

Respected Mayor Pugh and Board of Trustees,

We received Taryn Ramey's 2/28 response to our letter sharing our concerns about the proposed local law amending Chapter 206 of the Village Code to provide for wireless telecommunications services within the Village. We believe our concerns are not legal language issues, but instead policy decisions, which only you can make. We wrote to you because we are asking you, our elected officials with the power to make these policy decisions, to consider our findings as a committee. To be clear, nothing we are suggesting would impede proposals for or approval of applications for new cell towers within "Parcels within the PRE District owned by the Village of Croton-on-Hudson" or at Hessian Hills Pump Station, [235 Hessian Hills Road](#). Our goal is to ensure a process that prioritizes locations for optimal impact. In response to Taryn's letter, the current draft law remains inconsistent with the statement that "towers should be established at locations that provide optimal coverage." See below key excerpts from the document and additional clarifications.

In addition, we are providing a second table below with the specific code sections that reflect the concerns we are raising and proposed edits to the language that can address them.

Sincerely,

Ashok Malhotra, Chris Roose, Evan Perdomo-Cohen, Jonathan Salomons, Maria Corrales Hernandez, R. Aaron La Mar, Richard Masur

Original Comments	Taryn Ramey's Response (Excerpts)	TAC Responses/Clarifications
<i>1. To achieve the best coverage with the fewest cell towers, new sites should be selected primarily on their demonstrated ability to maximize coverage over other possible locations. § 206-6. A.1 of the draft law is counter to this by effectively defining four Village-owned properties as preferred</i>	<i>"It is agreed that towers should be established at locations that provide optimal coverage. However, this statement does not accurately describe the Draft Law's tower-siting provisions. It is true that preliminary drafts designated four Village-owned properties as "preferred" locations for new towers. It is my understanding that two of these properties were identified because they presently contain towers, and the other two properties were selected pursuant to a wireless</i>	Per their proposal and presentation, the scope of Televate's project was Existing Wireless Infrastructure Inventory and Mapping, Wireless Coverage Mapping, Revising Existing Village Law, Optional Public Participation Survey, and Project Management. It did not include identifying new cell tower sites or the engineering work that would be required to do so. The two potential site(s) quoted in the Infrastructure and Coverage Analysis report provided by Televate were determined from a list of predetermined locations provided by the Village. Televate noted in their presentation that the engineering analysis to evaluate the effectiveness of these sites was not done. This

<i>locations for new cell towers. Two of these properties already house wireless facilities, leaving only two preferred locations for new cell towers</i>	coverage data collection study conducted by TeleVate. <i>However, in response to the specific feedback from TAC, the proposed law was revised to remove reference to “preferred” locations for towers. Currently, the Draft Law identifies four Village owned properties as permitted locations for towers and provides that towers are permitted uses in the Light Industrial (“LI”), O-1 (“Limited Office”), and C-2 (“General Commercial”) Zoning Districts. There is no language in the Draft Law creating a preference for Village-owned property over private property. See Draft Law sec. 206-6A.1.b-c</i>	predetermination excludes other possible locations that may provide more optimal coverage. While the term “preferred” has been removed, these sites are still quoted in Section § 206-6.A.1.(b) as permitted sites. Other sections in the code then EXEMPT applications for wireless facilities in these locations from key requirements applicable to all other applications. Removing the word “preferred” does not change the fact that the exemptions that apply to them have the effect of making them preferred.
<i>2. Applicants can propose towers outside of the four preferred Village-owned sites, but only by demonstrating that the preferred sites are not technically feasible.</i>	<i>An Applicant is required to demonstrate that a site is not Technically Feasible when proposing a location pursuant to the exception provision in Section 206-6.A.1.d, as the Applicant would be proposing a tower in a location that is not expressly permitted under the Draft Law. Any tower proposed on one of the four Village-owned properties or in the LI, O-1, and C-2 Zoning Districts does not require an Applicant to make an affirmative demonstration of technical infeasibility. See Draft Law sec. 206-6A.1.b-c.</i>	Requiring that proposals demonstrate that sites outside of the following sections are <u>not technically feasible</u> is a very stringent requirement and will strongly discourage proposals for locations that can accommodate cell towers and may be optimal for coverage: • Section § 206-6.A.1.(b): one of the four Village-owned properties • Section § 206-6.A.1.(c): LI, O-1, and C-2 Zoning Districts The code currently imposes such requirement to ALL applications except for those in the cited locations. Since technical infeasibility would be very difficult if not impossible to demonstrate, this clause discriminates against applications in other areas that may provide more optimal

		coverage.
7. Optimal site selection is critical because the high cost to build cell towers, the relatively low population of the Village, and the topography make it unlikely that companies will propose enough new cell towers to provide comprehensive coverage to all of the Village.	I agree. As it costs a significant amount of money to erect a tower, it is in the interest of the wireless companies to build a tower in the most optimal location.	The Televate study showed that we have existing cell facilities that fail to provide coverage within several hundred feet, so operating under the assumption that companies will select optimal sites without being required to do so is flawed.

Section	Subsection	TAC Comments	TAC Proposed Changes (redlined)
§ 206-6.Regulations Applicable to Tower-Based Wireless Facilities. A. The following regulations shall apply to all Tower-Based Wireless Facilities that do not meet the definition of a Small Wireless Facility. 1. Location Standards.	[§ 206-6.A.1.(b)] – Page 16 b. Tower-Based Wireless Facilities are permitted on the following Municipal Properties, subject to the requirements of this Chapter: c. i. Parcels within the PRE District owned by the Village of Croton-on Hudson. ii. Village Municipal Building, 1 Van Wyck Street.	This clause has an effective preference for specific Village-owned sites in PRE-1 and RA-40 zones. Locations ii and iv should remain as they currently host wireless facilities. The other two should be removed to avoid biases towards any specific location. However the applicable zones for these two areas can be added to the permitted zoning	[§ 206-6.A.1.(b)] – Page 16 c. Tower-Based Wireless Facilities are permitted on the following Municipal Properties, subject to the requirements of this Chapter: d. i. Parcels within the PRE District owned by the Village of Croton-on Hudson. ii. Village Municipal Building, 1 Van Wyck Street.

	iii. Hessian Hills Pump Station, 235 Hessian Hills Road. iv. Croton-Harmon Train Station Parking Lot, Veterans Plaza.	districts.	iii. Hessian Hills Pump Station, 235 Hessian Hills Road. iv. Croton-Harmon Train Station Parking Lot, Veterans Plaza.
	[§ 206-6.A.1.(c)] – Page 16 d. Tower-Based Wireless Facilities are a permitted use in the following zoning districts, subject to the requirements of this Chapter: Light Industrial (LI), O-1 (Limited Office), and C-2 (General Commercial).	Defining permitted zoning makes sense to avoid proposals for heavily residential zones, but RA-40 and PRE-1 should be added, as these contain potential Village-owned sites and are comprised of larger lots which can accomodate a cell tower. We also encourage adding RA-60.	[§ 206-6.A.1.(c)] – Page 16 Tower-Based Wireless Facilities are a permitted use in the following zoning districts, subject to the requirements of this Chapter: Light Industrial (LI), O-1 (Limited Office), C-2 (General Commercial), RA-40 (One Family Residence), PRE-1(Park Recreation and Education)
	[§ 206-6.A.1.(d)] – Page 16 e. <u>The Village Board of Trustees may grant an exception to the locational requirements set forth in this Section</u>	This clause creates a practically impossible-to-meet requirement for proposing towers outside of the permitted locations.	

206-6A.1 upon determining that the siting of a Tower-Based Wireless Facility in such locations is not Technically Feasible and that location of the Tower-Based Wireless Facility in another location is necessary to avoid the effective prohibition of service. Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance. No Tower-Based Wireless Facilities shall be permitted in any Waterfront District. Exceptions shall not be approved to override any fire safety or other public safety standard determined

If the Village-owned sites in PRE-1 and RA-40 are removed from § 206-6.A.1.(b) and PRE-1 and RA-40 are added to § 206-6.A.1.(c), we believe this clause is not overly restrictive.

to be appropriate by
the Village.

f.

- i. An Applicant shall request an exception only at the time the applicant submits an application in accordance with the requirements of this Chapter. The Village Board of Trustees may consider additional information provided by the applicant after submittal to supplement the initial exception request. Any request for an exception after the initial submission shall be deemed to be a new application.
- ii. If the Village Board of Trustees finds

	that an exception should be granted, the exception shall be narrowly tailored so that the exception deviates from this Chapter to the least extent necessary to avoid the prohibition, violation, or technically infeasible design or installation.		
2. Alternative site analysis.	[§ 206-6.A.2] – Page 17 <u>Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b)</u>, all applications for new Tower-Based Wireless Facilities shall include a completed alternative site analysis of all potential less intrusive alternative sites which the applicant has considered, setting forth their respective locations, elevations, and suitability or unsuitability for remedying whatever specific wireless coverage needs the respective Applicant is seeking to remedy by the installation of a new Tower-Based Wireless Facility which is the subject of the respective application for a Wireless Facility Permit. The Board	This clause exempts proposals for new cell towers on Village-owned properties from Alternative site analysis in § 206-6, point A2, which is a key requirement for ensuring that new towers are located where they will provide optimal coverage for residents.	[§ 206-6.A.2] – Page 17 Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b), all applications for new Tower-Based Wireless Facilities shall include a completed alternative site analysis of all potential less intrusive alternative sites which the applicant has considered, [...]

	of Trustees or Planning Board may deny an application where the alternative site analysis demonstrates the availability and suitability of a superior location in the opinion of the Village, where such alternate location is Technically Feasible and determined to not adversely impair the Applicant's ability to provide Wireless Telecommunications services.		
3. Collocation and siting analysis.	[§ 206-6.A.3] – Page 17 <u>Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b).</u> An Application for a new Tower-Based Wireless Facility shall demonstrate that the proposed Tower-Based Wireless Facility cannot be accommodated on an existing or approved structure or building within one quarter (1/4) mile radius of the site proposed. The Board of Trustees or Planning Board may deny an application to construct a new Tower-Based Wireless Facility if the Wireless Facility Applicant has not made a good faith effort to mount the Antenna(s) on an existing structure. The Wireless Facility Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter (1/4) mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied	This clause exempts proposals for new cell towers on Village-owned properties from Collocation and siting analysis in § 206-6, point A3, which is a key requirement for ensuring that new towers are located where they will provide optimal coverage for residents and be least disruptive to home values and neighborhood aesthetics.	[§ 206-6.A.3] – Page 17 Except for Tower-Based Wireless Facilities proposed in accordance with § 206-6.A.1.(b). An Application for a new Tower-Based Wireless Facility shall demonstrate that the proposed Tower-Based Wireless Facility cannot be accommodated on an existing or approved structure or building within one quarter (1/4) mile radius of the site proposed [...]

	for one of the following reasons:[...]		
4. Application Process	[§ 206-6.A.4(c)] – Page 18 c) Municipal Property. Applications for a new Tower-Based Wireless Facility, or the Substantial Modification of an existing Tower-Based Wireless Facility over or upon Municipal Property shall be determined solely by the Board of Trustees, as owner thereof. Applications for Tower-Based Wireless Facilities must satisfy the same requirements and same type of review as a Tower-Based Wireless Facility located on privately owned property must satisfy and undergo, including rendering a determination on the Application based on the criteria enumerated in subsection (d) below; <u>however, no site plan approval by the Planning Board shall be required.</u>	This clause exempts proposals for new cell towers on Village-owned properties from Review and approval by the Planning Board in § 206-6, point A4c. Because these proposals are likely to include new towers in residential areas, Planning Board review is critical.	[§ 206-6.A.4(c)] – Page 18 c) Municipal Property. Applications for a new Tower-Based Wireless Facility, or the Substantial Modification of an existing Tower-Based Wireless Facility over or upon Municipal Property shall be determined solely by the Board of Trustees, as owner thereof. Applications for Tower-Based Wireless Facilities must satisfy the same requirements and same type of review as a Tower-Based Wireless Facility located on privately owned property must satisfy and undergo, including rendering a determination on the Application based on the criteria enumerated in subsection (d) below; however, no site plan approval by the Planning Board shall be required.
	[§ 206-6.A.4(d)] – Page 18 d) <u>The Building Inspector shall refer all Applications for Tower-Based Wireless Facilities proposed in accordance with Section 206-6.A.1.(c) or Section 206-6.A.1.(d) to the Planning Board for site plan approval and for a review and determination that the</u>	The exclusion of § 206-6.A.1.(b), in § 206-6, point A4d exempts Village-owned properties from review and approval by the Planning Board including the determination that the proposed tower "is not detrimental to the	[§ 206-6.A.4(d)] – Page 18 d) The Building Inspector shall refer all Applications for Tower-Based Wireless Facilities proposed in accordance with Section 206-6.A.1.(c) or Section 206-6.A.1.(d) to the Planning

application for a Wireless
Facility Permit:

i. is not detrimental to
the public health,
safety, and
welfare;

ii. complies with the
requirements of
this Chapter and
all applicable
design and
development
standards,
including but not
limited to:

1. § 206-4.A.11.,
Noise,

2. § 206-6.A.6.,
Minimum
Setbacks,

3. § 206-6.A.7.,
Design
Regulations,

4. § 206-6.A.8.,
Surrounding
Environs,

5. § 206-6.A.9.,
Fence/Screen,

6. § 206-6.A.10.,
Accessory
Equipment,

7. § 206-6.A.11.,
Balloon Testing,

8. § 206-6.A.13.,
Access Road,

9. § 206-6.A.14.,
Historic
Buildings, and

10. § 206-
6.A.16.,

**public health,
safety, and
welfare" and that
it "complies with
the requirements
of this Chapter
and all applicable
design and
development
standards."**

Board for site plan
approval and for a
review and
determination that the
application for a
Wireless Facility
Permit: [...]

	Lighting		
	iii.meets applicable requirements and standards of state and federal law.		

All the best, Ashok