close that gap. Willoth, 176 F.3d at 643; T-Mobile Northeast LLC v. Town of Ramapo, 701 F.Supp.2d 446, 456 (S.D.N.Y. 2009).<sup>1</sup> With respect to this analysis, the question of whether a significant gap in coverage exists is determined from the carrier's perspective. MetroPCS New York LLC v. Vill. of East Hills, 764 F.Supp.2d 441, 455 (E.D.N.Y. 2011) (finding municipality's determination to deny zoning approvals required for wireless telecommunications facility was*

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<sup>1</sup> Although not relevant to the questions regarding the meaning of adequate coverage as provided in the Code, we note that whether a facility is the least intrusive means to close an existing coverage gap depends on several factors, including, among other considerations, that a less sensitive site exists, that a lower tower height would be sufficient to close the gap, or that the proponent of the wireless telecommunications facility could address the gap in coverage using a preexisting structure. Willoth, 176 F.3d at 643; see Cellco P'Ship v. Town of Clifton Park, 365 F.Supp.3d 248, 264-65 (N.D.N.Y. 2019) (ordering defendant-municipality to issue necessary approvals for proposed wireless telecommunications facility because proposed facility was least intrusive means to close the existing coverage gap based on information in the record showing that proposed facility would have a limited visual impact, the tower was proposed for the lowest possible height to fill the coverage gap, and there were no other preexisting structures where the proposed facility could be located). As noted above, AT&T previously provided in support of its Application an affidavit from Victoria Brennan detailing the dearth of viable alternatives to the Facility.



*not supported by substantial evidence where it was premised, in part, on finding that existence of coverage gap could be determined based on user's perspective, which was a misapprehension of the law); Crown Castle NG East, Inc. v. Inc. Vill. of East Hills, 2013 WL 3357169 at \*18, \*19 (E.D.N.Y. July 3, 2013) (same); see also Petition for Declaratory Ruling to Clarify Provisions of Section 332(C)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify all Wireless Siting Proposes As Requiring a Variance, 24 FCC Rcd. 13994, 14017-18 (Nov. 18, 2009) (interpreting federal limitation on local authority to mean that existence of coverage gap must be determined based on provider's rather than user's perspective). A carrier may establish that a significant coverage gap exists by providing RF data. See New York SMSA Ltd. P'ship v. Vill. of Floral Park Bd. of Trs., 812 F.Supp.2d 143, 159-62 (E.D.N.Y. 2011) (finding that wireless telecommunications service provider met its burden to show existence of coverage gap using RF data prepared by third-party experts based on computer modeling and further finding that unsupported allegations of sufficient coverage based on anecdotal evidence was insufficient to refute such showing).*

*To the extent that members of the public stated at the public hearing that they do not believe there is a need for the Facility based on their experience driving around the Village with an AT&T phone, we note that such claims are insufficient to contradict AT&T's showing of need for the Facility based on information prepared by a third-party expert, specifically trained for such task, with significant experience in the field, and using specialized equipment. See Up State Tower Co., LLC v. Village of Lakewood, 431 F.Supp.3d 157, 171 (W.D.N.Y. 2020) (information provided by non-engineer layperson that had purchased wireless phone and driven around the municipality without experiencing dropped calls was insufficient to contradict RF data provided by wireless telecommunications service provider consisting of propagation maps and other data)*

**5. The ZBA requested a copy of the denial letter provided to the Applicant.**

APPLICANT'S RESPONSE: A copy of the Village Variance Letter is provided herewith as **Exhibit A**.

**6. Mr. Levitt requested further information regarding the information and analysis provided in the Application pertaining to the permissibility of neighbor consent requirements in an application for zoning approvals.**



APPLICANT'S RESPONSE: *As an initial matter, we note that the Code contains no requirement for the consent of neighbors within 300 feet of a site that is subject to a request for an area variance. Code § 190-38 (outlining permissible criteria the ZBA may consider in granting, among other things, area variances and making no reference to neighbor consents). Rather the consent requirement contained in the Code is applicable in the context of special use permits.*

*Pursuant to Code § 190-11, the Board of Trustees may grant a special use permit only upon: (a) the written consents of at least 75% of the owners of all land within 1500 feet of each boundary line of the lots or lots to be used for the special use; or (b) the unanimous vote of all members of the Board of Trustees. However, as discussed in the Application and again at the public hearing, the Code's requirement for consent of neighboring landowners is unlawful. See Concordia Colleg. Inst. v. Miller, 301 N.Y. 189, 196 (1950) (finding unconstitutional a zoning ordinance that required the consent of 80% of landowners of property fronting on the streets enclosing the block of the subject property before permit to erect or alter a building for educational, religious, or eleemosynary purposes); Bashant v. Walter, 78 Misc.2d 64, 69 (Sp. Ct. Oneida Cty. 1974) (finding unconstitutional a zoning ordinance that required the consent of a majority of landowners within 1000 feet of a subject property before permit to place mobile home on property could be approved by Town Board).*

**7. Mr. Levitt asked whether the radius map submitted with the Application identified properties that would be endangered by the Facility.**

APPLICANT'S RESPONSE: *As noted in the Application Supplement and explained during the public hearing, the radius map provided with the Application Supplement as Exhibit D shows owners of the land within a radius of 1500' of the Site. This radius map was submitted at the Village's request and, as noted in the Application Supplement, was provided to the Village for notice purposes.*

**8. Mr. Levitt asked why the Application was submitted in October 2021, but not put before the ZBA until May 2022.**

APPLICANT'S RESPONSE: *As detailed in ongoing correspondence provided to the Village in connection with the Application and discussed at the public hearing, AT&T has worked diligently to secure agenda placement for the Application since submitting the Application in*



October 2021. Notwithstanding the Applicant's concerted efforts to obtain agenda placement for the Application, the Village did not place the Application on any agenda until May 2022.

**9. Members of the ZBA requested information regarding the pole design and potential for structural failure. Members of the public also asked about the structural information provided regarding the Facility and potential for structural failure of the Facility.**

*APPLICANT'S RESPONSE:* As stated in the Application and discussed at the public hearing, the Facility has been designed so that in the unlikely event of structural failure it will collapse in on itself in a kinking fashion. Specifically, the engineering letter provided with the Application as Exhibit E explains that the Facility is able to withstand wind speeds of up to 119 miles per hour, but that if the wind speeds increase beyond the capacity of the Facility's safety factors to the point of failure, the most likely location of failure will be within the monopine shaft, above the base plate. To the extent that at least one member of the public alleged the representations in this engineering letter meant that the Facility would break at its base plate, collapse fully intact, and fall horizontally, such comment is incorrect and is inconsistent with the engineering letter, which otherwise describes the Facility collapsing in on itself in a kinking fashion as stated in the Application and noted at the public hearing.

**10. Mr. Levitt and members of the public requested additional information regarding federal limitations on the ZBA's ability to regulate the placement of the tower based on alleged health and safety effects.**

*APPLICANT'S RESPONSE:* As noted above and discussed at the public hearing, federal law limits local zoning authority over the siting of wireless telecommunications facilities. In addition to the limitations discussed above, 47 U.S.C. § 332(c)(7)(B)(iv) prohibits a local government or instrumentality thereof from regulating the placement of wireless telecommunications facilities on the basis of environmental effects of RF emissions as long as the facility otherwise conforms to the Federal Communications Commission ("FCC") requirements regarding RF emissions. A report documenting that the Facility will be in compliance with all applicable FCC regulations pertaining to RF emissions was provided with the Application as Exhibit H. Accordingly, as compliance with applicable FCC RF requirements has been demonstrated in the record, the Village lacks the authority to regulate the placement of the Facility based on alleged concerns regarding health and safety effects.



**11. Mr. Levitt and members of the public requested further information regarding the boundaries of certain parkland at the Site.**

*APPLICANT'S RESPONSE: As discussed at the public hearing and shown on the survey provided herewith as **Exhibit B**, the Facility is located in an area of the Site that is not parkland. In fact, the Facility was specifically sited so as to avoid any parkland at the Site and its location as being outside any parkland was previously confirmed by the Village and its engineering consultants.*

**ESCROW FEES**

As noted in the Application and First Application Supplement, AT&T has previously submitted the requested filing fees for the Application and a \$7,500 hearing deposit for the Village's review of the Application. Additionally, in response to requests from the Village, AT&T has twice submitted additional funds, each in the amount of \$5,000, to replenish its escrow account. Notwithstanding the funds provided to date, the Village, by letter dated July 5, 2022 ("**Third Escrow Replenishment Letter**"), has requested further replenishment of AT&T's escrow account in the amount of \$10,000 to cover the cost of expenses incurred in connection with the Village's review of the Application.

Accordingly, we hereby submit an additional payment of \$10,000 as requested in the Third Escrow Replenishment Letter. By providing the requested escrow fees, AT&T in no way concedes that these fees have been properly imposed and submits these fees without any admission of fact or concession of law on AT&T's part, and with full reservation of all of AT&T's rights under any applicable, federal, state, or local laws, or regulations. Furthermore, AT&T reserves full rights to audit the Village's use of any escrow funds and reiterates the Village's obligations under New York State law and federal law. AT&T will not be responsible to pay the costs of any duplicative or unnecessary reviews and reserves its rights, if necessary, to challenge any legal or consulting fees which AT&T believes to be improper, unjustified, redundant and/or excessive.



### 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 the Village process the Application and place the Application on the agenda of the upcoming meetings of the relevant Village boards.

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, should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Phillips Lytle LLP

By /s/ *Kaitlin N. Vigars*

Kaitlin N. Vigars

KNV

Doc #10352638.1

cc: Keith Corbett, Esq. (via email)  
Kimberly R. Nason, Esq. (via email)  
Victoria Brennan (via email)  
Pat McMahon (via email)

# EXHIBIT A



## INCORPORATED VILLAGE OF MUTTONTOWN

One 'Raz' Tafuro Way  
Muttontown New York 11791  
www.muttontownny.gov  
516-364-3476

Dr. James Liguori  
Mayor

Joseph Russo  
Clerk/Treasurer

Phillips Lytle, LLP  
Kaitlin Vigars  
Omni Plaza  
30 South Pearl Street  
Albany, NY 12207-3425  
Email kvigars@phillipslytle.com

March 30, 2022

Dear Ms. Vigars:

Based upon the review of Phillips Lytle, LLP's Response Letter regarding Application for Special Use Permit (initially submitted October 12, 2021), updated on December 7, 2021, for a new cell phone tower and associated accessory structures/items (Application), Walden Environmental Engineering, PLLC (Walden), as the Village of Muttontown's representative engineer, has noted the following variances that will need to be sought from the Village for the application to proceed:

1. Site Location: Chapter 190.58(e) - Site location will only be considered by the **Zoning Board of Appeals** when the applicant demonstrates that a priority site is not available and that the alternate site chosen demonstrates to the Board's satisfaction that the alternate site protects and preserves the qualities listed by the Village of Muttontown.
2. Setbacks: Chapter 190.60 - A free-standing wireless telecommunications tower shall be located from the property line and all dwellings not less than:
  - a) The height of the facility plus two times the applicable setback for principal structures for the district in which the property is located; and
  - b) Such additional setbacks as required by the Village code in order that the proposed facility will not create damage or injury from a structural failure of a wireless telecommunication service facility.



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Mayor

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3. Height: Chapter 190.62 b) - The height of any monopole or other freestanding structure utilized in a wireless telecommunication services facility shall not exceed 150 feet, measured from the highest point of such facility to the original grade elevation of the ground immediately adjacent to the structure.
4. Annual Certification: Chapter 190.65 b) - The **Board of Trustees** shall require annual certification of conformance with the applicable emission standards and the requirements and conditions of approval.
5. Utility Service: Chapter 190.67 - All utility device lines extended to the wireless telecommunication services facility site shall be installed underground.
6. Structural Failure Setback: Chapter 190.68 - A wireless communication services facility shall be designed and erected so that in the event of a structural failure it will fall within the required setback area and, to the maximum extent possible, away from adjacent development.
7. Inspections: Chapter 190.71 - An approved wireless telecommunication services facility shall be inspected at the expense of the service provider, adopted by the Village, by a licensed professional engineer every five years or at any time upon a determination by the Building Inspector that an approved structure may have sustained structural damage or is in violation of the conditions of approval. A copy of the inspection report shall be submitted to the Building Inspector.
8. Dismantling, Removal and Restoration Bond: Chapter 190.74 c) - The owner and/or applicant shall provide to the satisfaction of the Village of Muttontown a written agreement suitable for filing with the Nassau County Clerk to ensure the



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[www.muttontownny.gov](http://www.muttontownny.gov)  
516-364-3476

Dr. James Liguori  
Mayor

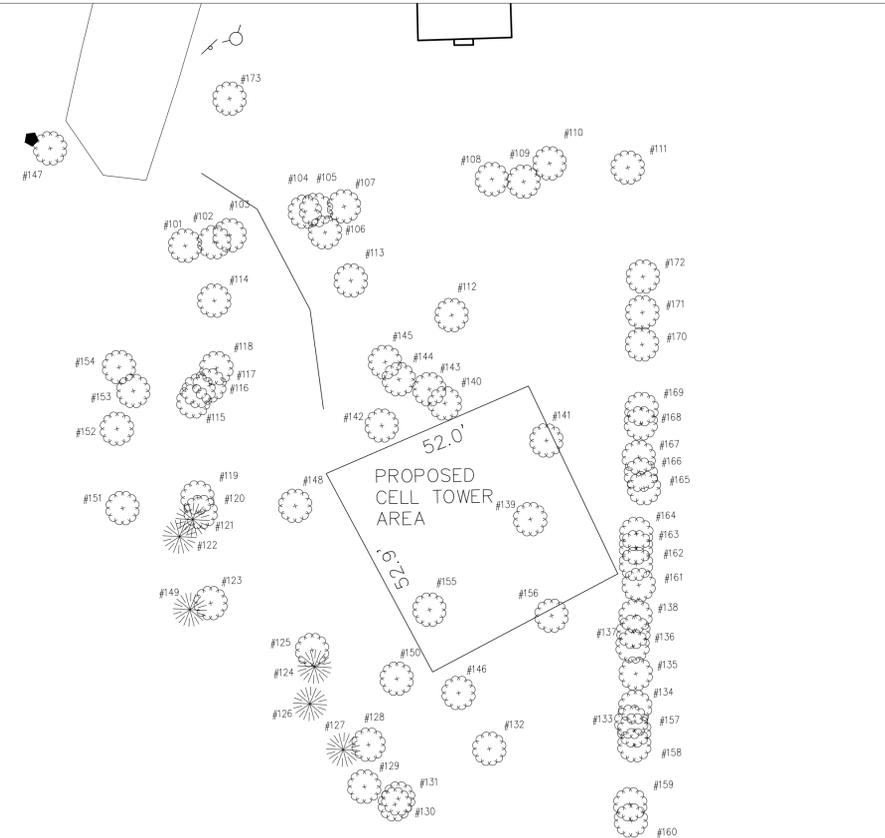
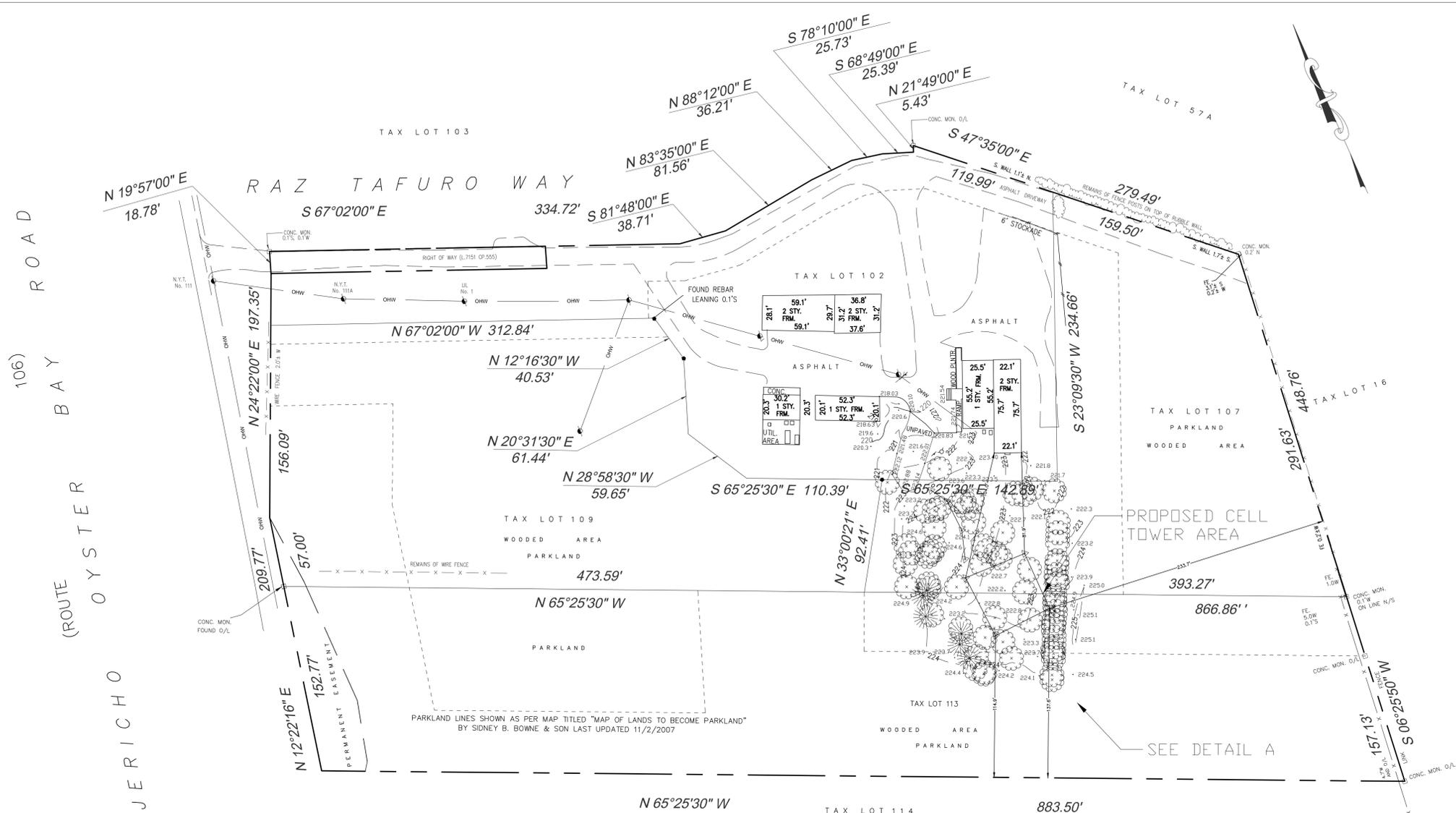
Joseph Russo  
Clerk/Treasurer

dismantling, removal and restoration of an abandoned wireless telecommunication services facility or portion thereof. Compliance with the requirements of removal as set forth herein shall be secured by a bond or cash deposit posted by the applicant in an amount and for a duration determined to be adequate by the **Board of Trustees**.

If you have any questions, please call me at 516-660-8765.

Regards,  
Joe Russo  
Acting Clerk/Treasurer

# EXHIBIT B



ID #	Size (inches)	Tree Type	ID #	Size (inches)	Tree Type
100	40"	maple	137	16"	maple
101	9", 6", 17", 12"	maple	138	16"	maple
102	17"	maple	139	11"	ash
103	7"	maple	140	17"	ash
104	12"	ash	141	8"	maple
105	12"	ash	142	27"	ash
106	16"	ash	143	7"	maple
107	13"	sassafras	144	8"	oak
108	12"	cherry	145	17"	oak
109	10"	maple	146	11"	maple
110	17"	ash	147	16"	ash
111	9"	maple	148	6"	maple
112	22"	maple	149	9"	pine
113	7"	maple	150	8"	maple
114	7"	maple	151	17"	maple
115	7"	ash	152	10"	maple
116	6"	maple	153	7"	maple
117	6"	maple	154	13"	unk
118	6"	maple	155	12"	dead
119	10", 8"	maple	156	7"	maple
120	8"	maple	157	10"	maple
121	7"	pine	158	13"	maple
122	9"	pine	159	18"	maple
123	8"	maple	160	17"	maple
124	16"	dead	161	10"	maple
125	17"	maple	162	9"	maple
126	15"	dead	163	14"	maple
127	7"	dead	164	14"	maple
128	9", 8"	maple	165	14"	maple
129	7"	maple	166	17"	maple
130	8"	maple	167	11"	maple
131	9"	maple	168	9"	maple
132	12"	maple	169	17"	maple
133	14"	maple	170	10"	maple
134	11"	maple	171	12"	maple
135	7"	maple	172	19"	maple
136	15"	maple			

- NOTES:
1. RLT Engineering, Geology and Land Surveying, P.C., a Lirio Group Company, acquired the records and contracts of Sidney B. Bowne & Son, LLP.
  2. Map of property based off of "Map of Lands to Become Parkland" by Sidney B Bowne & Son, last updated November 2, 2007
  3. Property line bearings as shown from Deed 11075, Page 0868; Deed 10127, Page 585; Deed 10127, Page 582; & Deed 7151, Page 554
  4. Elevations refer to NAVD88
  5. Coordinate system of field work performed is NYS Plane Coordinate System, Long Island Zone 3104, and rotated to fit bearing system of subject property
  6. Locations of underground utilities shown on this survey are approximate. RLT Engineering, Geology, and Land Surveying, P.C., cannot guarantee the location of underground utilities and structures. The standard of care used by RLT Engineering, Geology, and Land Surveying, P.C. to locate the utilities is reasonable and consistent with the local standard of care used to locate the underground utilities. Locations and size are based on utility mark-outs, as-built maps and other visible surface evidence observed in the course of this survey. Prior to excavation or construction the location, size and type of all underground utility locations must be verified by the respective utility company
  7. Offsets or dimensions shown hereon from the structures to the property lines are for a specific purpose and use, and therefore are not intended to guide the erection of fences, retaining walls, pools, patios, planting areas, building additions or any other construction
  8. No certification is made regarding the existence of any physical improvements or possession other than what is shown on this map of survey

UNAUTHORIZED alteration or addition to this survey map is a violation of Section 7209 of the New York State Education Law. Copies of this map not bearing the Land Surveyor's printed seal or embossed seal shall not be considered to be a valid true copy. Certifications indicated hereon shall run only to the person for whom the survey is prepared, and on his behalf to the title company, governmental agency and lending institution listed hereon, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owners.	NO. DATE DESCRIPTION BY
PREPARED FOR: Village of Muttontown MAP OF: Survey of Tax Lots 102, 107, 109 & 113 in Block 46, Section 25	
LOCATED AT: Incorporate Village of Muttontown COUNTY OF: Nassau County, New York	
CERTIFIED TO:	
	DRAFTED BY: tm
RLT Engineering, Geology, and Land Surveying, P.C. A Lirio Group Company 235 East Jericho Turnpike Mineola, NY 11501 Phone: 516-746-2350 Fax: 516-747-1396 www.Lirio.com	CHECKED BY: mr
MARK RIMLER, L.S. N.Y. LIC. NO. 049756	PROJECT NO.: 21-137-2769/10157286 SCALE: 1"=50' DATE: June 23, 2021
TAX MAP DESIGNATION: Section 25 Block 46 Lots 102, 107, 109, & 113	