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May 15, 2020

Neil J. Alexander, Esq.
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By Email

Chairperson Bruce Flower and
Members of the Planning Board
20 Middlebush Road
Wappingers Falls, NY 12590

RE: Tarpon Towers II, LLC
Proposed Wireless Telecommunications Facility at 110 Chelsea Road
Parcel # 6056-03-339420

Dear Chairperson Flower and Members of the Planning Board:

This letter is respectfully submitted on behalf of our client, Tarpon Towers II, LLC (the "Applicant") in furtherance of its application for site plan, special permit, wetlands permit, and area variance approvals to install a new wireless telecommunications facility (the "Facility") at 110 Chelsea Road in the Town of Wappinger, New York (the "Property").

In particular, the Applicant hereby provides the following status update and materials in anticipation of the public hearing on May 18, 2020, and in response to the May 1st and 8th, 2020 CPL Review Memoranda, the April 28, 2020 F.P. Clark Review Memorandum, the Doug Fishman April 20, 2020 Supplemental RF Review Memorandum, and the comments by the Planning Board during its May 4, 2020 public meeting:

- * The April 30, 2020 NYS OPRHP Sign-Off Determination is re-attached and provides that the proposed wireless facility will have No Effect as a result of new information submitted after a recent additional balloon float and as is consistent with the NYS OPRHP previous approval for a 154 foot tall tower at this location on January 3, 2018 in File Number 0008041903. The supplemental balloon float pictures relative to Stony Kill Farm and its environs referenced in that Sign-Off Determination are also enclosed.
- * A May 6, 2020 email from Travis Money of Diehlux, on behalf of the Applicant, to the Town Planner David Stolman at F.P. Clark, is appended and explains that the ACOE is ready to issue the NWP 14 wetlands permit; the applicability/availability of a blanket coverage WQC from NYS DEC due to meeting the special permit and general permit conditions; and the DEC sign-off per the included January 7, 2020 correspondence



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directly from NYS DEC to the Planning Board relative to the Indiana Bat as all tree removal will take place between October 1st through March 31st.

- * Tectonic Engineering has spoken with Bill Trifilo at Dutchess County Department of Public Works (DCDPW) after DCDPW's recent site visit. Based on that interaction it does not appear that any work is required within the Chelsea Road right-of-way. Tectonic's response to CPL's May 8, 2020 Storm Water Review Memorandum is forthcoming shortly.

- * The previously submitted Tectonic Engineering Supplemental Visual Resource Evaluation is provided anew. The Original Visual Resource Evaluation, dated December 17, 2019, simulated views of the monopole in Views #1, 2, 3, 5 and 6 of 28. The Supplemental VRE builds on that report and provides photosimulations of a monopole, a monopine, and a blue monopole from Views #3 and 5. Reference to these views, which are approximately 1,540 lineal feet and 730 lineal feet away, respectively, reveals the benefits of a monopole over a monopine in that the darker colored, monopine with its significantly wider silhouette creates a visual destination. A monopine is out of context in that the height of this monopine is much taller than the surrounding tree canopy and it is a conifer where the predominant trees species in the vicinity are deciduous. Moreover, the difference in girth is apparent in the photosimulations, particularly at the apex, and prevents the monopine from blending into the background. Monopoles are typically 18 inches in diameter at the top and approximately 5 feet at the base. In contrast, the top sections of a monopine are much wider due to the branching layouts, which are 10 feet in diameter at the top and 20 to 28 feet in diameter at the lower level of the branching to create a tree-like taper. Although the pole section of a monopine is similar to a monopole, some adjustment increasing the girth of the pole section of a monopine does need to be made for the additional wind loading associated with the branching. As such, the monopine does not minimize, lessen or mitigate any visual impact because it does not decrease the visual contrast. Rather, it would increase the visual contrast due to its wider profile. Consequently, the Applicant respectfully submits that, based on these materials, the proposed monopole will not have a significant adverse visual impact on the environment or the character of the community, particularly given the OPRHP sign-off evidencing no impact to Federal or State designated aesthetic, scenic, historic or archeological resources. Further, in looking at both the SEQRA Handbook and the DEC Assessing and Mitigating Visual Impacts policy guidance (July 2000), it is important to note that there are no Town of Wappinger resource-focused plans, such as Local Waterfront Revitalization Plans (LWRP), Greenway plans or Heritage Area plans, that have been adopted identifying any designated local



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aesthetic resources within immediate proximity to the Premises. In sum, the visual assessments performed have substantiated that there are no federal, state or local resources adversely effected within the Project's viewshed. Visibility is different from clear interference with an inventoried resource. Here, there is no need for mitigation strategies, such as a Monopine instead of a Monopole, because there are no adverse impacts to identified and inventoried scenic or aesthetic resources. It is also worth noting that carriers and emergency services using a monopine will incur additional costs as the branching on the monopine makes for more involved equipment deployment and maintenance processes. Installation, maintenance and repair on a monopine requires more time and use of a crane to account for the branching. This translates to additional costs for all users of the tower, including emergency services.

- * Tectonic Engineering has provided the included generic set of monopole fabrication drawings showing the slip joint connections with a pad and pier foundation consistent with the monopole construction anticipated for the Premises. Tectonic Engineering has advised that: "a typical monopole of the height proposed for this project will be fabricated in 4 individual pole sections ranging in height from 30 feet to 50 feet. The sections are fastened together *via* slip joints, where each section above has a slightly larger diameter than the section below allowing it to slip over. The friction force, dead load, and lap joint length provide stability structurally. The base section of the monopole has an integral welded base plate, which is anchored to the foundation below *via* 2 inches to 3 inches in diameter anchor bolts. Said foundation is typically constructed with a pad and pier, where the monopole bears directly on an approximately 6-foot diameter pier, which extends to an elevation of 4 feet below grade. This pier bears on a large mat foundation, typically in the range of 20 feet square to 25 feet square." Further, and notwithstanding the Town RF Consultant's confirmation that Verizon requires a 150 foot tall monopole with an antenna centerline of 146 feet above grade level here, Tectonic Engineering has advised that: "In the event the tower needs to be extended, an additional pole section could be added *via* the slip joint method. At the same time, in the event the tower height needed to be lowered, an entire section originally erected *via* slip joint could be removed, or the top section could be cut shorter in the field to the desired height. Generally speaking, when a tower is shortened in such a scenario, the structural capacity will immediately increase since capacity is directly related to structure height. In other words, the amount of wind and dead load on the tower will be less since there is less structure to impart loads on, thereby increasing the capacity of said structure."



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Additionally, the Applicant acknowledges in writing its agreement during the May 4, 2020 public meeting to a 45-day extension of the FCC Shot Clock from May 18, 2020 to July 5, 2020. The Applicant bases its calculation of the 150 day Shot Clock timeline, notwithstanding its original submission of this application on October 9, 2019, from its submission on December 23, 2019 of the Visual Resource Evaluation as a result of the Balloon Float on December 7, 2019.

By way of background as to the FCC Shot Clock, the Telecommunications Act of 1996 in 47 U.S.C. § 332(c)(7)(B)(ii) provides that state and local governments must act on “any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time. The FCC also has promulgated regulations at 47 C.F.R. § 1.6003(c) defining a “presumptively reasonable period of time” for the review of an “application to deploy a facility other than a Small Wireless Facility using a new structure” as 150 days (known as the “Shot Clock”). The Shot Clock may be extended by the amount of time it takes for the applicant to respond to the Town’s notification that its application is incomplete or by an agreement to extend the time period entered into between the Town and the Applicant. In the instant matter, the Applicant provided notice by submission to the Planning Board and ZBA dated December 23, 2019, that: (i) the Application was complete under the federal Telecommunications Act and corresponding Federal Communications Commission (“FCC”) implementing regulations; (ii) applications for new towers under these above federal laws must be decided within 150 days of submission of a complete application¹; and (iii) the Planning Board should issue a decision here by May 18, 2020.² The Town has never refuted the Applicant’s position relative to the Shot Clock and the Town’s time-frame to act on the Applications. Nonetheless, and without either the Applicant or the Town waiving rights or arguments they may have, **the Applicant and the Town agree to toll the Shot Clock for the Application under 47 U.S.C. § 332(c)(7)(B)(ii) and 47 C.F.R. § 1.6003 to, on or before July 5, 2020.** The Applicant and the Town by each countersigning below through their respective attorneys are accepting and agreeing to the extension of the Shot Clock to July 5, 2020. This letter may be countersigned in counterparts, which when taken together, shall constitute one instrument. Further, photocopies of signed counterparts, including those transmitted by facsimile or email, shall have the same force and effect as originally signed counterparts. The parties remain free to amend this Agreement; but, any amendment must be in writing. The Applicant notes as well that it is willing to consider entertaining another extension so long as the review of the application is proceeding expeditiously and the extension, if necessary, is sized appropriately.

¹ 47 C.F.R. § 1.6003.

² *Id.*



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The Applicant also is in receipt of the Fire Prevention Bureau's January 2020 Memorandum, which is consistent with the October 17, 2019 Memorandum, and the Applicant reiterates consistent with its position set forth in its December 23, 2019 submission, that it has no issue with providing emergency response access to the proposed wireless facility. Yet, it is important to note that generally emergency equipment cannot be successfully concealed within monopine branches, which undermines the efficacy of this "stealth" technique.

Thank you for your time and consideration in this matter. The Applicant looks forward to its May 18, 2020 public hearing and to the conclusion of the SEQRA process so it can proceed before the Zoning Board of Appeals relative to its area variance application. Should the Planning Board, its Consultants, or Town Staff have any questions or comments in the interim, please feel free to contact me.

Very truly yours,

A handwritten signature in blue ink that reads "Neil J. Alexander". The signature is fluid and cursive.

Neil J. Alexander

Enclosures

cc: Barbara Roberti, CEO
James Horan, Esq., Town Attorney
Lisa Cobb, Esq., Planning Board Attorney
David Stolman, Planner
Peter Setaro, Engineer
Douglas Fishman, Town Wireless Consultant

ACCEPTED AND AGREED TO EXTENSION OF SHOT CLOCK TO JULY 5, 2020

For Town of Wappinger, Dutchess County, NY:

By: _____

Lisa Cobb, Esq.

Town Planning Board and Zoning Board of Appeals Attorney

Dated: May ----, 2020



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For the Applicant:

By: _____

Neil J. Alexander, Esq.

Attorney for the Applicant

Dated: May ----, 2020