

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

In Re: Application of New Cingular Wireless : Docket No. 373
PCS, LLC (AT&T) for a Certificate of :
Environmental Compatibility and Public Need :
for the Construction Maintenance and Operation :
of a Telecommunications Tower Facility at :
St. Matthew Lutheran Church at 224 Lovely Street :
in the Town of Avon : March 24, 2009

TOWN OF AVON'S LIST OF WITNESSES AND EXHIBITS

I. WITNESSES

The Town of Avon ("Avon" or "Town") expects the following witnesses to be available to testify at the Connecticut Siting Council's (the "Council") public hearing on March 31, 2009:

A. Mr. Steven Kushner, AICP. Mr. Kushner is the Director of Planning and Community Development for the Town of Avon and the Town's Zoning Enforcement Officer. Mr. Kushner has reviewed the Application for consistency with the Town of Avon Zoning Regulations ("Regulations") and the Plan of Conservation and Development ("Plan"). Mr. Kushner will provide testimony regarding consistency of the Application with

the Regulations and Plan and offer testimony regarding the Town's alternative location and siting criteria.

II. EXHIBITS

The Town intends to offer the following documents into evidence at the Council's public hearing on March 31, 2009:

A. Exhibits for Administrative Notice

The Town of Avon requests the Council to take administrative notice of all relevant and applicable federal and state statutes and regulations, and all items on the Council's Administrative Notice List for Docket No. 373, including the following administrative documents:

1. The Connecticut Siting Council's "Telecommunications Facilities: An Illustrated Primer on the Siting of Facilities Within Connecticut and Throughout the Nation."

B. Applicant's Exhibits

1. The following Bulk Filing Exhibits submitted to Connecticut Siting Council from New Cingular Wireless PCS, LLC (AT&T):
 - a. Bulk Filing Exhibit 1: Zoning Regulations, Town of Avon, with Amendments through September 17, 2008;
 - b. Bulk Filing Exhibit 2: Plan of Conservation and Development, Town of Avon, dated March 2006 (adopted May 2, 2006); and

- c. Bulk Filing Exhibit 3: Town of Avon Plan of Conservation and Development Maps and Zoning Map.

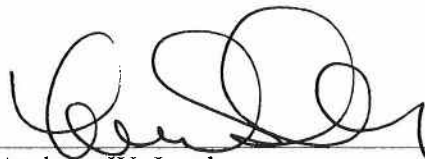
C. Town of Avon's Exhibits

1. Town of Avon's § 16-50gg letter to Connecticut Siting Council, dated March 11, 2009 and exhibits thereto (Previously Filed);
2. Town of Avon Responses to Pre-Hearing Interrogatories (Set One) Directed to Town of Avon By Connecticut Siting Council, dated March 23, 2009 and exhibits thereto (Previously Filed); and
3. Pre-filed testimony of Steven Kushner, AICP (Director of Planning and Community Development for the Town of Avon and the Zoning Enforcement Officer), dated March 24, 2009 and exhibits thereto.

The Town of Avon reserves the right to modify this list or to offer additional exhibits necessary and appropriate to address specific topics that may arise, or upon the request of the Siting Council.

THE TOWN OF AVON

By: _____

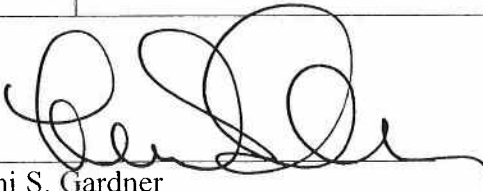

Andrew W. Lord
Loni S. Gardner

Murtha Cullina LLP
CityPlace I, 29th Floor
185 Asylum Street
Hartford, Connecticut 06103-3469
Telephone: (860) 240-6000
Its Attorney

CERTIFICATE OF SERVICE

This is to certify that on this 24th day of March, 2009, one original and twenty-five (25) copies of the foregoing Town of Avon List of Witnesses and Exhibits was hand delivered to the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut 06051 and one copy of the foregoing has been sent via U.S. mail, postage prepaid, this 24th day of March, 2009 to:

| | |
|---|---|
| Christopher B. Fisher, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 th Floor White Plains, New York 10601 | Patricia McMahon 21 Greenwood Drive Avon, Connecticut 06001 |
| Sheridan Toomey 9 Greenwood Drive Avon, Connecticut 06001 | Thomas McMahon 21 Greenwood Drive Avon, Connecticut 06001 |
| Mark Toomey 9 Greenwood Drive Avon, Connecticut 06001 | Jane Garrett 15 Greenwood Drive Avon, Connecticut 06001 |
| Peter Emmett Wiese 240 Lovely Street Avon, Connecticut 06001 | Juan Fernandez 246 Lovely Street Avon, Connecticut 06001 |
| Carrie L. Larson, Esq. Pullman & Comley LLC 90 State House Square Hartford, Connecticut 06103-3702 | |


Loni S. Gardner

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

In Re: Application of New Cingular Wireless : Docket No. 373
PCS, LLC (AT&T) for a Certificate of Environmental :
Compatibility and Public Need for the Construction :
Maintenance and Operation of a Telecommunications :
Tower Facility at St. Matthew Lutheran Church at :
224 Lovely Street in the Town of Avon : March 24, 2009

**Testimony of
Steven Kushner**

**On behalf of
The Town of Avon, Connecticut**

March 24, 2009

Q. Please state your name, position and business address.

A. My name is Steven Kushner, AICP. I am the Director of Planning and Community Development for the Town of Avon. I am also the Town's Zoning Enforcement Officer.

Q. In what capacity do you appear before the Siting Council in this matter?

A. I am testifying on behalf of the Town of Avon in this matter.

Q. Please describe your current responsibilities and professional experience.

A. I am currently the Director of Planning and Community Development for the Town of Avon. I have been employed with the Town of Avon since 1989. I have held the position of Director of Planning and Community Development for the past year and for the previous 19 years served as the Town Planner and Zoning Enforcement Officer. During this time as Town Planner, I have drafted many of the zoning regulations for the Town of Avon and authored both the 1989 and 2006 Town of Avon Plan of Conservation & Development. As Director of Planning and Community Development, I oversee the Divisions of Planning, Inland Wetlands, Zoning Enforcement, Building Inspection, and Fire Prevention. Prior to employment with the Town of Avon, I was the Town Planner for the Town of Ellington, Connecticut (2 years), assistant Town Planner for the Town of Farmington, Connecticut (3 years), and worked as Senior Regional Planner for Northeastern Connecticut Regional Planning Agency (5 years). In sum, I have a total of 30 years experience as a public sector planner.

Q. What is your educational background?

A. I graduated from the University of Massachusetts in 1979 with a BS degree in Natural Resource Studies. I also obtained a Master's Degree in Regional Planning from the University of Massachusetts in 1988. In addition, I have held an American Institute of Certified Planners (AICP) designation since 1991. On the zoning enforcement side, I am certified as a zoning enforcement officer (ZEO) since 1984 through the Connecticut Association of Zoning Enforcement Officers (CAZEO).

Q. Have you ever appeared as a witness before any regulatory agency or in court in Connecticut in your capacity as a planner or zoning enforcement officer?

A. Yes. I have testified as a witness in three cases before the Connecticut Superior Court on account of my role as either Town Planner or ZEO for the Town of Avon. Two cases were zoning enforcement cases. My testimony in those cases related to the specific zoning regulations violations at issue in each respective case. The third case involved a dispute between property developers. My testimony in that case related to the particular P&Z approvals at issue and interpretation of the Town's Zoning and Subdivision Regulations.

Q. Have you reviewed AT&T's Application for a Certificate of Environmental Compatibility and Public Need for the Construction Maintenance and Operation of a Telecommunications Tower Facility at St. Matthew Lutheran Church at 224 Lovely Street in the Town of Avon ("Application?") for compliance with the Town of Avon's Zoning Regulations ("Regulations") and consistency with the Plan and Conservation and Development, adopted May 2, 2006 ("Plan")?

A. Yes.

Q. Have you prepared a summary of your review regarding compliance of this Application with the regulations and consistency with the Plan?

A. Yes. I prepared a Memorandum dated March 11, 2009 addressing relevant provisions of the Regulations and the Plan as applied to the Application. This Memorandum is attached as Exhibit B to the Town's 16-50gg Letter dated March 11, 2009 identifying its location preferences and siting criteria. I have also attached this Memorandum hereto as Exhibit A.

Q. Do you adopt your Memorandum dated March 11, 2009, attached hereto as Exhibit A, as your testimony?

A. Yes.

Q. Have you undertaken any additional review of the Application since your March 11, 2009 Memorandum?

A. Yes, I have.

Q. Is there anything you would like to add based on your supplemental review?

A. Yes. In my Memorandum of March 11, 2009, I generally discussed the relevant land use regulations that would be applied to this Application, should it be pending before the Avon Planning & Zoning Commission. I would like to expand upon three basic areas: the ability of this Site to have additional accessory structures, the fall zone requirements, and the application of Special Exception criteria.

Q. Please explain your supplemental review as it pertains to accessory structures on this Site.

A. Under the Regulations, the proposed Facility, would be considered an accessory structure. In residential and rural zones, certain accessory buildings and structures are permitted, but not to exceed 1,000 square feet and the average height of the accessory structure less than the average height of the principal structure. The Church already has two accessory buildings on the Site, including a shed and a 3,496 sq. ft. parsonage, which is used for residential purposes and in which a family with children resides. Because the allowed amount of accessory space has been used and exceeded, no additional accessory structures would be permitted on this Site. I have attached as Exhibit B the Town of Avon Tax Map, Sheet 11, a close-up view of the same depicting the parcel map of the Site, and a Google Map depicting the Site and identifying the parsonage and approximate location of the proposed Facility.

Q. Please explain your supplemental review as it pertains to the fall zone requirements.

A. The use of the parsonage as a single family residence has significant safety implications related to the fall zone requirements and the Special Exception criteria related to public safety. While the tower is located a minimum distance equal to the height of the tower (100 feet) from all street and property lines, it is less than 80 feet from the parsonage building to the southeast, less than 80 feet from the Church building to the west, and is

located less than 60 feet from the Church parking area to the south. If the tower should fall, these areas would be in the fall zone. Because a family with children lives in the parsonage and the Church attendees and visitors frequent the Church and parking lot, the tower is located in a potentially dangerous location. Based on the information submitted, it has not been substantiated that public safety will not be compromised.

Q. Please explain your supplemental review as it pertains to the Special Exception Criteria.

A. The Facility would be subject to all of the Special Exception criteria and other minimum requirements, including that visual intrusion of the structure is reduced to the maximum extent possible. The proposed tower and compound is likely to be highly visible to residents of Greenwood Drive and the surrounding neighborhood and there are no plans to mitigate the visual intrusion of the tower and compound in the Application. The proposed tower is approximately 40 feet higher than the existing church steeple and 40-60 feet higher than any tree in the area, many of which are aging and may need replacement. The compound, which is located near Greenwood Drive, has greater than a 2400 sq. ft. footprint. Because the Application does not provide for any visual mitigation plan or landscaping and screening plans for either the tower or the compound, the Application does not meet the minimum criteria.

The Application also fails to discuss any of the Special Exception criteria, including the suitability of the location for the use proposed, appropriateness of the structure in context of the adjoining neighborhood, compatibility of the design in light of the characteristics of the style of buildings in the immediate area, and that the proposed structure will not have any detrimental effects upon the public health, safety, welfare, or property. The proposed Facility does not meet these criteria. In particular, the freestanding monopole design (including its height and size of the compound) is not in harmony with the primarily residential use of the area. The essential characteristics of the area are residential. The failure of the Facility's design to incorporate any of these characteristics will alter the area's residential characteristics. The facility, as proposed, may therefore diminish the value of neighboring properties on account of the failure of the Facility's

design to incorporate the area's residential characteristics and on account of the Applicant's failure to offer any visual mitigation and landscaping and screening plans.

Q. Do you have any recommendations regarding alternative locations for the proposed Facility or mitigation?

A. Yes. The Planning & Zoning Commission prepared a letter dated February 17, 2009 directed to the Town Council with its recommendations regarding the proposed location and design of the proposed Facility. I adopt as my testimony the recommendations set forth in this letter. This letter is attached as Exhibit A to the Town's 16-50gg Letter dated March 11, 2009. I have attached this letter hereto as Exhibit C.

Q. Is there anything you would like to expand upon or add?

A. Yes. If no other sites in the area are feasible, I recommend that the height of the structure is reduced to no greater than 80 feet in height and all antennas are contained within a steeple attached to the existing Church building or alternatively, a freestanding steeple-like structure in order to mitigate the impact of the Facility on the area's residential characteristics. The P&Z Commission provided additional alternative techniques to reduce neighborhood impacts, which I have incorporated into my testimony. With respect to the flagpole design, I have attached hereto as Exhibit D photographs depicting a flagpole designed facility at Simsbury Commons, which I recommend, provided the height is no greater than 80 feet and without a flag. With respect to the flagpole design, the narrowest diameter pole available should be used. In all cases, an appropriately styled residential quality fence to enclose the compound should be chosen. Finally, the Applicant should hire a landscape architect to develop an on and off-site landscaping and screening plan to mitigate the visual intrusion, as required by the Regulations.

Q. Does this conclude your testimony?

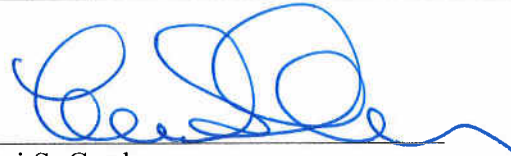
A. Yes.

EXHIBIT A

CERTIFICATE OF SERVICE

This is to certify that on this 24th day of March, 2009, one original and twenty-five (25) copies of the foregoing Pre-filed Testimony of Steven Kushner was hand delivered to the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut 06051 and one copy of the foregoing has been sent via U.S. mail, postage prepaid, this 24th day of March, 2009 to:

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| Carrie L. Larson, Esq. Pullman & Comley LLC 90 State House Square Hartford, Connecticut 06103-3702 | |



Loni S. Gardner

EXHIBIT A

MEMORANDUM

TO: File

FROM: Steven M. Kushner, Director of Planning *SK*

DATE: March 11, 2009

RE: Town of Avon's Zoning Regulations Criteria for the Connecticut Siting Council's Consideration Pursuant to Conn. Gen. Stat. § 16-50x(a)
Docket No. 373, AT&T Proposed Telecommunications Tower, Avon, CT

Relevant Land Use Regulations

Certain sections of the Town of Avon's Zoning Regulations ("Regulations") provide relevant guidance for the Council's consideration for the siting of the proposed telecommunications facility. I have attached these sections hereto.

The proposed site located at 224 Lovely Street on property owned by St. Mathew's Lutheran Church (the "Site") is located in the R-30 single family residential district. As such, it is critical that the protective criteria set forth in Section 1.B. Purposes and other provisions of the Regulations are considered, as the placement of the facility in this residential area will result in an adverse impact to surrounding properties. Therefore, appropriate measures should be taken to reduce the facility's visual impacts.

Section IV provides general height and area standards for the R-30 district applicable to all development, which are set forth in the Section IV, Table Inset. Avon's Regulations do not permit commercial uses in residential zones. Additionally, Section IV of the Regulations addresses the accessory use of noncommercial radio broadcast tower or pole antenna in a residential district. While the proposed telecommunications tower and associated compound (the "Facility") do not fit squarely into this category, it provides useful guidance regarding the appropriate height and bulk of the proposed Facility in a residential district. These Regulations would normally limit the height of a noncommercial radio broadcast tower or pole antenna to not 70 feet or less in height. These Regulations also impose other conditions on such structures, including the requirement that the tower or pole is not located in any required yard area, and not located closer to any property line than a distance equal to the height of the antenna. Additionally, these provisions also require that the total of all accessory buildings and structures not exceed 1,000 square feet. AT&T's proposed commercial facility is 100 feet in height and with a proposed compound area exceeding 2400 sq. ft.

Secondly, by special exception, an *already existing* communications station or tower located in a residential or rural zone may be modified or replaced if certain minimum conditions are met and the special exception criteria are met. See Regulations, Section IV(A)(4). Among other conditions, such facilities must be set back from all street and property lines a minimum distance equal to the height of the tower and under no conditions placed in required yard areas. Significantly, visual intrusion of these structures must be minimized *to the maximum extent possible*. This includes berming and/or visual year-round screen planting to screen the view from any public road or residences. New communication stations and towers are expressly prohibited in a residential district. See Regulations, Section IV(A)(4).

Additionally, such towers would also have to meet the special exception criteria set forth in Section VIII of the Regulations. Notably, this includes the following criteria, which are particularly relevant in the Council's consideration of AT&T's proposed facility:

A. Suitable location for use. That the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.

B. Suitable structures for use. That the kind, size, location and height of structure and the nature and extent of landscaping on the lot are appropriate for the use and will not hinder or discourage the appropriate use of adjoining property or diminish the value thereof.

C. Neighborhood compatibility. That the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property value in the neighborhood.

I. Consistent with purposes. That the proposed use will not have any detrimental effects upon the public health, safety, welfare, or property values, and that the proposed use will not conflict with the purposes of the regulations.

Finally, it should be noted that AT&T's application to the Siting Council indicates "consistency" with the Avon Plan of Conservation and Development. However, this Plan is silent with respect to the placement of cell phone towers. Therefore, AT&T's proposed placement of a cell phone tower in a single-family residential zone is neither consistent with nor inconsistent with the Plan.

Section I. Introduction.

A. *Authority.* These regulations are adopted under the authority of Chapter 124 of the General Statutes of the State of Connecticut, as amended [G.S. § 8-1 et seq.].

B. *Purposes.* These regulations are adopted for the purposes of:
 Promoting public health, safety, and general welfare;
 Providing adequate light, air, and privacy;
 Preventing overcrowding of the land and avoiding undue concentration of population;
 Lessening congestion in the streets;
 Facilitating adequate transportation, sewage, schools, parks, and other public requirements;
 Securing safety from fire, panic, flood, and other dangers;
 Conserving the value of buildings and property;
 Encouraging the most appropriate use of land throughout the Town of Avon with reasonable consideration for the existing or planned character of the area;
 Protecting historic factors within the Town of Avon;
 Protecting existing and potential public surface and ground drinking water supplies;
 Controlling erosion caused by wind or water and providing for sedimentation control;
 Encouraging energy conservation, the use of solar and other renewable forms of energy, and energy-efficient patterns of development; and
 Guiding the growth of the Town of Avon in accordance with the Comprehensive Plan of Development.

C. *Zone types.* For achieving these purposes, the Town of Avon is divided into the following zones:

TABLE INSET:

| | |
|------------------------|-------|
| Residential | R-15 |
| Residential | R-30 |
| Residential | R-40 |
| Residential | RU-2A |
| Agricultural | A |
| Educational Land | EL |
| Recreation/Open Space | ROS |
| Office Park | OP |
| Neighborhood Business | NB |
| Commercial Specialized | CS |
| Commercial Retail | CR |
| Commercial Park A | CPA |
| Commercial Park B | CPB |
| Industrial | I |
| Industrial Park | IP |

D. *Zone boundaries.* Zone boundaries are established by the Planning and Zoning Commission and are shown on a map entitled "Zoning Map; Town of Avon, Connecticut."

E. *Zone boundary interpretation.* Unless otherwise clearly designated on the Zoning Map, zone boundaries shall be interpreted as:

Following the center line of a street, highway, road, river, brook, or stream;

Following property lines;

Following the lines of a particular geophysical feature including flood plains and steep slopes; or

Running parallel to any of the before-mentioned lines, at distances measured, where zone boundaries appear to be set back from such lines.

The Planning and Zoning Commission shall determine the location of zone boundaries in case of an uncertainty.

Section IV. Residential and rural zones.

A. Residential.

1. Permitted uses.

- a. Single-family dwelling.
- b. Farming on a tract containing more than ten acres.

2. *Accessory buildings and accessory structures.* The following accessory buildings and structures are permitted, provided; that they are used for garage and storage only; and that the total of all such buildings shall not exceed 1,000 square feet; however, the average height of any accessory structure shall be less than the average height of the principal structure:

- a. A private garage, conforming to all required yards in applicable zone. The total number of garage spaces on the lot shall not exceed a capacity of one more motor vehicle than the number of bedrooms in the principal building.
- b. Storage sheds, and similar out buildings, including gazebos, conforming to all required yards in the applicable zone.
- c. Buildings for the purpose of housing horses, livestock, and fowl, provided that they are located at least 100 feet from any lot lines. (See Section IV.A.3.)
- d. Swimming pool, tennis court, or other similar recreational structure, provided such structure shall not be located in the required front yard setback, is at least 30 feet from any rear lot lines and at least 25 feet from any side lot lines, (in any zone which has a more restrictive side yard requirement, it shall be applied to the structures); these structures shall be buffered or fenced, where necessary, as determined by the Zoning Enforcement Officer, to protect adjacent property values, and lights (if any) are shielded to protect adjacent property values. Accessory structures such as pumps, filters, heaters, or a bathhouse shall also be located at least 30 feet from any rear lot lines and at least 25 feet from any side lot lines (in any zone which has a more restrictive side yard requirement, it shall be applied to structures).
- e. Above-ground oil tanks, propane tanks, and/or generators shall conform to all required yards in the applicable zone, and shall be buffered or fenced where necessary, as determined by the Zoning Enforcement Officer.
- f. Other structures customarily incidental to a single-family dwelling shall be located at least ten feet from side or rear lot lines in the rear yard, or if not in the rear yard, conforming to front and side yards in the applicable zone.
- g. Tower and pole type antennas not exceeding 70 feet in height for radio broadcast and reception for the personal, not-for-profit, noncommercial use by residents of the dwelling are permitted as accessory if they comply with applicable regulations of the district, are not located in any required yard area, and are not located closer to any property line than a distance equal to the height of the antenna.
- h. Satellite dish antennas subject to the following requirements:

TABLE INSET:

| <i>Size of Satellite Dish</i> | <i>Requirements</i> |
|---|--|
| Less than or equal to 24 inches in diameter | 1. May be ground mounted or mounted to a structure situated on the lot in a manner which conforms to all required yard setbacks and height restrictions. |
| | 2. May be attached directly to the structure or attached to a mast or pole providing the mast or pole is less than 12 feet in height. |
| | 3. Shall utilize colors that blend with the surroundings. |
| Greater than 24 inches in diameter | 1. Shall be ground mounted and shall not exceed a height of ten feet to be measured from ground level to the highest point of the antenna. The Commission may permit an installation not to exceed 13 feet in height for those uses receiving special exception approval under this section. |
| | 2. Shall observe all yard setbacks. |
| | 3. Shall not be permitted within the front yard. |
| | 4. Shall be screened from adjoining lots, drives, and streets by the installation and maintenance of a visual barrier. Shall utilize colors that blend with the surroundings. |

3. *Accessory uses.*

- a. Home occupation, minor.
- b. A day care home conducted in the resident's dwelling unit for less than five people conducted by the resident with a valid State license.
- c. Recreational vehicle storage, provided that the vehicle is owned by the owner or occupant of the premises, is stored at least ten feet from the side and rear lot lines, observes the front yard setback, is not used as living quarters, and is buffered, or fenced where necessary, as determined by the Zoning Enforcement Officer, to protect property values in the neighborhood. Temporary storage (less than 48 hours in one month) is exempt from these regulations.
- d. Limited farming on a tract of land containing 80,000 square feet or more which is clearly accessory to a residential use subject to the following standards:
 - (1) On a lot containing 80,000 square feet, a maximum of one large animal, two medium animals, or 15 small animals may be kept.
 - (2) For each additional 43,560 square feet, one additional large animal may be kept; or for each additional 21,780 square feet, one additional medium animal or 15 small animals may be kept.
 - (3) No more than 100 small animals may be kept on any lot.
 - (4) The keeping of pigs is not permitted.
 - (5) Buildings for the purpose of housing horses, livestock, and fowl shall be located at least 100 feet from any lot line. Manure must be stored at least 100 feet from any lot line and visually screened from adjoining properties.
 - (6) Dogs, cats, and other pets which are kept as companions and housed together with human occupants are permitted in any residential zone on any size lot in conjunction with a residence.
 - (7) The keeping of up to ten rabbits shall be permitted on a lot of any size.

(8) The boarding of horses or other farm animals or any other commercial activities undertaken for compensation is not permitted.

e. Any other use customarily incidental and subordinate to the principal use.

4. *Special exceptions.* The following uses, and accessory uses thereto, may be authorized by the Commission as a special exception under the applicable criteria of Section VIII:

a. Modification to, or replacement at the same site, of any existing communications transmission stations and towers, both conforming and nonconforming, including changes to any accessory building, facilities or equipment, subject to the following:

The application presented to the Commission shall be accompanied by:

(1) A site plan conforming to Section X.A.1.a. including detailed elevations of all existing towers, antennas, dishes and other transmitting and receiving devices.

(2) A report showing field measurements of ambient nonionizing electromagnetic radiation (NIER) levels in the frequency range of those sources existing and proposed on the site. Such readings shall be submitted by a qualified engineer and shall be taken at the nearest point of the main NIER source to the property boundary and at any other point deemed necessary by the Commission. The report shall include calculations of estimated total NIER levels following the proposed modifications and shall compare these to the standards noted in Section IV.A.4.a.(7).

The following are minimum conditions of any permit granted under this section:

(3) Except as provided for in Section IV.A.4.a., no additional communications transmission stations and towers shall be permitted after the effective date of this amendment.

(4) No strobe or white aviation lights shall be permitted. Only standard red aviation lights shall be allowed. If after the approval any applicable authority requires the refitting of a tower to white or strobe lights, the tower must be lowered in height to a point where red lights are acceptable or the tower shall be removed.

(5) Any tower shall be set back from all street lines and property lines a distance at least equal to the tower height, however, the Commission may modify this setback along certain property lines where, in the opinion of the Commission, the abutting property is not likely to be used for residential purposes. In no instance shall the tower or guy wire anchors be placed within the required yard areas.

(6) No employees shall be employed on a regular basis at the site and no office or broadcast studios shall be permitted.

(7) NIER emissions from this site as measured at the property lines and combined with ambient levels in similar frequency ranges shall not exceed levels adopted or established by either the American National Standards Committee C95.1 (ANSI), the Environmental Protection Agency of the United States, the State of Massachusetts Department of Public Health, or the State of Connecticut Department of Health Services, whichever is more stringent.

(8) Any approval shall include the requirement that the applicant submit annual records of NIER measurements and annual reports to the Commission by a qualified engineer verifying compliance to NIER levels.

The Commission shall review the following items as part of each application process:

(9) The visual intrusion of these structures shall be minimized to the maximum extent possible. Berming and/or year-round screen planting may be required by the Commission to screen view from any public road or any residences.

(10) Any increase in tower height shall be discouraged as not in keeping with the policy of the Town to preserve the beauty of the Talcott Mountain ridge line. Any increase in height shall only be permitted when in the judgment of the Commission the following is provided:

(a) The radiation level at the nearest property line is reduced; and

(b) The resulting impact on the ridge line is materially improved by other site, equipment, or tower modifications.

b. Public and private schools and colleges with a valid State license.

- c. Educational and training facilities of public and private schools, colleges, and all other types of organizations.
- d. Community center buildings and clubs provided no liquor is sold.
- e. Nursing homes with a valid State license.
- f. Churches, religious buildings, and cemeteries.
- g. Nurseries.
- h. Golf courses, playgrounds, recreational areas, and parks.
- i. Day care centers for five or more people in public and institutional buildings with a valid State license.
- j. Multiple Dwelling Developments subject to the provisions of Section IX.A.
- k. Cluster Developments subject to the provisions of Section IX.B.
- l. Planned Residential Developments subject to the provisions of Section IX.C.
- m. Planned Elderly Residential Developments subject to the provisions of Section IX.D.
- n. Conversion of existing buildings to residential use for not more than two dwelling units, provided that:
 - (1) The lot contains the minimum frontage and lot area required in the applicable zone.
 - (2) The gross ground floor area after conversion does not exceed the maximum lot coverage regulation of the zone.
 - (3) The dwelling units comply with the multifamily floor area requirements.
 - (4) All applicable sanitary requirements for the additional families are met.
 - (5) The external appearance and general character of the building as a single-family dwelling shall be preserved.
 - (6) In the instance when an application is submitted in an area of predominantly single-family homes, the applicant must demonstrate that the area's present character and housing values will not be adversely impacted. The Commission will be guided by the following:
 - (a) External design and appearance, including entrances,
 - (b) Exterior materials,
 - (c) Size of the home before and after conversion,
 - (d) Parking,
 - (e) Landscaping and buffering,
 - (f) Building and lot coverage before and after conversion,
 - (g) Undeveloped property in the area and relevant recommendations contained in the plan of development.
 - (7) Conversions or construction may be appropriate in areas which adjoin higher density residential housing, commercial or industrial development where the Commission determines they may provide an effective transitional land use.
- o. Conversion and expansion of existing buildings to office use, provided that:
 - (1) The lot contains at least 60,000 square feet or the minimum lot area required in the applicable zone (whichever is greater), the minimum frontage required, and fronts on a State highway. Front yard shall be a minimum of 60' in depth. Side and rear yards shall be a minimum of 50' in depth where abutting a residential zone.
 - (2) The maximum lot coverage after conversion and additions does not exceed 5%. The Commission may grant an increase in lot coverage up to 10% owing to the quality of architectural and landscape design and a determination of no adverse impact on surrounding properties.
 - (3) All parking requirements for office use in accordance with Section VII.B. No parking shall be permitted in any required yard.
 - (4) At least 65 percent of the lot shall be a landscaped area including a 25-foot front yard landscaped area and side/rear yard buffers in accordance with Section VII.A.
 - (5) The external appearance, details, scale, materials and general character of the building shall be in harmony with the surrounding neighborhood.

p. Rear lots, for residential purposes only, provided that:

(1) The Commission determines that the development of rear lots will provide the most suitable use of the land considering such factors as drainage, configuration, accessibility, and topography.

(2) The rear lots conform to all requirements prescribed for the zone in which they are located except that the front yard setback and the lot area, shall be at least twice the minimum such requirements for the zone. In computing lot area, the access strip, whether owned in fee or over an easement area, extending from the front lot line to the public roadway shall not be counted towards satisfying this requirement.

(3) Rear lots shall be provided with an access strip at least 30 feet wide to a public street. This 30-foot strip of land shall be owned in fee by the owner of the rear lot, except where:

i. The Commission approves more than one (1) rear lot and where such lots will utilize a common driveway. In this instance, one of the approved rear lots shall own the access strip in fee while the others shall be granted easement rights for access and the installation and maintenance of utilities; or

ii. The Commission determines that ownership of the access strip by the rear lot is not necessary and that the rear lot is best served by an easement over the front lot.

Driveways serving rear lots shall not exceed 1,000 feet in length and shall have an adequate all-weather surface for their entire length and for a 10-foot width. The Commission may require the entire driveways to be paved. Common driveways may serve up to a maximum of two (2) rear lots and, where appropriate, the two (2) adjacent front lots, and shall adhere to the following:

(a) the common portion must be paved;

(b) pavement width shall be a minimum of 12 feet;

(c) pavement specifications shall comply to Town standards;

(d) if part of a subdivision, the common portion of the driveway shall be installed as part of the street system;

(e) a maintenance agreement shall be approved by the Commission and shall be filed in the land records of both lots prior to the issuance of any building permits authorized under the Special Exception approval.

(4) A landscape buffer is provided where necessary within the lot and along the access way to ensure that the development of rear lots will be in harmony with surrounding areas and protect existing homes.

(5) Where a proposed rear lot abuts a front lot which is under the control of the applicant then such front lot shall observe a rear yard setback of 50 feet. (See also Section IV.A. 6., Height and Area Regulations.)

(6) The Commission may modify the above requirements when it determines that the rear lots and the access thereto will be in harmony with the surrounding area and preserve the public health, safety, welfare and property values.

q. Incorporation of one accessory apartment, which is subordinate and incidental to a principal single-family dwelling.

In addition to standards set forth in Section VIII of these regulations, the following standards/criteria must be met:

(1) The lot conforms to the various requirements for the zone in which it is located.

(2) The accessory apartment must be contained within the principal single-family dwelling after modification(s) as may be permitted under (3)(c) (below).

(3) The following area requirements must be met:

(a) The accessory apartment may not exceed 25% of the dwelling after modification(s) as may be permitted under (c) (below).

(b) The accessory apartment must contain at least 400 square feet, but not exceed 600 square feet in area.

(c) Any additions may not increase the square footage of the original house by more than 10%. For the purpose of this regulation the "original house" shall be measured at a point in time five years prior to the submission of an application under this section. If the house is less than five years old, it shall be measured from the date a certificate of occupancy was issued.

The Commission may modify the above area requirements when, in the opinion of the Commission, such modification will preserve the public health, safety and welfare, and provide a more practical layout of the principal or accessory living unit.

(4) The gross ground floor area after modification(s) shall not exceed the maximum lot coverage regulation of the zone.

(5) The living area in the principal dwelling unit after modification(s) conforms to the living area requirements of these regulations.

(6) At least one of the dwelling units is occupied by an owner of the property.

(7) All applicable sanitary requirements for the additional dwelling unit, as enumerated in the Connecticut Public Health Code are met.

(8) Adequate parking facilities are provided on site for both dwellings.

(9) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a one-family residence. In general, any new entrances shall be located on the side or in the rear of the building.

(10) The Commission may require that the design of the home, both interior and exterior, be such that conversion back to a single-family dwelling may be readily accomplished.

(11) Approvals shall be valid for a period of two years from the issuance of a certificate of occupancy. Prior to the expiration of this two-year period, or any subsequent approval, an application for renewal may be submitted for an additional period not to exceed two years.

r. *Sale of farm products and construction of farm buildings.* Farms on parcels of land in excess of ten acres (unless the acreage requirement is modified by the Commission upon a finding that all criteria in Section VIII of these regulations have been met) may be allowed retail sales of farm-grown or farm-related products and the construction of farm buildings for the purpose of farming operations or retail sales in excess of the size specified in Section IV.A.2.b., provided that the following criteria can be met:

(1) The farm store must be located on an active farm site.

(2) The retail sales of farm products must be of a scale such that it is compatible with nearby residential uses.

(3) The following items may be sold: Produce grown on the farm and farm-related products produced on the farm excluding meat products. Farm products grown elsewhere and other products related to agriculture may also be sold such that the total sales of these other products do not exceed 20% of the total amount of gross revenue generated from all retail sales at the farm stand. Items such as agricultural fertilizers, bark mulch, top soil, peat moss, plants pots, statuary items, prepackaged convenience food items, and soft drinks shall not be permitted for sale.

(4) The farm store may be located in a free-standing building or may be situated in a portion of a larger structure which may be used in part to support other farming operations such as a dairy barn, hay loft, or farm equipment storage area. In all cases, the farm store shall not exceed 3,000 square feet in area.

(5) The farm store must have a primary means of access and egress from a through street capable of safely accommodating anticipated volumes of traffic. Preference shall be given to arterial roadways.

(6) All structures shall meet the minimum requirements established for the residential zoning district in which the farm is located. All parking shall meet the setback requirements for structures for the residential zoning district in which the farm stand is located. Parking shall be provided at a rate to be approved by the Commission. In addition, a B Bufferyard shall be

observed between any farm buildings and farm store parking areas and adjoining residentially zoned properties.

s. *Home occupation, major.*

t. Roof-mounted satellite dish antennas may be permitted for those uses receiving special exception approval under this section. Applicant shall demonstrate that due to the unusual shape of a parcel of land, building design, or site layout, a ground-mounted installation is not feasible. The Commission may require screening utilizing building materials and a design which will complement and enhance the architecture of the building and not detract from it. No installation shall exceed 35 feet in height.

5. *Density regulations.* Any parcel developed for residential use shall observe the following density regulations: First, apply the developable land calculation to the parcel being developed. Density of the parcel shall be calculated by multiplying the density fact of the applicable zone by the developable land of the parcel (not the parent parcel). See example in Section III.D.

TABLE INSET:

| <i>Zone</i> | <i>Maximum Density (Families/Acre)</i> |
|-------------|--|
| RU-2A | 0.3 |
| R-40 | 0.8 |
| R-30 | 1.2 |
| R-15 | 2.2 |

In residential subdivisions of four lots or less, the Planning and Zoning Commission, by special exception, may modify the density requirements. An applicant must demonstrate compliance with Section VIII of these regulations. This provision shall not apply to resubdivisions.

In residential resubdivisions of four lots or less, the Planning and Zoning Commission, by special exception, may also modify the calculated number of allowable lots, after application of the density regulations, to be rounded up to the next integer value when said calculation is within 0.10 of this next integer value. An applicant must demonstrate compliance with Section VIII of these regulations.

6. Height and area regulations.

TABLE INSET:

| | RU-2A | R-40 | R-30 | R-15 |
|--|------------|--------------|--------------|--------------|
| Min. Lot Area | 2 ac. | 40,000 s. f. | 30,000 s. f. | 15,000 s. f. |
| Min. Lot Width | 200 ft. | 170 ft. | 170 ft. | 100 ft. |
| Max. Lot Coverage | 10% | 15%* | 15%* | 15% |
| Minimum Front Yard | | | | |
| -Local Streets | 40 ft. | 40 ft. | 40 ft. | 40 ft. |
| -Collector and Arterial Streets | 60 ft. | 60 ft. | 60 ft. | 60 ft. |
| Min. Side Yard | 35 ft.** | 35 ft.** | 30 ft.*** | 15 ft. |
| Min. Rear Yard | 30 ft.**** | 30 ft.**** | 30 ft.**** | 30 ft.**** |
| Maximum Building Height | 35 ft. | 35 ft. | 35 ft. | 35 ft. |
| Minimum Landscaped Area for all special exception uses enumerated in Section IV.A.4. No more than 50 percent of the required landscaped area shall be comprised of steep slopes, floodplain, or wetland soils. | 65%**** | 65%**** | 65%**** | 65%**** |

** Any lot which was in existence as of June 27, 2006, shall observe a 25-foot side yard.

*** Any lot which was in existence as of June 27, 2006, shall observe a 20-foot side yard.

**** Where less than 25 percent of the minimum landscaped area requirement is met utilizing steep slopes, floodplain, or wetland soils the Commission may by a 2/3 vote of all of its members permit a reduction in the minimum landscaped area to 55 percent. The Commission shall make a determination of no adverse impact on any other property and a finding that all special exception criteria in Section VIII are met.

*Maximum Lot Coverage for all special exception uses shall be ten percent except that by a two-thirds vote of all its members, the Commission may allow an increase in lot coverage up to 15% upon a determination of no adverse impact on any other property and a finding that all special exception criteria in Section VIII are met and by further consideration of the following criteria:

1. The hours of operation of the proposed facility.
2. The amount of daily and peak hourly traffic to be generated by the proposed facility.
3. The location of the minimum landscaped area (65% of the site) such that a buffer to adjoining properties is provided which surpasses the minimum required.
4. The natural topography to be preserved and that to be created which offers a visual and noise barrier to adjoining properties.
5. The size and quality of existing vegetation to be preserved and that to be added.
6. The intensity of necessary lighting.
7. The frequency of deliveries.

8. The amount of outdoor activity associated with the use.
9. The height, scale, and architectural style as it relates to surrounding properties.
10. The history of substantiated complaints.
7. *Living area requirements.*
 - a. Each single-family dwelling hereafter erected shall contain at least 1,000 square feet of living area for a one- or two-bedroom house, plus at least an additional 200 square feet of living area in the unit as a whole for each additional bedroom.
 - b. Dwellings more than one story in height, shall contain at least 800 square feet of living area on the ground floor.
 - c. Split-level and bi-level dwellings shall be computed with the entire living area requirement contained on the upper-most levels.

TABLE INSET:

| COLLECTOR/ ARTERIAL STREETS (requiring 60' front yard setback) |
|--|
| Arch Road |
| Burnham Road |
| Carriage Drive |
| Chevas Road |
| Climax Road |
| Country Club Road |
| Deercliff Road |
| Harris Road |
| Hollister Drive |
| Huckleberry Hill Road |
| Juniper Drive |
| Lofgren Road |
| Lovely Street |
| New Road |
| Nod Road |
| Northington Drive |
| Old Farms Road |
| Rt. 10 (Simsbury Road, Waterville Road) |
| Rt. 44 (E. Main Street, W. Main Street, Avon Mountain Road) |
| Scoville Road |
| Stagecoach Road |
| Talcott Notch Road |

| |
|--|
| Thompson Road |
| Tillotson Road |
| West Avon Road |
| Woodmont Road |
| Reference: Section IV.A.6. |
| This is an interpretive aid only and is not part of the regulations. |

- B. *Agricultural.*
1. *Permitted uses.*
 - a. Planting and cultivation of any crop including tobacco, flowers, fruit, vegetables, forestry, nurseries, and field crops whether for personal or commercial purposes.
 - b. Dairy farming, and livestock and poultry raising (excluding the commercial raising of pigs and at no time shall more than three pigs over six months old be kept).
 2. *Accessory buildings, structures and uses.*
 - a. Buildings and structures customarily housing the principal use.
 - b. Dwellings; in accordance with the height and area requirements for an R-40 Zone (as specified in Section IV.A.6) occupied by the owner, members of the owner's family employed on the farm, or by permanent salaried employees.
 - c. Buildings, structures, and uses for processing the products of farming, including cider mills.
 - d. Other accessory uses customarily incidental to a permitted use except that the commercial slaughtering of animals (as distinguished from fowl), fertilizer manufacture, and commercial reduction of inedible animal matter are prohibited.
 3. *Special exceptions.*
 - a. Golf courses may be permitted as a special exception in the Agricultural Zone when authorized by the Commission under the applicable criteria of Section VIII.
 - b. Kennels, animal hospitals, or veterinary offices provided that:
 - (1) No outside kennels or runs for animals shall be allowed.
 - (2) Buildings used for overnight boarding of animals shall be fully enclosed and shall be designed as to keep noises from emanating from the buildings, except that in times of emergency, such as electrical failure, natural ventilation may be used.
 - (3) No structure housing animals shall be located closer than 150 feet to any residential zone boundary.
 - (4) Minimum lot area coverage, height and yard requirements shall be those of the R-40 Zone.
- C. *Educational land.*
1. *Permitted uses.* Public and private schools, colleges and universities.
 2. *Accessory buildings, structures and uses.*
 - a. Residential structures accessory to the principal use.
 - b. Any other use customarily incidental and subordinate to the principal use.
 3. *Area and height requirements.*

TABLE INSET:

| | |
|-------------------------|----------|
| Minimum lot size | 25 acres |
| Minimum front yard | 60 feet |
| Minimum side yard | 25 feet |
| Minimum rear yard | 30 feet |
| Maximum building height | 55 feet |

4. *Land use and site development requirements.* Site plan approval under Section X.A.1. is required. The Commission may require compliance with Section VII of these regulations in regard to landscaping, parking, signage, and other requirements; and with Section V of these regulations in regard to other requirements.

D. *Recreation/open space.*

1. *Permitted uses.* Golf courses, playgrounds, recreation areas, parks and open space.

2. *Accessory buildings, structures and uses.* Any building or structure not exceeding 600 square feet in area, or use customarily incidental and subordinate to the principal use.

3. *Special exceptions.* Accessory buildings or structures in excess of 600 square feet in area. The building or structure, due to its location in a residential or recreation area, shall have residential design, scale, architecture and exterior materials compatible with the residential, recreational or rural character of the area. Accessory buildings or structures approved under this section shall be set back, as a minimum, from side and rear property lines in accordance with the requirements for a "B" Bufferyard, as outlined in Section VII.A. Landscape Regulations.

4. *Area and height requirements.*

TABLE INSET:

| | |
|-------------------------|--------------------|
| Minimum lot size | 40,000 square feet |
| Minimum lot width | 150 feet |
| Minimum front yard | 60 feet |
| Minimum side yard | 25 feet |
| Minimum rear yard | 30 feet |
| Maximum building height | 35 feet |

5. *Land use and site development requirements.* Site plan approval under Section X.A.1. is required. The Commission may require compliance with Section VII of these regulations in regard to landscaping, parking, signage, and other requirements; and with Section V of these regulations in regard to other requirements.

(Amend. of 12-11-07, eff. 1-10-08; Amend. of 6-3-08(1), eff. 7-3-08; Amend of 6-3-08(2), eff. 7-3-08)

Section VIII. Special exception criteria.

In considering an application for special exception (except for signs), the Commission shall determine that the following specific conditions are met:

- A. *Suitable location for use.* That the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.
- B. *Suitable structures for use.* That the kind, size, location and height of structure and the nature and extent of landscaping on the lot are appropriate for the use and will not hinder or discourage the appropriate use of adjoining property or diminish the value thereof.
- C. *Neighborhood compatibility.* That the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property value in the neighborhood.
- D. *Adequate parking and access.* That the parking and loading facilities are adequate and properly located and the entrance and exit driveways are laid out to achieve maximum safety.
- E. *Adequate streets for use.* That streets providing access to the proposed use are adequate in width, grade, alignment and visibility, and have adequate capacity for the additional traffic generated by the proposed use, and the proposed use will not impede the implementation of the Traffic Circulation Plan.
- F. *Adequate emergency access.* That the proposed use shall have easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
- G. *Adequate public utilities.* That the water supply, the sewage disposal, and the storm water drainage shall conform with accepted engineering criteria; comply with all standards of the appropriate regulatory authority; and not unduly burden the capacity of such facilities.
- H. *Environmental protection and conservation.* That the proposed plans have provided for the conservation of natural features, drainage basins, the protection of the environment of the area, and sustained maintenance of the development.
- I. *Consistent with purposes.* That the proposed use will not have any detrimental effects upon the public health, safety, welfare, or property values, and that the proposed use will not conflict with the purposes of the regulations.

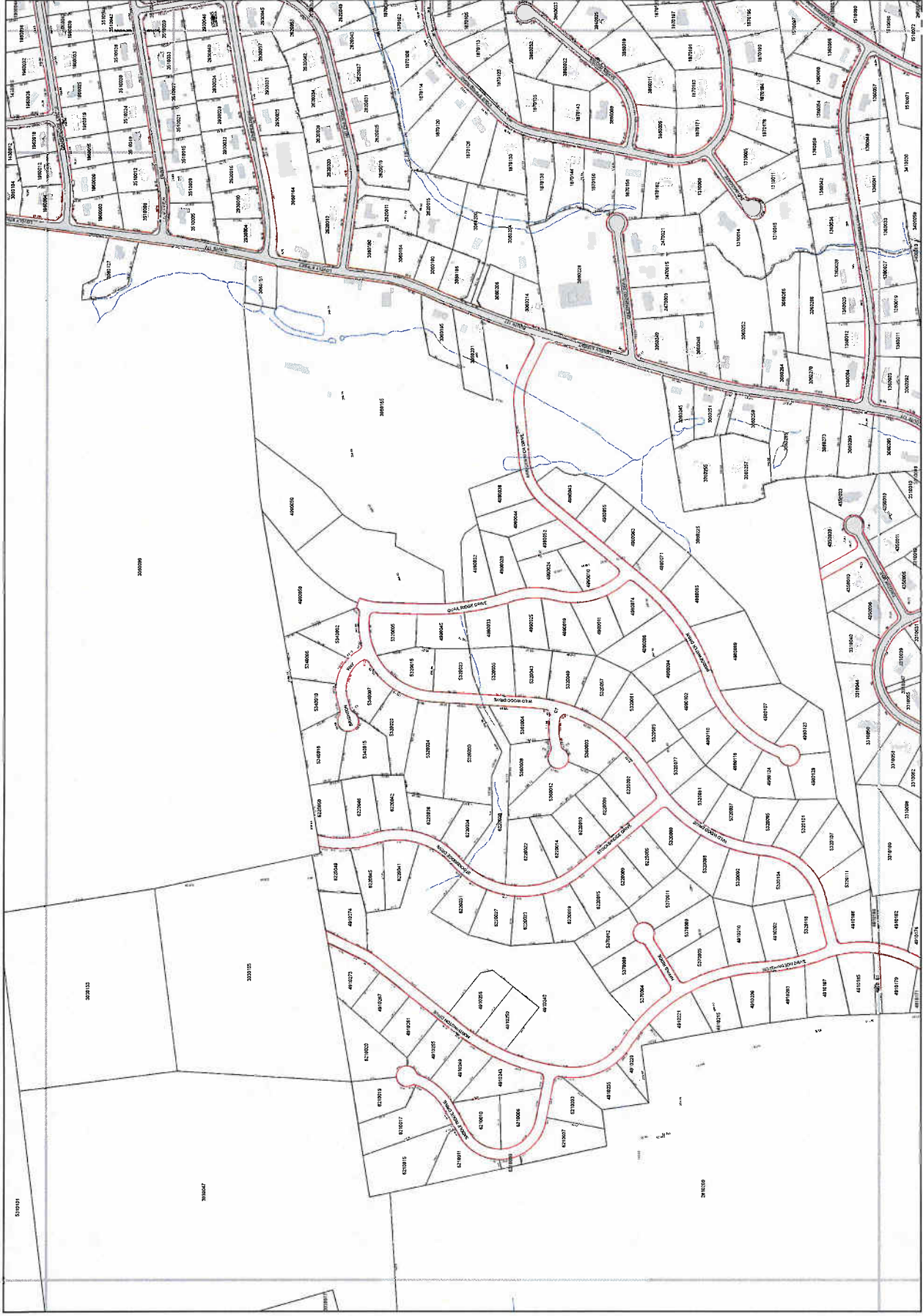
EXHIBIT B

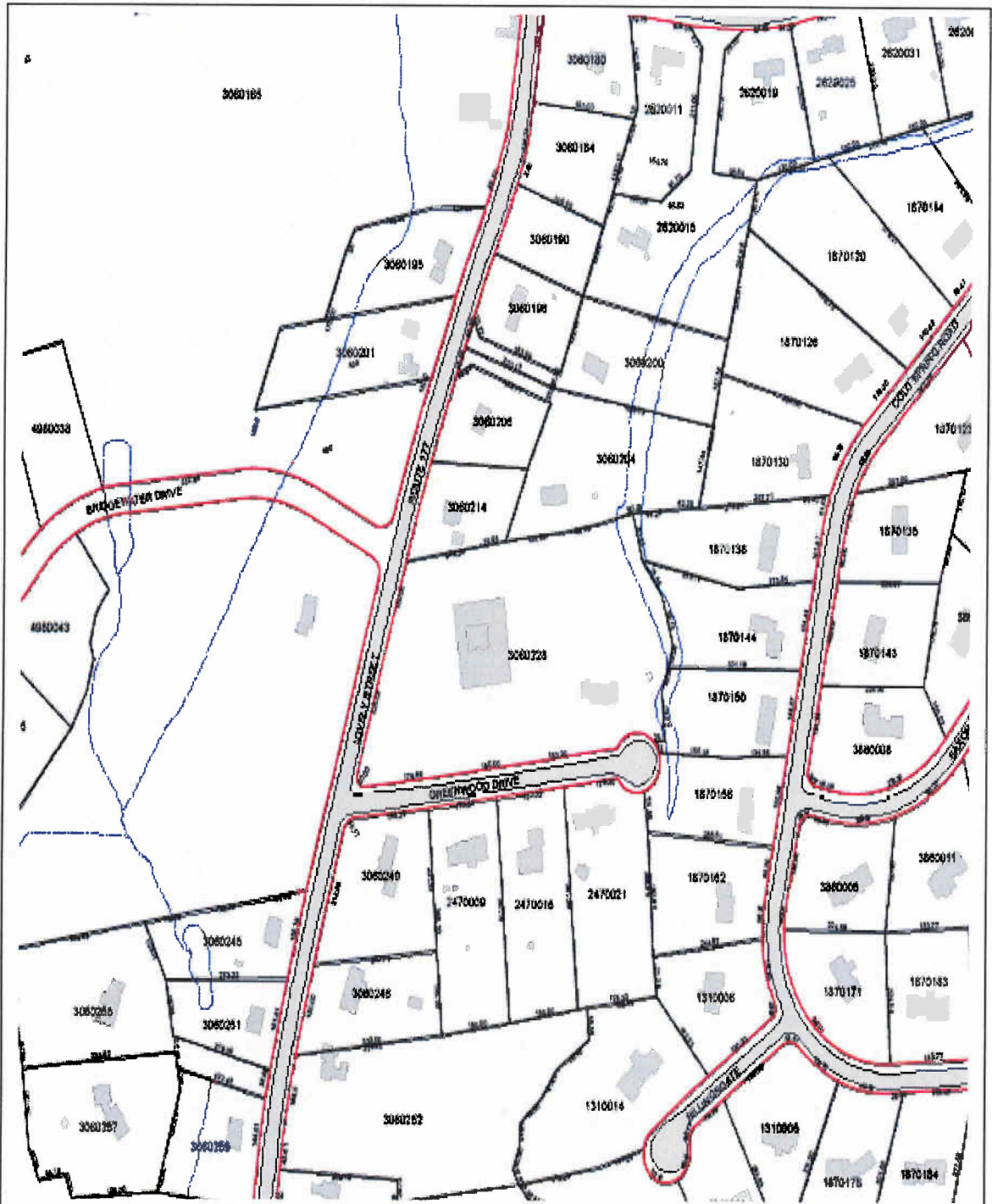


LEGEND

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| | PANEL |
| | ROAD RIGHT OF WAY |
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PANEL AND PROPERTY LINE INFORMATION
 THIS MAP IS A REPRODUCTION OF THE
 ORIGINAL MAP AS APPROVED BY THE
 TOWN ENGINEER AND THE TOWN CLERK
 ON THE DATE OF RECORDATION.
 THE INTENT OF THIS MAP IS TO SHOW A
 PROPERTY DIVISION ONLY. IT IS NOT TO
 BE USED AS A BASIS FOR A CHALLENGE
 OF AVAL. IT IS SUBJECT TO CHANGE AS
 THE TOWN ENGINEER DEEMES APPROPRIATE.
 THIS MAP IS NOT TO BE USED FOR
 THE PURPOSES OF ASSESSMENT.
 Updated through: May 2007





Town of Avon, CT Tax Map 11

Zoom-in Depicting Parcel # 3060228,

St. Matthew Lutheran Church at 224 Lovely Street,

Church and Parsonage



228 Lovely St, Avon, CT 06001

177

Tower (approx.)

Parsonage

Greenwood Dr

Image ©2009 DigitalGlobe
© 2009 Tele Atlas

Imagery Date: Oct 2006

41°47'56.63" N 72°53'18.82" W elev 297 ft

Eye alt 1067 ft

Google

EXHIBIT C



TOWN OF AVON

60 West Main St. Avon, CT 06001-3743
www.town.avon.ct.us

**POLICE, FIRE & MEDICAL
EMERGENCY - 911**

TOWN MANAGER'S OFFICE
Tel. (860) 409-4300
Fax (860) 409-4368

ASSISTANT TOWN MANAGER
Tel. (860) 409-4377
Fax (860) 409-4368

ACCOUNTING
Tel. (860) 409-4339
Fax (860) 677-2847

ASSESSOR'S OFFICE
Tel. (860) 409-4335
Fax (860) 409-4366

BUILDING DEPARTMENT
Tel. (860) 409-4316
Fax (860) 409-4321

COLLECTOR OF REVENUE
Tel. (860) 409-4306
Fax (860) 677-8428

ENGINEERING DEPARTMENT
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Fax (860) 409-4364

FINANCE DEPARTMENT
Tel. (860) 409-4346
Fax (860) 409-4366

FIRE MARSHAL
Tel. (860) 409-4319
Fax (860) 409-4321

HUMAN RESOURCES
Tel. (860) 409-4303
Fax (860) 409-4366

LANDFILL
281 Huckleberry Hill Rd.
Tel. (860) 673-3677

PLANNING & ZONING
Tel. (860) 409-4328
Fax (860) 409-4375

POLICE DEPARTMENT
Tel. (860) 409-4200
Fax (860) 409-4206

PROBATE
Tel. (860) 409-4348
Fax (860) 409-4368

PUBLIC LIBRARY
281 Country Club Road
Tel. (860) 673-9712
Fax (860) 675-6364

PUBLIC WORKS
11 Arch Road
Tel. (860) 673-6151
Fax (860) 673-0338

RECREATION AND PARKS
Tel. (860) 409-4332
Fax (860) 409-4334
Cancellation (860) 409-4365

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Fax (860) 409-4368

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Tel. (860) 409-4346
Fax (860) 409-4366

TOWN CLERK
Tel. (860) 409-4310
Fax (860) 677-8428

TDD-HEARING IMPAIRED
Tel. (860) 409-4361

February 17, 2009

John Carlson, Chairman
Avon Town Council
Town of Avon
60 West Main Street
Avon, CT 06001

Dear John:

As requested by the Town Council, at their meeting of February 10, the Planning and Zoning Commission, once again, reviewed the request by AT&T to construct a cellular communications tower at 224 Lovely Street on property owned by St. Matthews Lutheran Church.

As you know, the Planning and Zoning Commission also reviewed this matter at their meeting on November 18, 2008. At this meeting representatives of AT&T were present to describe this application. AT&T had not yet sent written notice to adjoining property owners and, as a result, no residents of the neighborhood were present to provide input to the Commission. At our more recent meeting, the Commission did receive a significant amount of testimony from residents who live in the vicinity of the proposed site as a result of a December 23, 2008, notice AT&T had sent to abutting property owners. However, neither AT&T nor representatives of the church were present at our February 10 meeting, although both were invited to attend.

The Commission clearly appreciates the need for additional cell phone coverage in the vicinity of this location for reasons related to public safety. Improved signal strength in this area will be an aid to all emergency personnel in Avon, as well as the Staff at the Roaring Brook School. In addition, we understand that AT&T will be offering to the Town an opportunity to place emergency police and fire antennas at the top of the tower, which will also enhance emergency communications. However, having now had an opportunity to listen to testimony from residents and evaluating AT&T's proposal further, the Commission believes that the proposed location, along with the type of proposed construction, will result in adverse impacts to surrounding properties. This area is located in a single-family residential zoning district. The introduction of this tower in this location may result in diminished property values and quality of life for nearby property owners. AT&T's application to the Siting Council indicates consistency

with the Avon Plan of Conservation and Development. However, it should be noted that this Plan does not encourage cell phone towers in any single-family residential zones.

Although AT&T's application indicates full compliance with electromagnetic radiation standards, there appears to be some dispute within the scientific community about the hazards relating to EMF's. One resident in attendance at the Commission's February 10 meeting presented two reports which describe this concern. These reports are entitled, "IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz" and "Advice on Limiting Exposure to Electromagnetic Fields (0-300 GHz)".

Because of these concerns the Commission recommends that AT&T explore other sites either located in a commercial area such as locations along Route 44 or possibly in larger undeveloped tracks which could include Town-owned properties such as the Found Land or the Huckleberry Hill Open Space. It is not clear whether these other properties will satisfy the deficiencies identified by AT&T; however, these properties are substantially larger in area and might make it possible to incorporate the tower in a way which minimizes the concerns discussed earlier. The Commission also recommends investigating the ridge known as "Pond Ledge", as well as other technologies such as a tower-to-tower relay system which might permit the use of a shorter tower. Finally, we recommend a thorough evaluation of all existing towers and structures in the area to determine if they might be feasible for solving the AT&T signal deficiency in this area

Should the CT Siting Council approve the St. Matthews Lutheran Church location for the installation of communication equipment, the Planning and Zoning Commission strongly encourages the Siting Council to require the installation of this equipment within a church steeple. We understand that the existing structure is not sufficiently sized to accommodate these antennas. The Commission recommends a detailed evaluation to see if an additional steeple can be added to the church or perhaps a freestanding steeple structure can be built to the rear. This would provide an opportunity to completely hide the proposed antennas within the structure. Although it would not address the concerns relating to EMF's, it would certainly go a long way towards addressing the neighborhood compatibility issues discussed at our February 10 meeting.

The Commission also recommends that the height of the structure, whether it be a steeple or freestanding structure, be reduced to approximately 80 feet in height. We understand that this will limit the possibilities of additional tenants being added in the future. We also understand the CT Siting Council has a policy of co-location to reduce the number of future towers which will be necessary. However, because of the compatibility concerns discussed earlier, the Commission believes that a lower structure is critical in this particular application.

Should the Siting Council conclude that the construction of a new steeple is simply not possible in this instance and, instead, approve a freestanding structure the Commission recommends the following techniques to help reduce neighborhood impacts:

1. The use of a flagpole without a flag. Our understanding is that this will permit the installation of all the antennas internal to the pole which will help with aesthetics.
2. If a flagpole is not technically feasible, utilize a monopole painted in an earth tone color to better blend with the surrounding environment. Utilize a structure which has the minimum diameter necessary to support the structure. In this instance, AT&T should

also utilize a more compact form of antenna mounting where the antennas are mounted flush with the pole. It is our understanding that this would also eliminate an "ice bridge", which is shown on the current application.

3. Reduce the size of the proposed compound. If the height of the pole is reduced and the number of future tenants is limited, the size of the compound could also be reduced.
4. Ensure that no fuel-powered electrical generators are utilized on this site for the current tenant or future tenants.
5. Applicant should utilize a high quality residential wood fence tall enough to screen the proposed utility cabinet in lieu of the proposed chain-link fence. The use of barbed wire should be prohibited on this site.
6. Applicant should hire a landscape architect to assess the views of the tower and fenced compound from nearby properties. Landscaping should be done on the outside of the fencing on all four sides and additional plants should be added to minimize views from adjoining properties. If necessary, applicant should install plants on adjacent properties to mitigate views. Applicant should refer to Avon Zoning Regulations for minimum buffer yards between commercial structures and adjoining residential uses.
7. Ensuring that should technology change in the future such that the tower is no longer necessary, that AT&T be responsible to demolish the tower and restore the site.

The Commission would like to note that in reviewing the application submitted by AT&T to the CT Siting Council, it appears that only a portion of the Planning and Zoning Commission's meeting minutes from November 18 were included. We would ask that the Siting Council consider the entirety of this discussion, as well as the one which took place on February 10.

Finally, it is our understanding that the Town Council will decide on March 5 whether to seek party status. The Commission supports this, as it is our understanding that doing so will afford the Town certain rights which may be helpful in addressing the above concerns.

If I can be of any assistance in helping to clarify any of the concerns stated in this letter, please let me know.

Sincerely,



Duane Starr, Chairman
Avon Planning and Zoning Commission

Copy: Planning and Zoning Commission
Philip K. Schenck, Jr., Town Manager

EXHIBIT D



