

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

RECEIVED
JAN 13 2011

IN RE:

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 ROADC ROAD
HARTLAND, CONNECTICUT

CONNECTICUT
SITING COUNCIL

DOCKET NO. 408

OFFICIAL

JANUARY 13, 2011

PRE-FILED TESTIMONY OF SCOTT EISENLOHR,
ZONING ENFORCEMENT OFFICER
THE TOWN OF HARTLAND

1. Q As Zoning Enforcement Officer for the Town of Hartland what are your primary concerns regarding New Cingular's proposed telecommunications tower?

A. Attached is a summary of the application's incompatibility with our Town zoning regulations which also includes specific objections to the application.

The Planning and Zoning Commission has a hearing scheduled to address these issues on 1-24, 2011.

The statements above are true and complete to the best of my knowledge.

1-13-11
Date

Scott Eisenlohr
Scott Eisenlohr
Zoning Enforcement Officer
Town of Hartland

Subscribed and sworn to before me on this 13 day of January 2011.

Cheryl A. Carrere
Notary Public
Commissioner of Superior Court

Draft

Deficiency between the Application for the Proposed Wireless Communications Tower at 95 Balance Rock Road, East Hartland CT and The Town of Hartland Planning and Zoning Regulations

Article I - General

Section I -1 Purpose

The purpose of these zoning regulations is to encourage the most appropriate use of land; to promote the environment, health, safety and the general welfare; to avoid undue concentration of population; to protect water supplies and provide for safe disposal of sewage; to regulate and determine the size of yards and other open spaces; to conserve and stabilize the value of land and buildings with an over-all plan conceived with consideration of the various areas as to terrain drainage and particular uses; and to that end, to designate, regulate and restrict the location and use of buildings, structures and land for agriculture, residence, limited business or other purposes; and for said purposes to divide the town into zoning districts deemed best suited to carry out these regulations and provide for their enforcement.

Section I – 3 Definitions

Definition of a club: Means an organization of persons incorporated pursuant to the provisions of the General Statutes, which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and includes the establishment so operated. A club shall cater only to its members or guests accompanying them. A “member of a club: is a person who, whether as a charter member or admitted in agreement with the by-laws of the club, has become a bonafide member thereof, who maintains his membership by the payment of his annual dues in a bonafide manner in accordance with such by-laws, and whose name and address is entered on the list of membership.

Objection: The definition of club requires that it not be operated for pecuniary gain. However, by entering into the lease agreement with AT&T for a monthly lease fee; does this mean the Ring Mountain Hunt Club is operating for a pecuniary gain?

Article IV – Use Regulations

Section IV 1-6: A bonafide club not operated for profit, provided that no activity is carried on resulting in an objectionable noise audible off the premises.

Objection: The shooting that occurs on the property that the Ring Mountain Hunt Club owns is quite audible off the premises and is objectionable to the residents in closest proximity to the club.

Article V – Area, Yard and Height Requirements

Section V 2: Maximum height for a rural residential zone (R1): Residence and other structure 30’.

Objection: The proposed height of the wireless communication tower is 190’, which is well in excess of the maximum height of 30’ permitted by the regulation. The highlighted area in **Exhibit 1** shows the proposed height exceeding Hartland Planning & Zoning maximum height restrictions for a structure in a Residential Zone.

Section V 2-2: No building lot shall be approved for the construction of a dwelling after the effective date, unless it contains a minimum contiguous non-wetland area of at least (3/4) of an acre and a maximum perimeter of (800’).

Objection: The proposed location for the wireless communication tower does not appear to contain a minimum contiguous non-wetland area of at least ¾ of an acre. **Exhibit 2** is a copy of map of proposed compound locations showing delineated wetlands.

Article VII - Administration and Enforcement

Section VII 2: A building containing a non-conforming use may be altered or rebuilt if cost of such construction does not exceed fifty percent (50%) of the value established in the most recent re-evaluation of the Town.

Objection: The estimated cost of the wireless communication tower of \$203,700 exceeds 50% of the value of the Ring Mountain Hunt Club, which is [].

Article IX – Wireless Communication Facilities

Section IX 4: General Standards and Requirements for Permitted and Special Exception Uses.

IX 4-1 Location

B-1: The applicant shall provide written documentation of all Facility Sites in Hartland and any Facility Sites outside of Hartland that are within three miles of the proposed site, in which it has a legal interest, whether by ownership, leasehold or otherwise. From each such Facility Site, it shall demonstrate with written documentation that these Facility Sites are not already providing, or do not have the potential of adjusting the site, to provide adequate coverage and/or adequate capacity to the Town of Hartland.

Objection: In the Application, applicant indicated that facility sites within four miles were listed, however, facility sites located in Massachusetts were not included, specifically the wireless communication tower located on Wendy’s

Road in Granville, MA and the new wireless communication tower currently under construction on Main Street near North Lane in Granville, MA.

B-4: The applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters in conjunction with all facility sites listed in compliance with subsection A (above) to provide adequate coverage and/or adequate capacity to the Town of Hartland. Radial Plots of all repeaters considered for use in conjunction with these Facility Sites shall also be provided as part of the application.

Objection: Applicant did not demonstrate with written documentation why repeaters are not a feasible alternative. Applicant merely noted in the Application that repeaters are not feasible but did not provide any supporting documentation or analysis. See **Exhibit 3**.

IX 4-2 Visibility-Camouflage and Color

B: Requirements for proposed Ground Mounted Towers.

Proposed ground-mounted towers shall provide a vegetated buffer of sufficient height and a depth of not less than fifty feet to screen the facility to the extent feasible. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. Where it is not feasible to fully buffer a facility, the applicant shall submit a landscape plan prepared by a Connecticut Licensed Landscape Architect. The landscape plan shall recommend the type of tree and plant materials and depth of buffer appropriate to the site, design, height and location of the facility. The commission may require reasonable modifications to the landscape plan where it determines such are necessary to minimize the visual impact of the facility on the neighborhood and community character.

Objection: The proposed wireless communication tower is in my opinion, not sufficiently screened from neighboring residential properties. See the following Exhibits:

Exhibit 4: Photographs from 72 Balance Rock Road

Exhibit 5: Photographs from 88 Balance Rock Road

Exhibit 6: Photographs from 64 Balance Rock Road

Exhibit 7: Photographs from 48 Balance Rock Road

C. Scenic Roads and Areas

1. The Commission may approve a ground mounted tower located in an open area visible from a public road, recreational area or residential development only where it has been demonstrated by the applicant to the satisfaction of the Commission that the proposed service cannot be reasonably provided in a location on an existing structure or a co-location.

Objection: The proposed wireless communication tower will be visible from the Hartland Look Out Point on Route 20 frequented by fall tourists viewing the fall foliage over the pristine ridgeline and aesthetically pleasing vistas of the Barkhamsted reservoir and watershed area. See **Exhibit 8**.

IX 4-3 Environmental and Safety Standards

- A. Regulated Facilities shall not be located in wetlands. Locating of facilities in wetland buffer areas shall be avoided whenever possible and disturbances to wetland buffer areas shall be minimized.

Objection:

As of 2011, The Town of Hartland's wetland regulated area has been increased to 100 feet for wetlands and watercourses. Thus, making the construction of the entire proposed wireless communication tower within a wetland regulated area. Prior to this change, there were still objectionable points with the location of the tower as follows:

The location in which the proposed wireless communication tower is to be built is within a wetland regulated area. Point A17 on **Exhibit 9** is not located outside the 50 foot buffer required by current regulation.

In addition, points A1-A11 on **Exhibit 9** 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.

Between the existing building and the proposed wireless communication structure on **Exhibit 9** there is a drainage conduit, which appears to be an intermittent stream by definition, thereby falling within the 100 foot buffer requirement, which is not met.

Section IX – 5 Additional Standards and Requirements for Ground Mounted Tower Special Exception Uses.

- B. Setback. In order to ensure public safety, the minimum distance from the base of any new proposed ground-mounted tower to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the tower including any antennas or other appurtenances.
- C. Setback Reduction. In its consideration of the visual and safety impacts of a proposed ground mounted tower, the Commission may reduce the required setback area (as required above) by not more than fifty percent or allow the setback to be measured into a neighboring property where...

Objection: The proposed wireless communication tower is not setback 190 feet from the property line separating the property from Tunxis State Forest, from the shooting range or from the existing dwelling located on the property. Taking the setback

reduction (up to 50%) into account, the proposed tower is still within 80 feet of the existing dwelling. See **Exhibit 10** showing the tower radius of 190 feet and the fact that the existing building is only approximately 50 feet from the base of the tower.

IX- 6-7 Federal Environmental Filing Requirements

- A.** The national Environmental Policy Act (NEPA) applies to all applications for wireless communication facilities. NEPA is administered by the FCC via procedures adopted at subpart 1, section 1.1307 et seq. (47 CRF ch. I). The FCC requires that an Environmental Assessment (EA) be filed with the FCC prior to beginning operations for any wireless communication facility proposed in or involving any of the following:
1. Wilderness areas
 2. Wildlife preserves
 3. Endangered species habitat
 4. Historical site
 5. Indian religious site
 6. Flood plain
 7. Wetlands
 8. High intensity white lights in residential neighborhoods
 9. Excessive radiofrequency radiation exposure
- B.** At the time of application filing, an Environmental Assessment that meets FCC requirements shall be submitted to the Commission for each regulated facility site that requires such an Environmental Assessment to be submitted to the FCC.
- C.** For all special exception uses, the applicant shall identify and assess the impact of the proposed facility on areas recommended for conservation in Section IX -1.

Objection: The Applicant completed various ESA studies; however, these ESA's were done for the original site location and have not been completed for the newly proposed tower location, which 110 feet further into the property. **Exhibit 11** shows certain ESA's, which were completed for the original proposed site location, however none of these assessments have been done for the new proposed location.

Exhibit 1: Application for Certificate of Environmental Compatibility and Public Need: B. Executive Summary. The red box indicates where the description shows the height.

proposed Facility consists of a new 190' monopole and associated unmanned equipment located adjacent to an existing building. As a result of discussions with the Town of Hartland as part of the municipal consultation, AT&T shifted the proposed monopole location approximately 110' north so that a tower height setback lies substantially within the subject property lines. AT&T will mount up to twelve (12) panel antennas on a low profile platform at a centerline height of 187' above grade level (AGL). A 12' by 20' equipment shelter will be installed adjacent to the tower within a 60' x 85' fenced gravel compound. Vehicular access to the facility will be provided over an existing gravel access drive from Balance Rock Road, a distance of

approximately 110 feet, then along a new 12-foot wide gravel access drive a distance of approximately 73 feet. Utilities to serve the proposed facility will extend from utility pole number 2253 on Balance Rock Road overhead along replacement utility poles on the property and then underground to the equipment compound along an easement area on the eastern side of the lease area. Included in this Application and its accompanying attachments are reports, plans and visual materials detailing the proposed Facility and the environmental effects associated therewith. A copy of the Council's Community Antennas Television and Telecommunication Facilities Application Guide with page references from this Application is also included in Attachment 12.

C. The Applicant

The Applicant, New Cingular Wireless PCS, LLC ("AT&T"), is a Delaware limited liability company with an office at 500 Enterprise Drive, Rocky Hill, Connecticut 06067. The company's member corporation is licensed by the Federal Communications Commission ("FCC") to construct and operate a personal wireless services system, which has been interpreted as a "cellular system", within the meaning of CGS Section 16-30(a)(6). The company does not

General Facility Description Found in Section 3 of application

Proposed Facility Description

95 Balance Rock Road, East Hartford, Connecticut
Owner: King Mountain Hunt Club
Map/Block/Lot: 140674018
Approximately 12.1 Acres

The proposed facility consists of a 100' by 100' base area located in the southwest portion of an approximately 12.1 acre parcel owned by the King Mountain Hunt Club. A new self-supporting monopole tower 100' in height would be constructed. A F&T will install up to 12 paved antennas at the 127' centerline height on the tower together with an associated 12' x 20' radio equipment shelter at the tower base on a concrete pad within the tower compound. The tower compound would consist of a 60' by 45' area to accommodate F&T's equipment and provide for future altered use of the facility by other carriers. An 8-foot high chain link fence with privacy slats would enclose the tower compound. Vehicle access to the facility would be provided from Balance Rock Road over an existing paved access drive on the western side of the facility compound a distance of approximately 110' and then along an approximately 75' extension of the existing access to be improved with gravel. Electric and telephone utilities would be extended from an existing off-site utility pole along a replacement pole line on the subject site, then underground to the equipment compound within an easement area located to the east of the proposed facility. Provisions include a 4' x 11' concrete pad for an emergency generator.

Exhibit 2: Map of delineated wetlands and compound locations. It does not appear that a $\frac{3}{4}$ acre of continuous non-wetland acre is achieved in the area where the compound is proposed to be located.

Page 1

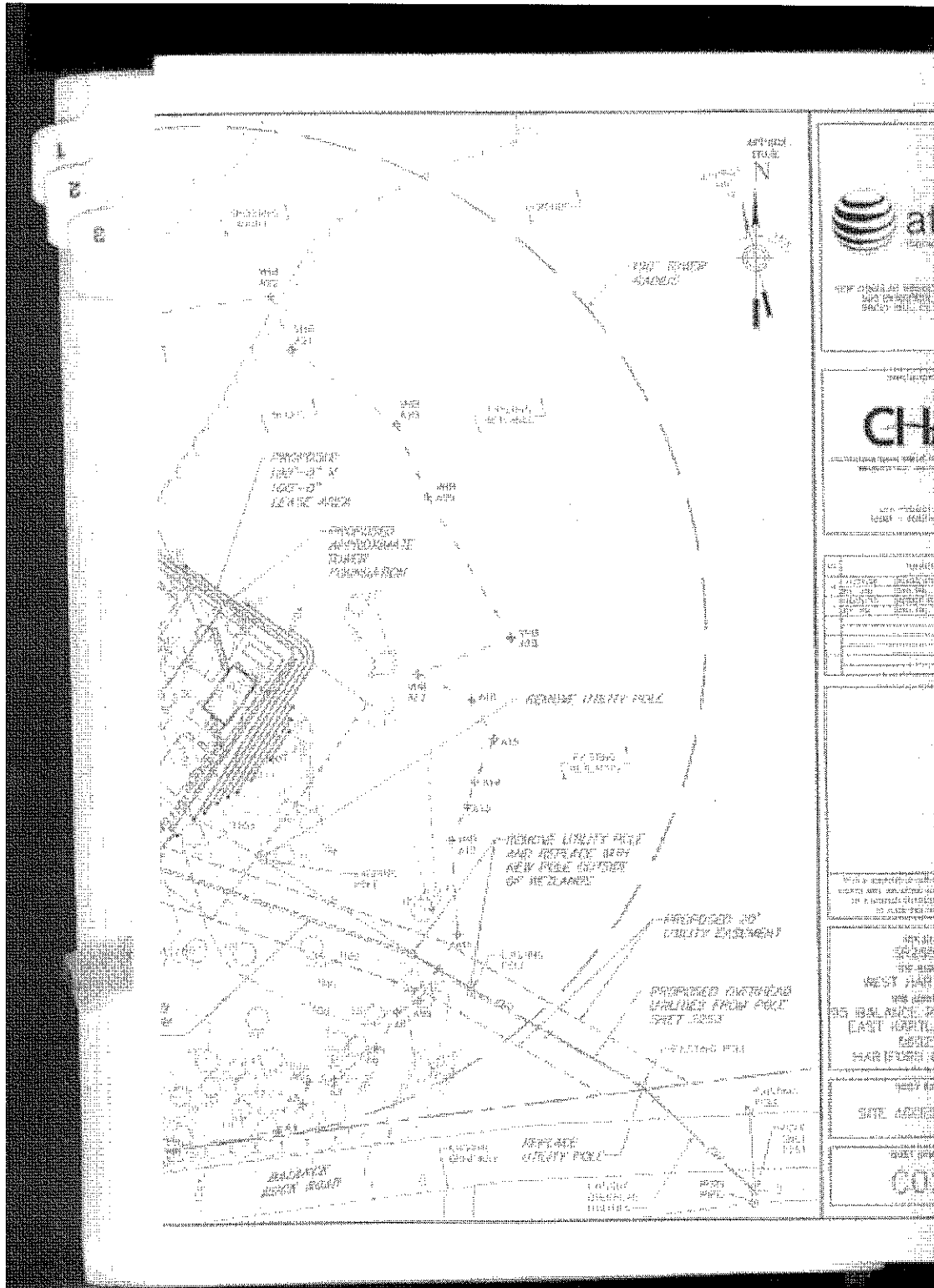


Exhibit 3: Portion of application showing that the Applicant simply noted that repeaters were not feasible.

efficient deployment of emergency services would enable faster delivery of emergency care with reduced fatalities and severity of injuries. With each year since passage of the 911 Act, additional anecdotal evidence supports the public safety value of improved wireless communications in aiding lost, ill or injured individuals such as motorists and hikers. Carriers are simply able to help 911 public safety dispatchers identify wireless caller's geographical locations within several hundred feet, a significant benefit to the community associated with any new wireless site.

C. Technological Alternatives

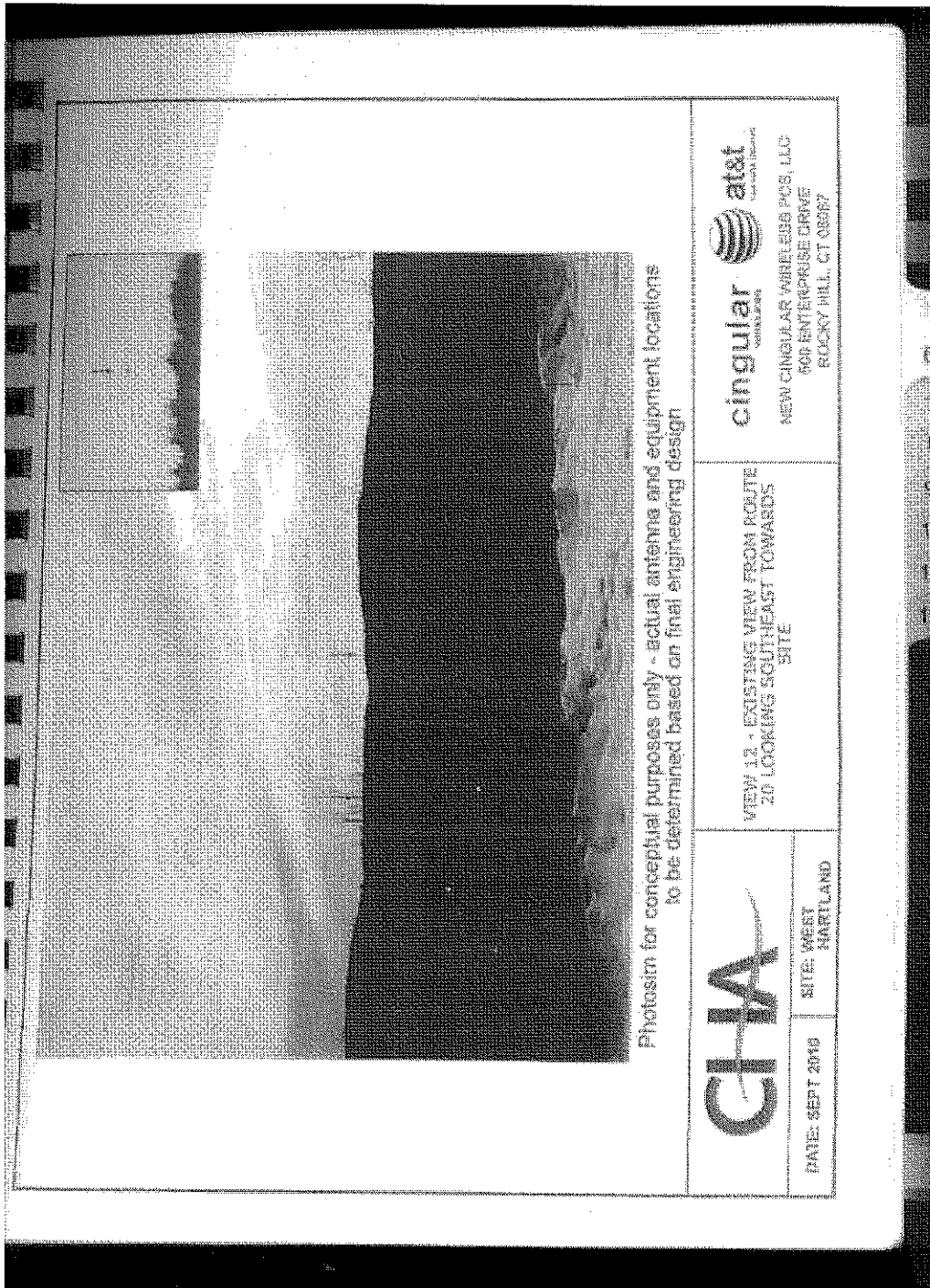
The FCC licenses granted to AT&T authorize it to provide wireless services in this area of the State through deployment of a network of wireless transmitting sites. The proposed Facility is a necessary component of AT&T's wireless network. ~~Repetitive, microwave~~ ~~transmission, distributed antenna systems and other types of transmitting technology is not a practicable or feasible means to providing service within the target area for this site which contains a significant coverage gap in a rural area of the state. As such, they were not considered by AT&T as an alternative to the proposed Facility.~~ The Applicant submits that there are no equally effective, feasible technological alternatives to construction of a new tower Facility for providing reliable personal wireless services in this area of Connecticut.

IV. Site Selection and Tower Sharing

A. Site Selection

AT&T began its investigation of the area with benchmark drive data on a gap in its wireless coverage in eastern Hartland. AT&T then established a "site search area" in the general geographical location where the installation of a wireless facility would address the identified coverage problem while still allowing for orderly integration of a site into AT&T's network, based on the engineering criteria of hand-off, frequency reuse and interference avoidance. In

Exhibit 8: View from Hartland Look Out Point on Route 20 frequented by fall tourists viewing the fall foliage over the pristine ridgeline and Barkhamsted reservoir.



Photosim for conceptual purposes only - actual antenna and equipment locations to be determined based on final engineering design

CHA

DATE: SEPT 2010

SITE: WEST HARTLAND

VIEW 12 - EXISTING VIEW FROM ROUTE 20 LOOKING SOUTHEAST TOWARDS SITE

cingular
 WIRELESS
 at&t
 NEW CINGULAR WIRELESS PCS, LLC
 609 ENTERPRISE DRIVE
 ROCKY HILL, CT 08867

Exhibit 9: Wetlands delineation map of the proposed location for the wireless communication tower.

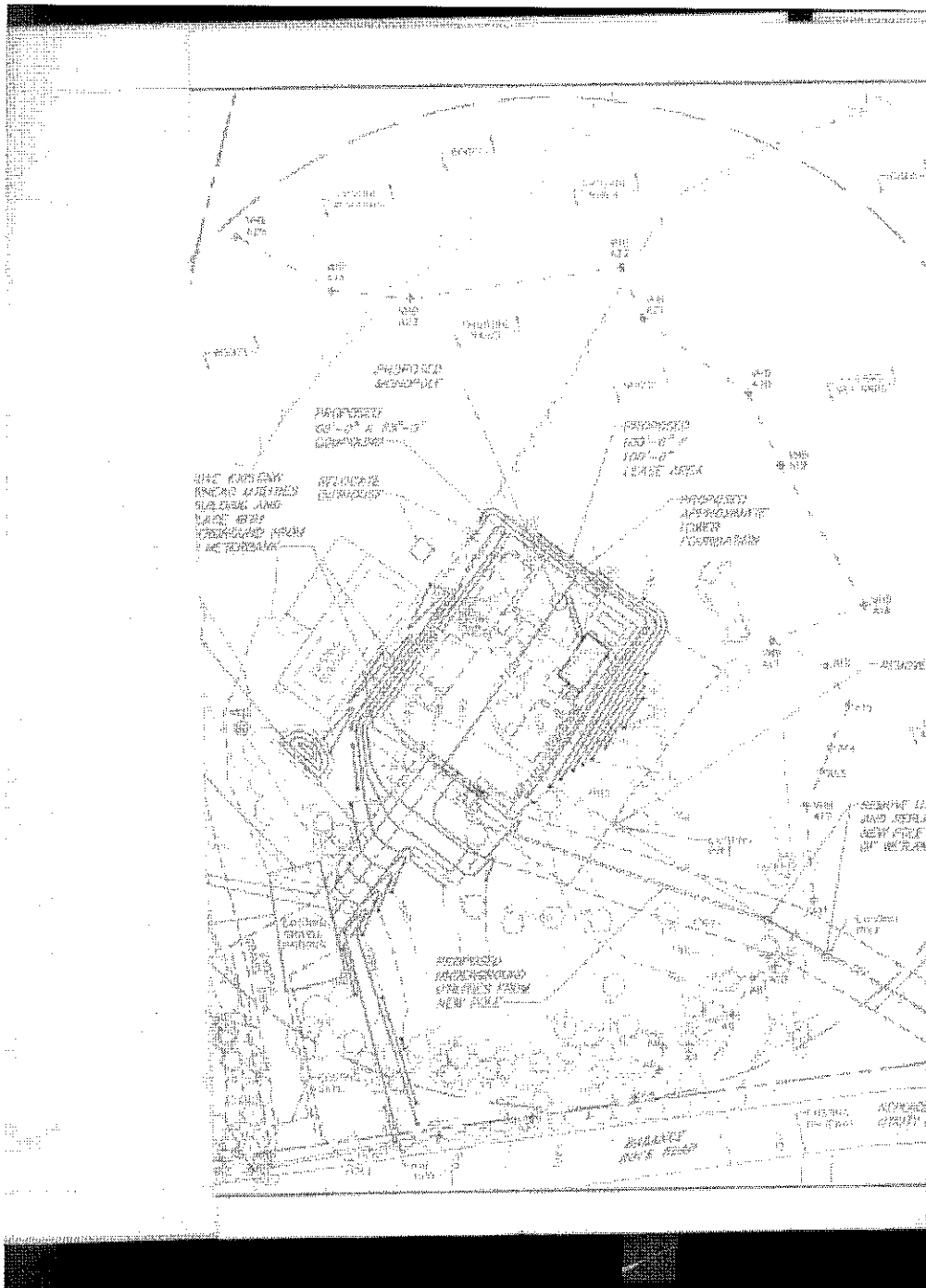


Exhibit 10: Map showing the tower radius of 190feet. The recreational shooting range; existing dwelling and State Tunxis Forest are all with in the 190foot fall zone. The existing building will be only around 50feet from the base of the tower.

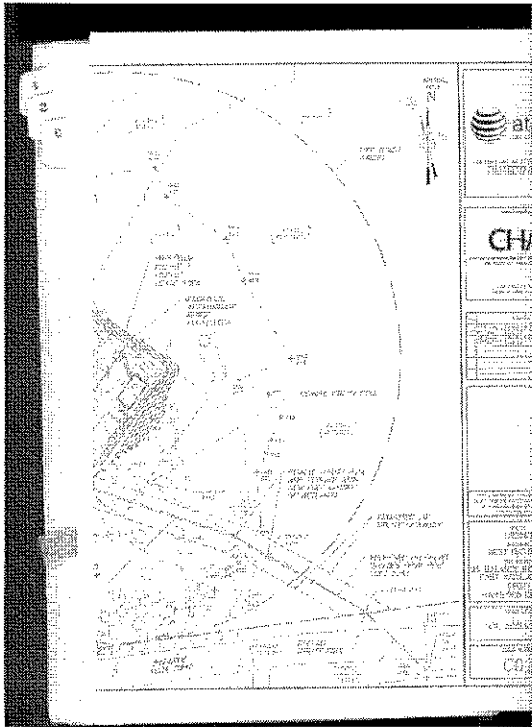
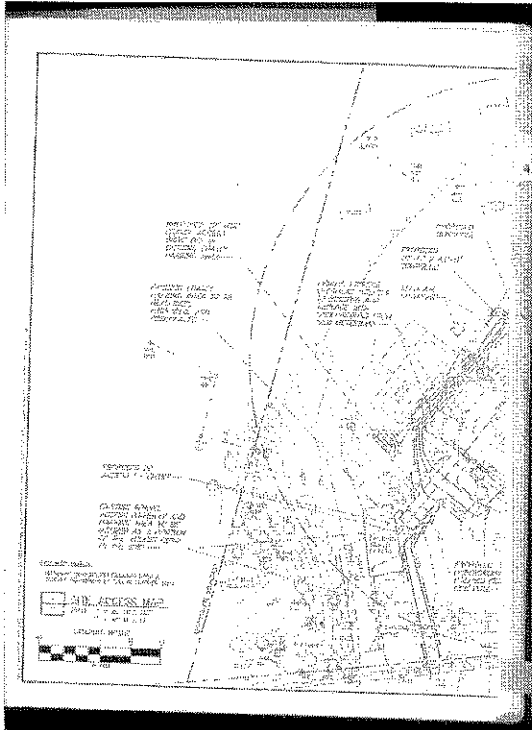



Exhibit 11: Various ESA studies required were done for the original site location and have not been redone for the newly proposed tower location, which is 110 feet further into the property than the site originally proposed in the Application.

A. Tree inventory completed October 2009. This study has not been done for the new location 110 feet farther into the property.



Report No. 2010

New England Wildlife PWS, LLC
300 Congress Drive
Bucks Hill, CT 06033

RE: Tree Inventory
Site West Hartland
Off Balance Rock Road
East Hartland, CT 06027
CHA # DC0910040-4191

A tree survey was completed at the subject site in October of 2009. A representative of the survey involved documenting the location of all trees within the topographic survey area with a diameter at breast height of 6" or higher. As can be seen on the site survey map, there are twenty-four (24) trees with a diameter of 6" or higher within the area of the proposed solar panel array footprint which need to be assessed for compatibility of the footprint. The quantity and size of trees being removed is summarized in the below table:

Tree Diameter (DBH)	Quantity
6"	1
8"	1
10"	1
12"	1
14"	1
16"	1
18"	1
20"	1
22"	1
24"	1
26"	1
28"	1
30"	1
TOTAL	24

If you have any questions, comments or need further information, please direct requests to us using our office:

Very truly yours,
 GEORGE FARHNER & ASSOCIATES LLP
George Farhner
 Mark Farhner
 Project Engineer

NEW ENGLAND WILDLIFE PWS, LLC IS AN EQUAL OPPORTUNITY EMPLOYER.

"Sustaining Our Future with 100% Renewable Energy" 2009
 Distributed Energy Consortium by "SolarCity" | 7 866.257.4353 • 866.257.2154 • www.solarcity.com

B. Saw-Whet Owl Study performed on March 23 and 26, 2010. Survey and pictures of habitat show that study was completed for the original proposed location and has not been done for the new location 110 feet farther into the property.

FIGURE 1

Site Plan
The proposed site for development is located near the edge of a wooded area. The site plan shows a proposed site location to the east of the existing site. The site plan shows a proposed site location to the east of the existing site. The site plan shows a proposed site location to the east of the existing site. The site plan shows a proposed site location to the east of the existing site.

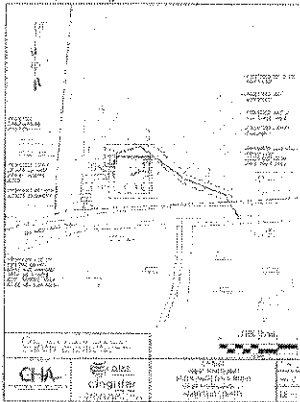


Figure 1: Site plan showing proposed development area and surrounding features.

The proposed site for development is located near the edge of a wooded area. The site plan shows a proposed site location to the east of the existing site. The site plan shows a proposed site location to the east of the existing site. The site plan shows a proposed site location to the east of the existing site.



Figure 2: Photograph of the wooded area at the site of the proposed development.

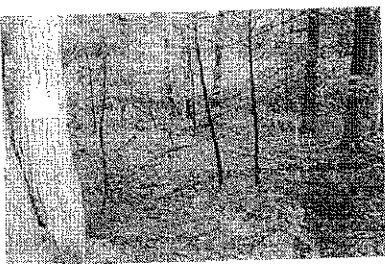
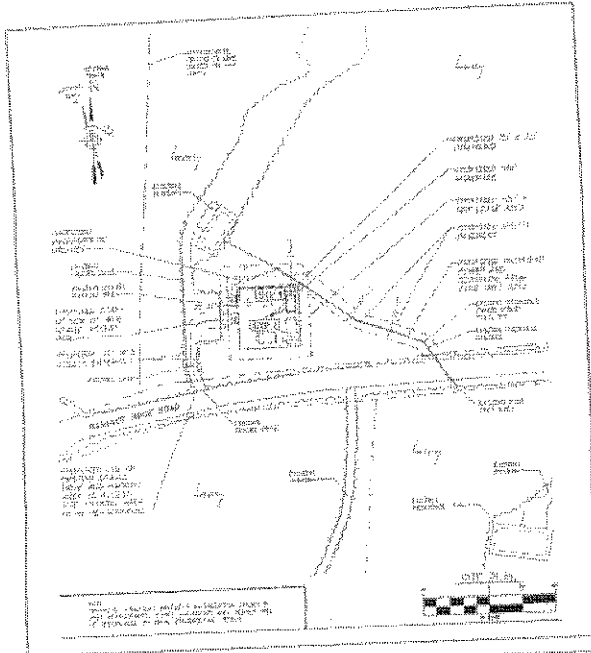


Figure 3: Photograph of the wooded area at the site of the proposed development.



Figure 4: Photograph of the wooded area at the site of the proposed development.

C. Archeological testing was done at the original location and has NOT been done for the new location 110 feet farther into the property.



Attachment 2
 Location of Archaeological Testing

The above map
 is prepared in accordance with the
 provisions of the National Historic
 Preservation Act.

D. Lead soil sampling study was completed for the original proposed location and has not been done for the new location 110 feet farther into the property. Neither was soil samples taken at the range/target area where lead levels would be found in its highest concentration.

