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STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL
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ORIGINAL

IN RE: :
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APPLICATION OF NEW CINGULAR :
WIRELESS PCS, LLC FOR A :
CERTIFICATE OF ENVIRONMENTAL :
COMPATIBILITY AND PUBLIC NEED :
FOR THE CONSTRUCTION, :
MAINTENANCE AND OPERATION OF A :
TELECOMMUNICATIONS FACILITY AT :
95 BALANCE ROCK ROAD, HARTLAND, :
CONNECTICUT :

DOCKET NO. 408

RECEIVED
JAN - 7 2011

CONNECTICUT
SITING COUNCIL
JANUARY 5, 2010

HEIKE M. KRAULAND's NOTICE OF OBJECTIONS TO THE ABOVE-REFERENCED APPLICATION

I, Heike M. Krauland, hereby submit the following objections to the above-referenced Application:

I. Discrepancies in the Application for Certificate of Environmental Compatibility and Public Need (pages 3- 19)

A.) Section I A (page 3): "The proposed Facility is a necessary component of AT&T's wireless network and its provision of personal wireless communications services and will allow service to be provided in the eastern portion of Hartland along Route 20 and surrounding areas."

Objection: Coverage for the entire eastern portion of Hartland along Route 20 will not be obtained by this cell tower as a portion of the area will still be left without services. Thus, safety and public need are NOT met. Coverage maps can be located in Section 1 of the Application showing that certain portions of Route 20 in the eastern portion of Hartland will still not have coverage once the proposed cell tower is erected. Furthermore, the area that AT&T is proposing to cover is a desolate stretch of road with no residential or commercial properties and only small areas that are actually open for public use. Most of the area is owned by the MDC and is posted as not for public use.

B.) Section V (page 11): "A wetlands delineation report indicates that there are no wetlands located within the lease area;"

Objection: The location in which the proposed monopole and compound are to be built is within a wetland regulated area. As of 2011, the regulations have increased to protect land up to 100 feet from regulated wetlands or watercourses. This means the entire construction, monopole and compound will take place within a wetland regulated area. However there had been inconsistencies with the regulations prior to the increase in footage. They are as follows. 1) Point A17 on the VBH Wetland Delineation Map is not located outside the 50 foot regulated area required by current regulation. 2) In addition, points A1-A11 on the VBH Wetland Delineation Map delineate an intermittent stream and thus, wetland regulations state that construction must be outside a 100 foot buffer, which is not the case. These points are located within the 100 foot buffer. 3) Between the existing building and the proposed wireless communication structure on the VBH Wetland Delineation Map there is a drainage conduit, which appears to be an intermittent stream by definition, thereby falling within the 100 foot regulated requirement, which is not met.

Additionally, much of the abutting "non wetland" area is a disturbed wetland that had been filled in years earlier. Considering the area is already a disturbed wetlands, should we continue to degrade it?

C.) Section V (page 11): "Year-round visibility of the proposed tower is limited to approximately 0.02% of the more than 8,000 acre study area and seasonal visibility is limited to less than 0.2% of the study area"

Objection: More than half of the monopole and all the antennas will be 100% visible year round from two abutting neighbors and also from many vista points overlooking the nine mile Barkhamsted Reservoir. Three of the neighbors will have year round visibility, screened only seasonally if none of the birch trees with a life expectancy of about 25 years perish.

D.) Section V (page 11): "A Phase II Environmental Assessment evaluation indicates that the soils at the site have not been significantly impacted by the shooting range"

Objection: Soil sampling was NOT conducted at the current proposed location or at the shooting range itself where concentrations would be highest.

E.) Section V (page 11): "Upon review of an ornithological survey, the Connecticut Department of Environmental Protection determined that the site is not a suitable habitat for the Northern saw-whet owl, a species of special concern"

Objection: This study was done for the initial proposed location of the tower, 20 feet from the road. This study has NOT been conducted for the current proposed location. Additionally, since the proposed location is in a wetlands area with the potential for vernal

pools and also abuts Tunxis State Forest, should not other endangered species be considered as well, since many amphibians and fauna listed on the Connecticut Endangered Species List have the potential for existence in this area?

F.) Section VI A (page 12): "The visual impact of the proposed Facility is not significant"

Objection: The visual impact will be significant for four neighboring houses since the monopole will be visible year round and/or seasonally from kitchen and bedroom windows, decks and patios and driveways and front steps.

G.) Section VII A (page 15): "The town of Hartland 2007 Plan of Conservation and Development does not specifically identify wireless communication facilities as a land use. Nevertheless, it is respectfully submitted that AT&T's proposed Facility will enhance the Town's goals for ensuring that the Town's public safety needs are satisfied and that the Town's facilities are adequate by providing infrastructure for communications. A copy of the 2007 Plan of Conservation and Development is included in the Bulk Filing."

Objection: What AT&T fails to indicate is that as part of the 2007 Plan of Conservation and Development, 894 households were surveyed. Of those surveyed, 444 households returned the survey. Of the 444 responses, 82% indicated that Hartland should pursue a policy of slow or no growth, with the majority wanting both commercial and residential development addressed on a case by case basis. The first two of the four main objectives and strategies of the 2007 Plan of Conservation and Development are: 1) preserve and protect Hartland's rural character and 2) guide and manage conservation and development. Both of these are crucial to the decision of approving the tower, as the proposed tower location will be invasive in a residential area, visible from vista points on a scenic road, implanted in a DEP natural biodiversity site and abutting the Tunxis State Forest on three sides.

H.) Section X (page 19): "This application and the accompanying materials and documentation clearly demonstrate that a public need exists in the eastern portion of Hartland and surrounding areas for the provision of AT&T's wireless services to the public."

Objection: The proposed coverage for the eastern portion of Hartland on Route 20 will NOT be obtained as there will still be a stretch of road not covered once the cell tower is erected. Additionally, there are NO homes or businesses in this area and most of the area is not open to the public. The impact on the residential neighborhood, degradation to the pristine ridgeline on a potentially scenic Connecticut highway and disturbance to a DEP listed natural biodiversity area far out-weigh the arguments that a public need exists to build the proposed cell phone tower.

II. Discrepancies within Section 2 of the Application

A.) Site Search Summary

#4 Address: 72 Brook Drive & Brook Drive

Objection: Dana Cranouski, the owner of this property, has on several occasions contacted AT&T and other wireless companies for installation of a tower on his property. In the application it states that this owner was never solicited.

#8 Address: North Hollow Road (Tunxis State Forest)

Objection: In the application this property is listed as State Forest and containing a DEP garage. However, this property is DOT and is already a disturbed site with a State DOT salt shed and wire fence surrounding the compound.

#10 Address: Morrison Hill Road

Objection: In the application this property is listed as unavailable because it is MDC land. However, MDC was never contacted to see if the land is available, and in fact MDC does solicit towers for their properties as they are a potential source of revenue for them.

#11 Address: North Hollow Road

Objection: In the application this property is listed as unavailable because it is MDC land. However, MDC was never contacted to see if the land is available and in fact MDC does solicit towers for their properties as they are a potential source of revenue for them.

#12 Address: Barkhamsted Reservoir

Objection: In the application this property is listed as unavailable because it is MDC land. However, MDC was never contacted to see if the land is available and in fact MDC does solicit towers for their properties as they are a potential source of revenue for them.

B.) Existing Tower/Cell Site Listing

Objection: No Granville or Tolland, Massachusetts sites were listed or investigated despite the fact that they lie well within the 4 mile radius of the proposed coverage area. A current tower is under construction on Main Street in Granville, MA and another tower exists on Wendy Road in Granville, MA.

#1 and #4 – Town of Hartland Cell Tower Sites

Objection: Both of these towers are discreetly placed within the boundaries of Hartland property and forests. The Town of Hartland was not contacted nor were RF tests performed to determine whether height extensions to the existing towers would provide cell phone coverage in the eastern part of Hartland along Route 20.

8 First Church

Objection: Members of the First Church contacted Cuddy & Feder LLP to discuss the feasibility of concealing the tower within the church steeple so that the church could receive revenue. The attorneys indicated that the church steeple would need to be 90 feet rather than 65 feet tall. This was an acceptable height addition to the church authorities.

III. Discrepancies with Section 4 of the Application

A.) Letter from Jamie Morgan of Kleinfelder East, Inc. to Paul Lusitani of Clough Harbour and Associates, LLP.

Page 2 provides the definition of a wetland intermittent watercourse: “Intermittent watercourse determinations are made based on the presence of a defined permanent channel and bank and two of the following characteristics: (1) evidence of scour or deposits of recent alluvium or detritus, (2) the presence of standing or flowing water for a duration longer than a particular storm incident, and (3) the presence of hydrophytic vegetation. (See Inland Wetlands and Watercourses Act 22a-38 CGS)”

Objection: Since all parties have clearly agreed that the facility is located on a disturbed/filled in wetland, then it is important to consider the conduit that was constructed around the same time to divert water around the shooting range and under the gravel driveway as an “intermittent watercourse”. Since construction, this conduit has taken on the legal definition of an “intermittent watercourse” as there is a permanent channel and bank and hydrophytic vegetation is growing within the bank. Additionally, during visits to the Ring Mountain Hunt Club as a guest, I observed that standing water was present and plywood bridges were constructed to access the other side of the bank. Since the wetlands were delineated in October and in August during a drought, it would be appropriate to perform a proper assessment of this “intermittent stream” during a time of active wetland activity. It is also important that this stream be considered as a breeding site for amphibians and reptiles, many of which could potentially be listed as Connecticut species of concern or endangered species. If a determination is made that this is a wetlands then the proposed location for the monopole and compound will be located directly in an active wetland. Since this conduit is used to divert water from the filled in wetlands, consideration of this stream is crucial.

B.) Tree Inventory Performed in October 2009

Objection: A tree inventory needs to be completed for the current proposed location. When this was brought up during the informational meeting in December, David Vivian assured the public that this had been done. There is NO documentation in the application to support that a tree inventory was performed for the current proposed location.

C.) Phase II Environmental Site Assessment

Page 4: Section 4.1 Sampling Results

"The purpose of the sampling was to document the presence of absence of lead contaminants in the immediate area of the Subject Site for the purpose of developing a baseline study of pre-existing conditions at the Subject Site. The sampling and analysis is not intended to characterize the extent of any existing contamination that may have impacted the property on which the subject site is located."

Page 6: Section 5 Summary and Conclusion

"This limited subsurface investigation indicates that the soils beneath the Subject Site have not been significantly impacted by the presence of the shooting range on the subject property. Although concentrations of lead were detected in the soil sample, these concentrations did not exceed Connecticut's Remediation Standard Regulation levels for soil."

Objection: These samples were taken for the original proposed location. As stated above, the samples were taken for only the immediate area of the subject site. It is important that samples are taken of the new location as it is 110' closer to the shooting range and directly abutting the existing facility itself. Additionally, taking samples at the range where shooting and lead deposits occur would be beneficial since the area is a wetland area and leaching, despite the anaerobic conditions, may occur.

IV. Discrepancies with Section 5 of the Application

Visual Analysis Report

Objection: Several houses on the street were NOT included in the study, which was included in the application. Additionally, the report states that 88 and 72 Balance Rock Road will have only seasonal visibility, which is NOT the case. When the balloon was flown on December 29, 2010, residences were given the opportunity to photograph the views from their homes. Year round visibility of at least 50% of the proposed monopole will occur from the rear/patios of both 88 and 72 Balance Rock Road. Seasonal visibility

and potential year round visibility of portions of the tower, assuming NO trees were to EVER die, will occur from the decks or interior of homes at 88, 72, 64 and 48 Balance Rock Road. Visibility will also occur from the yards of 40 and 38 Balance Rock Road. Year round visibility will also occur over the scenic drive and vista spots of the Barkhamsted Reservoir and pristine ridge line on Route 20 heading from East to West Hartland.

V. Discrepancies with Section 6 of the Application

Public Notice Attachment

"The following public notice was placed in the Litchfield County Times on November 3, 2009. To date, no responses have been received."

Objection: The public notice was put into a newspaper not frequented by Hartland residents. The Hartford Currant or Registered Citizens are papers used most frequently by Hartland residents. Additionally, the public notice does NOT discuss the wireless communications tower to be located at 95 Balance Rock Road but rather discusses a facility at 61 Hollenbeck Road in Cornwall, CT.

VI. Discrepancies with Section 7 of the Application

This section discusses the Northern saw-whet owl, which is a state species of special concern. As stated in the letter from Julie Victoria, Wildlife Biologist for the State of Connecticut, "An ornithologist, Dr. Anton Leenders, familiar with the habitat requirements of this species concludes that while there is potential suitable habitat on this site it is not of high quality. He indicates a careful examination of the trees and snags on site did not reveal any potential nest cavities and it is not likely that Northern Saw-whet owls are breeding on the proposed site."

Objection: As indicated by the map provided from the Ottery Group, the property description and the photographs in the study, the survey for the Northern saw-whet owl was done ONLY for the original proposed location 20' from the road. This is misleading since the entire property is over 12 acres large. Since this is a state species of concern, one would think that this study should be redone especially since the second location brings the tower significantly deeper into the surrounding habitat where there is a larger chance for nesting or potential nesting since the road disturbance is not so prevalent.

VII. Discrepancies with Section 8 of the Application

Attachment 2: Location of Archeological Testing

Objection: The test holes were performed in the original proposed location. No testing has been done at the current proposed location. Since the original location was already on a slightly disturbed area, the likelihood of finding artifacts was small, however the new location is in an undisturbed woodland habitat and thus, the assumption should not be made that artifacts will NOT be found at this location.

VIII. Discrepancies with Section 9 of the Application

Letter from Cuddy & Feder Letter to First Selectman Cole dated September 9, 2010.

"I am writing to you on behalf of our client, New Cingular Wireless PCS, LLC (AT&T) in connection with the above referenced facility and as a follow up to the August 16th public information session held before the Hartland Planning and Zoning Commission as part of the municipal consultation on AT&T's proposed facility."

Objection: No reasonable notice, if any, was given to the town or public regarding this meeting. There was NO public notification placed in a local newspaper and abutting neighbors were not notified of AT&T's intent to build a cell tower.

I was recently made aware that AT&T is considering a possible third location for the wireless communication tower at 95 Balance Rock Road, East Hartland, CT, with respect to which limited information has been provided. In order to properly assess this alternate location, additional information is required such as coverage area, wetland impact, environmental assessments as required by federal environmental filing requirements (NEPA is administered by the FCC via procedures adopted as subpart1, Section 1.1307 et seq. (47 CRF Ch. I), etc.

Respectfully submitted,

By 

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 2010, a copy of the foregoing was sent, first class U.S. mail, postage prepaid, to:

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