

RESOLUTION
of the
Town of Pound Ridge Town Board
Adopted at its
April 19, 2011 Meeting

RE: New Cingular Wireless PCS, LLC as co-applicant with T-Mobile Northeast LLC, Pound Ridge Lions Ambulance Corps, 89 Westchester Avenue, Section 15, Block 9454, Lot 36, Pound Ridge, New York

WHEREAS, the Town of Pound Ridge Town Board has received a Special Permit application filed by T-Mobile Northeast LLC (“T-Mobile”) for a wireless telecommunication services facility consisting of a 130-foot tall monopole disguised as a coniferous tree, with eighteen (18) small panel antennas mounted thereon, together with ten (10) related unmanned equipment cabinets at the base thereof within a fenced compound, to be located on property owned by the Pound Ridge Lions Ambulance Corps (the “Owner”) at 89 Westchester Avenue, known as Section 15, Block 9454, Lot 36 on the Town tax map and within the R-2A Zoning District (the “Subject Property”); and

WHEREAS, the Town of Pound Ridge Town Board has also received an application filed by New Cingular Wireless PCS, LLC (“AT&T” or the “Applicant”), dated April 8, 2008, requesting to join T-Mobile’s application as a co-applicant (AT&T and T-Mobile, collectively referred to as “Applicants”) and obtain its own Special Permit as part of these joint proceedings with T-Mobile, to collocate a wireless telecommunication services facility on T-Mobile’s approved 130 foot monopole at a centerline height of 110 feet and install its associated equipment within T-Mobile’s approved fenced compound on the Subject Property (“AT&T’s Proposed Collocated Facility” or “Proposed Action”);

WHEREAS, the purpose of the subject application is to ensure “adequate coverage and capacity” for reliable wireless communications as an essential part of the Town’s primary responsibility to protect the public health, safety and welfare, and to ensure that the Town’s communications are not in any way diminished; and

WHEREAS, the applications were filed pursuant to Local Law No. 7 of 1998 entitled “Wireless Telecommunication Services Facilities,” which local law amended the Zoning Law to establish special standards and requirements for such uses as set forth in Section 113-58.1 of the Zoning Law of the Town of Pound Ridge (the “Wireless Law”); and

WHEREAS, such uses are permitted principal uses subject to Special Permit approval by the Town Board pursuant to the requirements of the Wireless Law; and

WHEREAS, pursuant to the Wireless Law, no Special Permit approval shall be granted unless the Town Board makes the findings in writing that the application fulfills all of the purposes and meets all of the requirements of Section 113-58.1 of the Town Code, which purposes are to:

1. Limit the number of 'wireless telecommunication services facilities' to the minimum necessary to provide 'adequate coverage' and 'adequate capacity' to the Town of Pound Ridge;
2. Upgrade the communications systems of the Town's local public and quasi-public agencies and service providers;
3. Minimize the impact of such facilities on residential properties through maximum separation among other methods;
4. Encourage the siting of 'wireless telecommunication services facilities' on properties and areas which are not used exclusively for residential purposes; and
5. Protect, to the maximum extent practicable, aesthetic qualities, the open space character of the Town of Pound Ridge, the property values of the community, the health and safety of citizens, and a citizen's ability to receive communication signals without interference from other communication providers, while not unreasonably limiting competition among communication providers;" and

WHEREAS, such uses are also subject to the general Special Permit standards of Sections 113-50.A through E; and

WHEREAS, such special permit approval by the Town Board will be inclusive of site plan approval; and

WHEREAS, pursuant to Section 239-m of General Municipal Law and 277 of the Westchester County Administrative Code, the application was referred to the Westchester County Planning Board;

WHEREAS, the following materials have been submitted in connection with AT&T's application for review:

1. Sheet Number T-1, titled "Title Sheet," dated December 13, 2006, last revised on February 9, 2011, prepared by Tectonic;
2. Sheet Number C-1, titled "Plot Plan and Setback Map," dated December 13, 2006, last revised on May 7, 2008, prepared by Tectonic;

3. Sheet Number C-2, titled "Site Plan and Notes," dated December 13, 2006, last revised on February 9, 2011, prepared by Tectonic;
4. Sheet Number C-3, titled "Site Detail Plan and Elevation," dated December 13, 2006, last revised on February 9, 2011, prepared by Tectonic;
5. Sheet Number C-4, titled "Antenna Plan and Details (OCI)," dated December 13, 2006, last revised on February 9, 2011, prepared by Tectonic;
6. Sheet Number C-5, titled "Antenna Plan and Details (AT&T)," dated December 13, 2006, last revised on February 9, 2011, prepared by Tectonic;
7. Sheet Number S-1 titled "Grading and Drainage Plan," dated December 13, 2006, last revised on May 7, 2008, prepared by Tectonic;
8. Sheet Number S-2, titled "Details," dated December 13, 2006, last revised on May 7, 2008, prepared by Tectonic;
9. Sheet Number OP-1, titled "Monopole Options & Antenna Plans," dated February 9, 2011, prepared by Tectonic;
10. Short Environmental Assessment Forms dated October 15, 2007 and April 4, 2008;
11. Full Environmental Assessment Form (Part 1) dated April 24, 2008;
12. Residential Site Plan Application Forms dated October 15, 2007 and April 7, 2008;
13. Zoning Compliance Worksheets dated October 15, 2007 and April 7, 2008;
14. Plan titled "Viewshed Map – 1 Mile Radius, Pound Ridge, New York," dated November 14, 2007, prepared by B&E Associates;
15. Report titled "Antenna Site FCC RF Compliance Assessment and Report: "Omnipoint and AT&T", 89 Westchester Avenue, Pound Ridge, New York," dated February 14, 2008, last revised on May 19, 2008, prepared by Pinnacle Telecom Group;
16. Report titled "Independent Radio Frequency Report for a Proposed Wireless Communication Facility at Lions Ambulance, 89 Westchester Avenue, Section 15, Block 9454, Lot 36, Town of Pound Ridge, NY, Westchester County; Prepared for

- Omnipoint Communications, Inc.,” dated February 8, 2008, prepared by PierCon Solutions;
17. Report titled “Independent Radio Frequency Report for a Proposed Wireless Communication Facility at Lions Ambulance, 89 Westchester Avenue, Section 15, Block 9454, Lot 36, Town of Pound Ridge, NY, Westchester County; Prepared for New Cingular Wireless PCS, LLC (“AT&T”),” dated March 5, 2008, prepared by PierCon Solutions;
 18. Report titled “Visual Resource Evaluation: Proposed Installation of a 120’ Stealth Flagpole; Site #NY09-303-H “Pound Ridge,” 89 Westchester Avenue, Pound Ridge, New York,” dated January 27, 2008, prepared by B&E Associates;
 19. Three (3) color visual simulations, dated May 19, 2008, prepared by B&E Associates;
 20. Six (6) color visual simulations, dated September 21, 2008, prepared by B&E Associates;
 21. One (1) color visual simulation, dated January 23, 2011, prepared by B&E Associates;
 22. Four (4) color visual simulations, dated February 6, 2011, prepared by B&E Associates;
 23. Drainage Report prepared by Tectonic dated February 6, 2008;
 24. Letter from Tectonic dated March 11, 2008 responding to Town consultants’ memoranda with an attached letter from Edward J. Crist, P.E., Senior Structural Engineer for Tectonic which concludes that any danger from falling ice is minimal and that the failure of the tower is statistically remote and the fall area outside of the bounds of the Site would very likely remain undeveloped;
 25. Letter report from PierCon dated June 4, 2008 in response to the comments of the Town’s radio frequency consultant Douglas Fishman of RCC Consultants, Inc. (“RCC”);
 26. Letter report from PierCon dated June 24, 2008 in response to the comments of RCC;
 27. Letter report from PierCon dated December 11, 2008 evaluating the feasibility of fourteen (14) alternative locations and an alternative technology;

28. Supplemental RF Affidavit from PierCon, dated January 22, 2009 evaluating an alternative two site solution;
29. Letter from Ed Yorke of PierCon, dated February 12, 2009 evaluating the potential coverage impacts of two additional alternative locations;
30. Letter report from PierCon, dated March 24, 2009 analyzing the feasibility of the construction of a new tower at three alternative locations, including a two site solution; and

WHEREAS, in accordance with the provisions of Section 113-50, the Town Board referred the applications to the Planning Board for its advisory review and recommendations; and

WHEREAS, pursuant to Section 113-50 of the Zoning Law, the Planning Board thoroughly considered the above captioned matter and discussed the applications, reviewed the site and had special work sessions on this matter on October 30, 2007, November 29, 2007, January 24, 2008, February 28, 2008, April 24, 2008, May 22, 2008, June 26, 2008, July 24, 2008, September 25, 2008, October 22, 2008, October 30, 2008, November 20, 2008, December 18, 2008, January 22, 2009, February 26, 2009, March 26, 2009, May 28, 2009, June 25, 2009, November 18, 2010, December 13, 2010, January 13, 2011, January 27, 2011, February 10, 2011 and February 24, 2011; and

WHEREAS, the Planning Board and Town Board engaged a radio frequency engineering consultant, RCC, to assist in its review of the applications; and

WHEREAS, RCC confirmed that the February 8, 2008 PierCon Report “does a thorough job of proving the need for the proposed site in terms of filling the significant coverage gap along Westchester Avenue and Trinity Pass Road. All applicable Zoning Ordinances (relative to RF Site Design) have been adhered to. Within the zoning constraints, the proposed site is the only acceptable solution for [AT&T] to fill the coverage gap”

WHEREAS, as part of its deliberations, the Planning Board studied the possibility of siting T-Mobile’s approved telecommunications facility, which included AT&T’s Proposed Collocated Facility, on approximately twenty-six different alternatives (including existing structures, new towers and an alternative technology) at multiple heights, alone and/or in combination with one another, in an effort to establish the best possible site or sites necessary to eliminate, avoid or mitigate potential visual and aesthetic impacts, to provide “adequate coverage” and “adequate capacity” to the Town, and to fulfill the other purposes of the Wireless Law; and

WHEREAS, the Applicants demonstrated that the majority of the alternative

locations were not feasible alternatives from a radio frequency and/or leasing perspective and the remainder of the alternative locations were rejected by either the Planning Board or this Board based on environmental and zoning constraints; and

WHEREAS, the Planning Board required the Applicants to review the feasibility of using an alternative technology, known as a distributed antenna system (“DAS”); and

WHEREAS, in its December 11, 2008 report, the Applicants’ radio frequency engineer, PierCon, concluded that DAS was not a feasible alternative to the Facility and in its December 16, 2008 report, the Town’s consultant RCC concluded that “a DAS solution is not a feasible alternative for the area in Pound Ridge;” and

WHEREAS, there is no location where one wireless telecommunication services facility site can provide “adequate coverage” and “adequate capacity” to the Town of Pound Ridge; and

WHEREAS, the Subject Property on which AT&T’s Proposed Collocated Facility is proposed to be located is on the Existing Facilities and Available Sites Inventory (“Inventory”) established by the Town Board and is located at the highest available priority location; and

WHEREAS, AT&T’s Proposed Collocated Facility complies with the height requirements of the Zoning Code; and

WHEREAS, after several months of continuous review, the Planning Board issued a recommendation on February 7, 2011 regarding T-Mobile’s approved facility, which includes AT&T’s Proposed Collocated Facility, , recommending that the Town Board reject the proposal; and

WHEREAS, a public balloon test was conducted on January 5, 2008 and other balloon tests were conducted throughout the process at the Site and an alternative site to assess any visual impacts of T-Mobile’s approved telecommunications facility, including AT&T’s Proposed Collocated Facility; and advance notification of the January 5, 2008 test was sent directly to nearby neighbors in addition to an announcement regarding same made at a duly held Planning Board meeting; and

WHEREAS, T-Mobile presented various drawings and photo simulations depicting AT&T’s antennas on its approved tower, as a treepole, a flagpole, a concealment pole, a standard monopole and a cluster mount monopole; and

WHEREAS, AT&T’s Proposed Collocated Facility requires waivers from the Town Board pursuant to Section 113-58.1(V) of the Zoning Code for the required front, rear and side setbacks and the 2,500 setback from a local landmark; and

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation (“SHPO”), issued a letter dated January 3, 2007 which states that T-Mobile’s approved facility, which includes AT&T’s Proposed Collocated Facility will have “No Effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places;” and

WHEREAS, in light of federal law and the Town’s need to protect the health and safety of its residents, the Town Board has balanced the potential aesthetic impacts of the Facility against the need to provide reliable wireless service within the Town particularly in the vicinity of the Subject Property in the Scotts Corners area and has determined that collocating AT&T’s Proposed Collocated Facility on T-Mobile’s approved tower and within its approved fenced compound at the Subject Property is the least intrusive available location to remedy AT&T’s significant gap in service; and

WHEREAS, AT&T has agreed to contribute a one-time fee to the Town for the purchase of the Town of Pound Ridge Police Department and the Town of Pound Ridge Fire District’s emergency service antennas and equipment to be placed on T-Mobile’s approved telecommunications tower facility, in an amount not to exceed \$33,000 or half of the total cost of said emergency service antennas and equipment, whichever is less, on the condition that AT&T shall be reimbursed by such other collocators that occupy the subject facility in the future for their respective pro rata share(s); and

WHEREAS, AT&T, the Town, and T-Mobile (as the owner of the approved telecommunications tower facility) agree that AT&T shall not be responsible for any present and/or future installation, replacement, maintenance or other costs of any kind associated with the Police Department’s and Fire District’s or any other emergency communications antennas and/or equipment, including but not limited to any defects and/or deficiencies found in connection therewith;

WHEREAS AT&T’s Proposed Collocated Facility requires approval from the Town of Pound Ridge Water Control Commission since the proposed underground utilities and a portion of its ground equipment pad is within the 150 foot minimum activity setback area for a local watercourse regulated under Chapter 63 of the Pound Ridge Code, entitled “Freshwater Wetlands”; and

WHEREAS, the Water Control Commission held and closed a public hearing on March 23, 2011 and preliminarily approved AT&T and T-Mobile’s joint application based on the following conditions: (1) that a swale or grading be added to the plans to prevent surface drainage from the equipment compound from entering the driveway; (2) that the underground utilities be relocated as close to the existing swale as possible and a note be added to the plans indicating same; and (3) the submission of a \$5,000.00 bond; and

WHEREAS, the Water Control Commission will adopt a formal resolution after the adoption of this resolution of approval and SEQRA determination; and

WHEREAS, the Town Board held meetings and public hearings regarding AT&T and T-Mobile's joint applications on July 10, 2008, May 7, 2009, August 5, 2010, October 7, 2010, November 18, 2010, December 13, 2010, January 13, 2011, January 27, 2011, February 10, 2011, March 3, 2011 and April 7, 2011, at which time all those wishing to be heard were given an opportunity to be heard, and the public hearing was closed on April 7, 2011

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Town Board hereby adopts and incorporates the recitations and statements set forth above as if fully set forth herein.
2. In accordance with Article 8 of the State Environmental Quality Review Law and 6 NYCRR Part 61, and based upon the review of the EAF and all other application materials submitted, the Town Board, as Lead Agency, has determined that the Proposed Action is an Unlisted Action, and hereby makes the following determinations of significance for the Proposed Action involving the collocation of AT&T's wireless telecommunication services facility, which includes the installation of up to 9 panel antennas at a centerline height of 110 feet on T-Mobile's approved 130 foot tall cluster mount monopole and associated ground equipment as shown on the submitted plans as revised and amended, and adopts a Negative Declaration, determining that the Proposed Action will not have a significant adverse impact on the environment, that an environmental impact statement will not be required to be prepared, hereby concluding the SEQRA process:
 - The Proposed Action will not have a significant adverse environmental impact as a result of physical change to the project site since the total area of proposed disturbance is less than 300 square feet and the Subject Property is already improved with the existing Ambulance Corps building and associated access and parking areas. Indeed, AT&T's Proposed Collocated Facility will be located completely within T-Mobile's approved equipment compound, which will be located immediately to the rear of the existing Ambulance Corps building and no specimen trees are required to be removed as a result of its installation. Access to AT&T's Proposed Collocated Facility will be provided via an existing access drive.

- The Proposed Action will not have a significant adverse environmental impact on any unique or unusual landforms found on the site since none exists in the area to be disturbed.
- The Proposed Action will not have a significant adverse environmental impact on any water body designated as protected since there are no freshwater wetlands located on the Subject Property. The underground utilities and a small portion of T-Mobile's equipment compound, including a portion of the area where AT&T's ground equipment will be located are proposed to be located within the Town's 150-foot wetland buffer. The implementation of erosion and sediment controls, including a silt fence and haybales, should eliminate any opportunity for primary or secondary adverse impacts to the delineated wetland, watercourse and buffer areas and will be shown on the construction drawings during the building permit stage. Therefore, as explained in the letter from Colin A. Diehl, Senior Environmental Scientist for Tectonic, dated February 23, 2011 and submitted to the Water Control Commission, the Proposed Collocated Facility will not have any adverse impacts on the existing wetlands, watercourse or buffer areas.
- The Proposed Action will not have a significant adverse environmental impact on any non-protected existing or new body of water since none exists on the Subject Property and the Proposed Action will result in minimal disturbance.
- The Proposed Action will not have a significant adverse environmental impact on surface groundwater quality or quantity since there will be no surface or subsurface discharge of wastes of any kind, very little impervious surfaces constructed, and no significant alteration to the drainage patterns created.
- The Proposed Action will not have a significant adverse environmental impact as a result of altered drainage flow or patterns, or surface water runoff since very little impervious surfaces are being constructed, no significant alteration to the drainage patterns are being created.
- The Proposed Action will not have a significant adverse environmental impact on air quality since there will be no emissions generated by the facility and no significant increase in vehicular traffic other than monthly maintenance visits by a service technician typically in a four-wheel drive vehicle.

- The Proposed Action will not have a significant adverse environmental impact on any threatened or endangered species as none were expected or identified in or around the project area.
- The Proposed Action will not have a significant adverse environmental impact on non-threatened or non-endangered species as none were expected or identified in or around the project area.
- The Proposed Action will not have a significant adverse environmental impact on agricultural land resources as none exists within the project site.
- The Town acknowledges that the Facility may have an aesthetic impact on the commercial Scott's Corners area; however the Town Board has balanced those impacts against federal law and the need to protect the health and safety of the Town's residents by providing reliable wireless service within the Town and determined that the facility at the Subject Property is the least intrusive means to remedy AT&T's significant gap in service for the following reasons. Although T-Mobile's approved tower will be visible from the commercial Scott's Corners area, visual impact from residences, parks and other visual resources has been minimized to the greatest extent possible. The Proposed Action will not have a significant adverse environmental impact on aesthetic resources based upon the visual simulations submitted by the Applicants, which demonstrate that the visual impact of AT&T's Proposed Collocated Facility will not have a significant adverse aesthetic impact on the community. Specifically, on January 5, 2008, T-Mobile conducted a publically noticed balloon test at the Property during leaf-off season. As demonstrated by the Visual Resource Evaluation, prepared by B&E Associates, LLC, dated January 27, 2008 ("B&E Report"), the visual impact of T-Mobile's approved tower, which also depicts AT&T's Proposed Collocated Facility, will not have a significant adverse aesthetic impact on the community. At the May 22, 2008 Planning Board meeting, three (3) additional photo simulations, consisting of a Treepole, a Flagpole, and a concealment pole were submitted to the Planning Board for consideration. On September 21, 2008, T-Mobile held another balloon test at the Property during leaf-on season, pursuant to a request of the Planning Board. On October 24, 2008, T-Mobile submitted additional photo simulations to the Planning Board based on the second balloon test, that demonstrate that T-Mobile's approved tower, which includes AT&T's proposed antennas, will not have an adverse aesthetic impact on the community. On January 25, 2011, T-Mobile submitted an Addendum to Visual Resource Evaluation prepared by B&E Associates, dated January 23, 2011 that include photo simulations depicting the

approved tower facility in the exact location in the rear of the Ambulance Corp building. By letter dated February 8, 2011, T-Mobile submitted additional visual renderings depicting T-Mobile's approved tower, which includes AT&T's proposed antennas, as: (1) a monopole with t-arms; (2) a monopole with cluster mounts; (3) a concealment pole; and (4) a flagpole. Furthermore, T-Mobile's tower is proposed to support at least four (4) wireless carriers, the Town's emergency service antennas and a potential 20-foot extension, and will, therefore minimize the need for additional towers in the Town. The photo simulations submitted by T-Mobile included renderings of T-Mobile's approved tower, which included AT&T's proposed antennas, as a standard monopole, a treepole, a flagpole, a concealment pole and a cluster mount monopole. The Town Board finds that the cluster mount monopole is the best design to minimize adverse visual impacts and maximize collocation opportunities. AT&T's Proposed Collocated Facility will be completely located within T-Mobile's fenced compound, which is situated in the rear of the existing Ambulance Corps building; therefore, the base of T-Mobile's facility, which includes AT&T's ground equipment, will be screened by the existing building on the Subject Property. Additional plantings are proposed to screen the equipment compound. In addition, existing vegetation surrounding the Subject Property and along Westchester Avenue will provide screening from many viewpoints.

- The Proposed Action will not have a significant adverse environmental impact on any site or structure of historic, prehistoric or paleontological importance as demonstrated by the letter from SHPO dated January 3, 2007 which states that the Facility will have "No Effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places;"
- The Proposed Action will not have a significant adverse environmental impact on the quantity or quality of existing or future open spaces or recreational opportunities based upon the fact that AT&T's Proposed Collocated Facility will be collocated on T-Mobile's approved facility, which will be sited on an improved parcel of property in the commercial area of the Town.
- The Proposed Action will not have a significant adverse environmental impact on existing transportation systems since there will be only approximately one visit to the site per carrier per month and there is existing access from existing roadways.

- The Proposed Action will not have a significant adverse environmental impact on the community's sources of fuel or energy supply due to the nature of the facility and minor energy demands.
- The Proposed Action will not have a significant adverse environmental impact as a result of objectionable odors, noise, or vibration since the Facility does not produce odors, noise above ambient levels nor vibrations.
- The Proposed Action will not have a significant adverse environmental on the public health and safety since the Applicants demonstrated, as confirmed by the Town's consultant RCC, that AT&T's Proposed Collocated Facility will meet FCC guidelines for radio frequency exposure in accordance with Federal law.
- The Town has balanced the need to provide reliable wireless service to protect the health and safety of its residents against the potential impact on the character of the surrounding neighborhood and determined that the Facility is the least intrusive available site to remedy T-Mobile's significant gap in coverage. The Proposed Action will not have a significant adverse environmental impact on the character of the existing community since the proposed use is specifically authorized by special permit in accordance with the Zoning Code. In addition, AT&T's Proposed Collocated Facility will be collocated on T-Mobile's approved tower and within the associated fenced compound, which is proposed to be located on a property listed on the Existing Facilities and Available Sites Inventory and on property used for non-residential purposes and distant from residences, thereby making the Subject Property a preferred location for the Facility. AT&T's Proposed Collocated Facility will be unmanned requiring infrequent maintenance visits of approximately once per month. Therefore, there will be no detrimental effect to the neighborhood due to traffic. The Proposed Collocated Facility will not adversely affect the public health, safety or the general welfare, and will comply with all applicable radio frequency exposure standards, as confirmed in the RF Compliance Report. The Proposed Collocated Facility will not have a significant adverse aesthetic impact on the surrounding area for the reasons stated above.
- There are no potentially significant adverse environmental impacts related to AT&T's Proposed Collocated Facility.

3. The Town Board affirmatively hereby makes the findings enumerated in Section 113-58.1 and Sections 113-50.A through E of the Zoning Law as follows:

- §113-58.1(B)(1): As demonstrated by the Applicants' radio frequency reports and confirmed by the Town's consultant RCC, AT&T's Proposed Collocated Facility is necessary to provide "adequate coverage" and "adequate capacity" to the Town of Pound Ridge.
- §§113-58.1(B)(3)&(4): AT&T's Proposed Facility is proposed to be collocated on T-Mobile's approved tower and within the associated fenced compound, which will be located on property utilized for non-residential purposes and any potential impacts on residential properties has been minimized.
- §113-58.1(B)(5): For the reasons set forth in the negative declaration above, the location of AT&T's Proposed Collocated Facility at the Subject Property will protect, to the maximum extent practicable the aesthetic qualities, the open space character, the property values of the community, the health and safety of citizens and a citizen's ability to receive communication signals without interference from other communication providers, while not unreasonably limiting competition among communication providers.
- §113-58.1(D)(1): Since there are no locations where one "wireless telecommunications services facility" site can provide "adequate coverage" and "adequate capacity" to the Town of Pound Ridge and the Subject Property is listed on the Town's Existing Facilities and Available Sites Inventory, AT&T's Proposed Collocated Facility is proposed to be located at the highest priority location.
- §113-58.1(D)(2): Pursuant to Section 113-58.1(D)(2) of the Zoning Code, the Town Board hereby modifies the requirement that AT&T's Proposed Collocated Facility be located more than 2,500 feet of any historic site since it involves the collocation of its equipment and antennas on T-Mobile's approved tower and within the associated fenced compound on the Subject Property, which is identified on the Town's Existing Facilities Inventory List and SHPO has determined that the Facility will have "No Effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places."
- §113-58.1(E): AT&T's Proposed Facility involves the collocation of its equipment and antennas on T-Mobile's approved tower and within the associated fenced compound, which will be located on a site listed on the Town's Existing and Available Sites Inventory and therefore complies with this section of the Zoning Code. In addition, AT&T is already co-located on

an existing wireless telecommunications facility located on the Adams Lane/Annicelli property (“Adams Lane”), which is also on the Inventory. There are no other sites on which AT&T can co-locate that would remedy AT&T’s significant gap in coverage in the vicinity of the Subject Property. See February PierCon Report. AT&T has also demonstrated that it cannot co-locate on a tower at the Vista Fire Department or on a tower on Long Ridge Road in Stamford to remedy its significant gap in coverage in the vicinity of the Property. See Letter from PierCon Solutions, dated November 12, 2010, submitted by cover letter from Snyder & Snyder, LLP dated November 12, 2010.

- §158.1(F): The Town Board hereby allows the modification of the setback requirements of AT&T’s Proposed Collocated Facility to be those that are shown on the above listed drawings due to the size of the Subject Property. The technology employed by the Applicants limits the location and type of site that will allow it to comply with its statutory mandate and provide the required service. The Subject Property in the instant case is ideally located to remedy AT&T’s gap in reliable wireless service that exists in the Town as confirmed by the Town’s consultant RCC Report. Additionally, AT&T’s Proposed Facility is proposed to be collocated on T-Mobile’s approved telecommunications facility, which is located on a site that is listed on the Existing Facilities and Available Sites Inventory. AT&T’s proposed ground equipment will be situated completely within T-Mobile’s fenced compound, which will be located in the rear corner of the Subject Property and will be screened by the existing building. Additional plantings are proposed to further screen the base of the facility and compound area. The Proposed Collocated Facility will not interfere with circulation within the Subject Property. Moreover, T-Mobile’s approved tower will be designed in a manner that, in the extremely unlikely event of structural failure, the monopole will fall within the required setback area, and to the maximum extent possible, away from any adjacent development. See letter from Edward J. Christ, Tectonic, dated March 12, 2008, previously submitted by cover letter to the Planning Board dated March 13, 2008. Furthermore, the Proposed Collocated Facility will be installed at the minimum height necessary to remedy AT&T’s significant gap in reliable service in the vicinity of the Site. Therefore, the Proposed Collocated Facility will satisfy AT&T’s need to remedy an existing gap in service while creating a de minimus intrusion, if any, on the community.
- §113-58.1(G): AT&T’s Facility is proposed to be collocated on a monopole.

- §113-58.1(H): AT&T's Proposed Collocated Facility complies with the height requirements of the Zoning Code and is proposed at the minimum height necessary to remedy AT&T's significant gap in service in the vicinity of the Subject Property.
- §113-58.1(I): The required visual impact assessment was submitted and for the reasons set forth in the negative declaration above, AT&T's Proposed Collocated Facility has been designed to minimize visual impact on public thoroughfares, important viewsheds and vantage points and surrounding properties to the extent practicable.
- §113-58.1(J): No lighting is proposed in connection with AT&T's Proposed Collocated Facility and no FAA lighting or marking is required.
- §113-58.1(K): AT&T has demonstrated and the Town's consultant has confirmed that its Proposed Collocated Facility will comply with the FCC's regulations regarding radio frequency emissions.
- §113-58.1(L): AT&T's Proposed Collocated Facility will not produce noise above ambient levels.
- §113-58.1(M): Electrical and land-based telephone lines extended to service the Proposed Collocated Facility will be installed underground.
- §113-58.1(N): AT&T's Proposed Collocated Facility will be constructed in accordance with all applicable building code and wind load provisions. Moreover, T-Mobile's Facility will be designed in a manner that, in the extremely unlikely event of structural failure, the monopole will fall within the required setback area, and to the maximum extent possible, away from any adjacent development. See letter from Edward J. Christ, Tectonic, dated March 12, 2008, previously submitted by cover letter to the Planning Board dated March 13, 2008. Finally, the proposed Facility is not classified by FAA regulations as an obstruction or hazard.
- §113-58.1(O): AT&T's Proposed Collocated Facility will be enclosed within T-Mobile's approved equipment compound, which will contain a six (6') foot tall decorative fence to prevent unauthorized access and vandalism.
- §113-58.1(Q): A copy of T-Mobile's lease agreement with the underlying landowner, Pound Ridge Lions Ambulance Corps, has been submitted to the Town Board, as well as a "Primary Applicant's Consent" form, which was executed by an authorized representative of T-Mobile, authorizing

AT&T to join its application as a co-applicant. Likewise, AT&T has submitted an “Owner’s Consent” form, which was executed by an authorized representative of the Ambulance Corp.

- §113-58.1(S): The above referenced submissions and materials demonstrate that AT&T’s Proposed Collocated Facility is necessary to remedy its significant gap in coverage in the vicinity of the Subject Property. The Town’s consultant, RCC, confirmed AT&T’s significant gap in coverage in the vicinity of the Subject Property and that the Proposed Collocated Facility would remedy same. AT&T is proposing to collocate on T-Mobile’s approved tower and within the associated fenced compound, which will be situated on a site listed on the Inventory. In addition, the T-Mobile’s Facility provides for at least four wireless carriers and public safety entities to co-locate on the tower. “[AT&T’s] intent is to cover the Town of Pound Ridge with as few sites as possible while complying with the Town’s priority list. The terrain in Pound Ridge has extensive variations that dictate the coverage from each wireless facility. The strategic placement of each wireless facility is crucial in covering the Town of Pound Ridge while minimizing the number of sites.” See February PierCon Report. AT&T is currently collocated on one of the existing wireless telecommunications services facilities at Adams Lane. The Town’s consultant, RCC, confirmed that this site does not provide reliable coverage into the area of the Proposed Collocated Facility. There are no other existing telecommunications facilities located within the vicinity of the Subject Property that would remedy AT&T’s significant gap in coverage in the vicinity of the Property. The Subject Property is one listed on the Inventory and is considered one of the shared “use” properties as defined by the Town. The Applicants, in conjunction with the Town Board and Planning Board reviewed approximately 26 alternative locations for the Facility and determined that the Subject Property is the only feasible available location and the least intrusive means to remedy AT&T’s significant gap in service.
- AT&T’s Proposed Collocated Facility will be in harmony with the appropriate and orderly development of the R-2A district, for several reasons. First, the proposed use is specifically authorized by special permit in accordance with the Zoning Code. Second, AT&T is proposing to collocate its Facility on T-Mobile’s approved tower and within the associated fenced compound, which is located on a property listed on the Inventory and on property used for non-residential purposes, thereby making the Property a preferred location for the Facility. Third, the Proposed Collocated Facility will be installed as a cluster mount design to

minimize any visual impacts of the Facility. Moreover, AT&T's ground equipment will be completely enclosed within T-Mobile's fenced compound, which will include additional landscaping at the base of the Facility to further screen the Facility. Fifth, AT&T's Proposed Collocated Facility will be unmanned requiring infrequent maintenance visits of approximately once per month. Therefore, there will be no detrimental effect to the neighborhood due to traffic. Sixth, the Proposed Collocated Facility will not adversely affect the public health, safety or the general welfare, and will comply with all applicable radio frequency exposure standards, as confirmed by RCC. The Town has balanced the potential aesthetic impacts from the Facility against the need to protect the health and safety of the residents and provide reliable wireless service within the Town and for the reasons stated above has determined that the Facility is the least intrusive means of remedying AT&T's significant gap in coverage in the vicinity of the Subject Property.

- AT&T's Proposed Collocated Facility will not hinder or discourage the appropriate development and use of adjacent land and buildings. It has been designed and located to minimize visibility to the maximum extent possible. Specifically, AT&T is proposing to collocate its Proposed Facility on T-Mobile's approved tower facility on the Subject property, which is listed on the Existing Facilities and Available Sites Inventory and located on the highest feasible priority location of the Town. Moreover, T-Mobile's Facility will be designed to support the collocation of at least 4 wireless carriers thereby minimizing the amount of towers in the Town. Also, to further minimize the view of the Proposed Collocated Facility AT&T's antennas will be cluster mounted and its associated ground equipment will be completely enclosed within T-Mobile's proposed fenced compound, which will be screened by additional landscaping.. Additionally, the Proposed Collocated Facility will be located on property used for non-residential purposes. In fact, the Proposed Collocated Facility will benefit the area by improving vital wireless communications in the area. Thus, operations in connection with the unmanned Facility will not be more objectionable to nearby properties than would be the operations of any permitted use not requiring a special permit.
- AT&T's Proposed Collocated Facility will not produce noise beyond ambient levels. In addition, the Facility will not produce fumes, vibrations, or glares. No lights are proposed in connection with the Facility. Thus, operations in connection with the unmanned Facility will not be more objectionable to nearby properties than would be the operations of any permitted use not requiring a special permit.

- The Subject Property has an adequate parking area to serve AT&T's unmanned Proposed Collocated Facility. The proposal will have no impact on pedestrian or vehicular traffic, since the proposed use is unmanned requiring infrequent maintenance visits of approximately once per month. The Facility is fully accessible via an existing paved access drive and existing parking spaces. Therefore, there will be no traffic hazards or nuisances created by the Facility.
 - AT&T's Proposed Collocated Facility will be constructed, operated and maintained in conformance with the Town Freshwater Wetlands Law, the Town Flood Damage Prevention Law, and all other applicable town, county, state and federal laws and regulations.
4. The Town Board hereby approves the Special Permit for a wireless telecommunication services facility consisting of the collocation of up to 9 cluster mounted panel antennas installed at a centerline height of 110 feet on T-Mobile's approved 130-foot tall monopole as shown on detail 3/OP-1 of the site plan, , together with ancillary cabinets and related equipment to be installed/located in accordance with the approved site plan. AT&T's antennas shall be painted to match the color of T-Mobile's approved tower.
- a. The following conditions shall be fulfilled prior to the issuance of a Building Permit for the Wireless Telecommunication Services Facilities:
- (1) AT&T has obtained a wetlands permit from the Town Water Control Commission in accordance with Chapter 63, Freshwater Wetlands, of the Town Code. The site plan filed with the Town shall be amended to incorporate the conditions of the Water Control Commission approval.
 - (2) The Applicant shall provide to the satisfaction of the Town of Pound Ridge a written agreement suitable for filing with the Westchester County Clerk, Division of Land Records to ensure the dismantling, removal and restoration of an abandoned wireless telecommunications services facility. Performance of the removal requirements as set forth therein shall be secured by a bond posted by the Applicant in an amount of \$ and shall be of a one year duration but renewed annually during the term of the Special Permit. The Town has the right to review the bond amount periodically.

- (3) AT&T and all future owners of its Proposed Collocated wireless telecommunication services facility shall at all times keep on file in the office of the Town Clerk the name, address, and telephone number of the owner and operator of such facility and of at least one individual or entity who shall have authority to arrange for the maintenance of its specific antennas and equipment, and at least one individual or entity who shall be authorized to accept service of notices and legal process on behalf of the owner and operator(s) of the premises and facility and to bind the owner to any settlement, fine, judgment, or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the Town against such owner and/or operator(s).
- (4) AT&T shall deliver to the Town proof of existing liability and casualty insurance which names the Town as an Additional insured in an amount not less than \$[redacted] million. Said policy to remain in effect during the term of the special use permit.

When the conditions above have been satisfied, three (3) sets of the above referenced plans shall be submitted for the endorsement of the Town Supervisor. One (1) set of the endorsed plans will be returned to AT&T, one (1) set will be retained by the Town Board, and one (1) set will be provided to the Building Department. AT&T must return for amended Special Permit approval from the Town Board if any material changes to the endorsed site development plans are subsequently desired.

b. The following are general conditions of this resolution:

- (1) In accordance with Section 113-58.1(R)(1) of the Town Zoning Code, AT&T's Proposed Collocated Facility shall be dismantled and removed within 180 days after it has been inoperative or abandoned for a period of 180 consecutive days, or no longer has a valid approval, permit or license, or is otherwise no longer necessary for the provision of "adequate coverage" or "adequate capacity" due to significant technological advancements. AT&T shall provide to the Town written notification including identification of the date the use of its facility was discontinued or abandoned or no longer has a valid approval, permit or license, or is no longer necessary for the provision of "adequate coverage" and "adequate capacity" in the Town of Pound Ridge, acknowledgement of the requirement to remove the facility and identification of the plans for the removal of the facility.

- (2) AT&T has agreed to contribute a one-time fee to the Town for the purchase of the Town of Pound Ridge Police Department and the Town of Pound Ridge Fire District's emergency service antennas and equipment to be placed on T-Mobile's approved telecommunications tower facility, in an amount not to exceed \$33,000 or half of the total cost of said emergency service antennas and equipment, whichever is less, on the conditions that AT&T shall be reimbursed by such other collocators that occupy the subject facility in the future for their respective pro rata share(s), and AT&T shall not be responsible for any present and/or future installation, replacement, maintenance or other costs of any kind associated with the Police Department's and Fire District's or any other emergency communications antennas and/or equipment, including but not limited to any defects and/or deficiencies found in connection therewith.
- (3) No signs other than exempt signs or as may be required by the Town Board or other governmental agency such as the FCC for security or safety purposes shall be erected.
- (4) Electrical and land-based telephone lines extend to serve the site shall be installed underground.
- (5) AT&T shall reimburse the Town for any damages, claims or costs resulting directly from the Applicant's negligence or the negligence of the Applicant's agents and employees in connection with the operation of its Proposed Collocated Facility.
- (6) In the event that AT&T shall violate any of the terms and/or conditions of this resolution that apply to its specific Proposed Collocated Facility, the Town reserves the right, after notice, a hearing, due process and judicial review, to revoke this permit and/or assess a fine against the Applicant in an amount of not more than \$500.00 per day, while such violation remains uncured, not to exceed a total fine of \$2,500 as set forth in § 113-96 of the Zoning Law.
- (7) The Town reserves the right, in the event of an emergency prompted by significant issues of public health and safety, to take all steps necessary to protect the health and safety of the public.
- (8) As of this time, the proposed users of this facility include:
 - (a) AT&T;

- (b) Town of Pound Ridge emergency services; and
- (c) T-Mobile under separate Special Permit approval.

Any additional or different co-locators shall be required to obtain the approval of the Town Board of the Town of Pound Ridge before locating on this facility. The Town of Pound Ridge emergency service providers and T-Mobile shall be required to obtain and maintain their own Building Permits, certificates of occupancy, and any other approvals as may be required by the Town. AT&T shall not be held liable or responsible for any non-compliance by T-Mobile, any future collocator approved by the Town, or the Town emergency service providers with any Town code or condition of approval.

- 5.. This Special Permit approval shall expire and become void upon lawful termination of T-Mobile's Lease Agreement with the underlying landowner, Pound Ridge Lions Ambulance Corps, unless otherwise extended by approval of the Town Board. In accordance with § 113-53 of the Zoning Law, this Special Permit approval shall expire and become void if AT&T's proposed use shall cease for more than six (6) months for any reason, or if all such required improvements are not maintained and all conditions and standards are not complied with throughout the duration of the subject use.

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

Gary Warshauer, Supervisor	Voting: _____
Peter J. Falco	Voting: _____
Richard B. Lyman	Voting: _____
Paul McConville	Voting: _____
Daniel S. Paschkes	Voting: _____

The resolution is hereby duly declared adopted.

TOWN BOARD
Town of Pound Ridge

Gary Warshauer, Supervisor

_____,2011
Date