

CONNECTICUT SITING COUNCIL

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 ROCK ROAD :  
HARTLAND, CONNECTICUT :

DOCKET NO. 408

**RECEIVED**  
FEB - 8 2011

CONNECTICUT  
SITING COUNCIL

February 4, 2011

SUPPLEMENT TO PRE-FILED TESTIMONY OF WADE COLE,  
FIRST SELECTMAN  
OF THE TOWN OF HARTLAND

Attached are several documents recieved by the Town of Hartland since the first hearing date of January 13, 2011 and the present date. These documents include letters from residents of the Town of Hartland each voicing their objection and specific concerns with respect to the proposed construction of the telecommunications tower in the above matter.

The Town respectfully requests that these document be included in the record as a supplement to the testimony of the Town's First Selectman, Wade Cole, who will identify and discuss receipt of same at the continued hearing of this matter.

Respectfully Submitted,  
Town of Hartland

By: 

Margaret Fogerty Rattigan, Its Counsel  
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**CERTIFICATION**

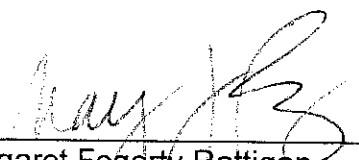
This is to certify that a copy of the foregoing has been delivered either by hand or electronic mail or FIRST CLASS, postage prepaid, this 13th day of January, 2011 to:

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By:   
Margaret Fogerty Rattigan  
Murphy, Laudati, Kiel, Buttler & Rattigan, LLC

Robert P. and Patricia A. Davis  
84 South Road  
East Hartland, CT 06027

January 21, 2011

Daniel F. Caruso, Chairman  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

Re: Docket No. 408 Hearing Program, January 13, 2011

Dear Mr. Caruso:

The purpose of this letter is to express our opinion regarding the proposed AT&T cell tower on Balance Rock Road in East Hartland. While we were able to attend the 3:00 to 5:00 p.m. council hearing held at the East Hartland firehouse, we were not able to attend the open forum that evening due to another meeting.


We have lived at 84 South Road nearly 39 years and have always been AT&T landline and more recently, AT&T cell phone customers as well. Our home is six houses south of the firehouse and in a "dead zone" with regard to cell coverage. We must drive up the street about  $\frac{1}{4}$  of a mile to use our cell phone. We had hoped that another tower would change this. However, at the town of Hartland Inland Wetlands Commission meeting held on November 13, 2010, AT&T advised those of us in attendance that even with the 190' tower proposed for Balance Rock Road, our immediate neighborhood would remain in a no coverage area.

At the afternoon hearing on January 13th, one council member asked Mr. Walls from AT&T what the difference in service would be comparing the 190' Balance Rock Road tower and a possible 165' tower at 339 South Road (Site B.) He replied that there would potentially be more dropped calls and a good chance of less signal strength with the 165' tower. He never addressed the issue of whether a potential South Road tower would provide coverage to my neighborhood. Since this was time for testimony only and no questions were allowed, we were unable to ask if this tower would be an answer for our problem.

Since it is a "clear shot" from Site B to our home, we assume a tower at 339 South Road would provide a better opportunity for cell coverage for us. Therefore, we support a tower at 339 South Road and request that the Siting Council give it serious consideration.

Thank you for allowing us an opportunity to express our opinion.

Sincerely,

  
Robert P. Davis

  
Patricia A. Davis

Wade Cole,

Jan 20 2011

This letter is in reference to the proposed site of the cell phone tower on Balance Rock Rd. My family has lived here for over 30 years. It is our home, our neighborhood and it's important to us.

A few years ago the pick up and drop off site for students attending Granby was on Jennifer Dr. It became a concern for the homeowners on the road. One family in particular felt it may effect the sale of the home that was currently on the market. In pretty short order the location was changed to the town garage. It was a great solution. It made perfect sense.

I have a concern about the tower on our Road. The tower wont be here only Monday - Friday. The tower wont be here only in the morning and afternoon. The tower wont be here only during the school year. The tower-if approved, will be here forever. In the future, if we find that we are having issues selling our home because of the cell phone tower will the town take it down? Who will we go to? Once its there, it will be our property values jepordized. The Gun Club has nothing to lose, only gain. The homeowners on Balance Rock pay the consequences.

The homeowners on Balance Rock have found themselves in a situation

we didn't ask for, didn't want and  
don't deserve,

It should be reason enough  
that the people who own property on  
this Road simply don't want the tower.  
How is it fair that a group of people  
who have no personal funds invested  
on this road decide what goes in on our  
road. They don't live here, we do. It is  
not their property value at risk.

There has to be an alternate  
site that would not impact the  
neighborhood.

It has not been proven that  
this is truly a need for this tower.  
There will never be 100% coverage, anywhere.

Sincerely,

Cindy Frank  
40 Balance Rock Rd  
E Hartland Ct  
860 653 2131 04027

DATE: FEBRUARY 4, 2011

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TO: WADE COLE, FIRST SELECTMAN  
HARTLAND BOARD OF SELECTMEN

FROM: WILLIAM EMERICK -- RESIDENT OF THE TOWN OF HARTLAND

SUBJECT: COMMERCIAL USAGE OF PROPERTY IN RESIDENTIAL ZONE

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The Town of Hartland has previously established legal precedent in the Planning and Zoning case, Dale Smith vs. the Town of Hartland, wherein the Superior Court in Litchfield, CT, the Honorable Judge Pickett presiding, affirmed the Town of Hartland had the legal right and obligation to halt a 'for profit business' in a residential zone. A permanent injunction was obtained after an initial temporary injunction was issued to insure an immediate halt.

By virtue of the lease agreement between AT&T and the Ring Mountain Hunt Club, this contract expressly allows AT&T to conduct a 'for profit business' activity in the form of a cell tower which is in violation of the Hartland Planning & Zoning Regulations; specifically, the Definition of a "Club". The Ring Mountain Hunt Club has been permitted to exist within a residential zone because it does not engage in any 'for profit business' activity. Therefore, it should be concluded that the lease agreement created by and between AT&T and the Ring Mountain Hunt Club expressly allowing a 'for profit business' is invalid.

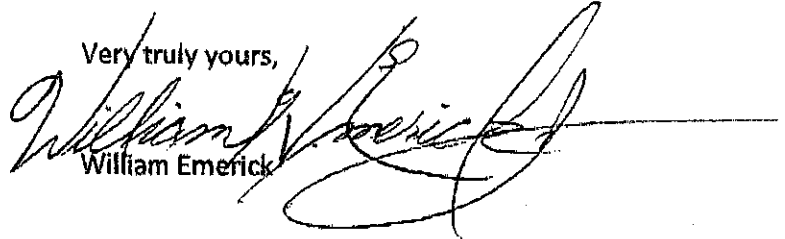
One must seriously consider the legal precedent which has already been set in the case of Dale Smith vs. the Town of Hartland. The correlation between the ruling of the Superior Court which affirmed Hartland's obligation and right to halt a 'for profit business' activity within a residential zone with the fact that the Ring Mountain Hunt Club has now created a lease agreement expressly allowing a lessee to conduct a 'for profit business venture' on this Club's property is clear. As such, the Town of Hartland is legally within its right and, in fact, has a firm obligation to take a stand against the cell tower 'for profit business' venture planned for construction on the Ring Mountain Hunt Club property located at 95 Balance Rock Road, East Hartland, CT pursuant to the ruling in the case of Dale Smith vs. the Town of Hartland. In agreement with former Attorney General Richard Blumenthal's letter to the Connecticut Siting Council dated November 17, 2010, this is definitely a residential zone.

The Ring Mountain Hunt Club membership consists of some Hartland residents but primarily the membership consists of out-of-town residents. The immediate and surrounding in-town residents near the tower site are in jeopardy of losing their right of peaceful and quiet enjoyment as guaranteed by the United States Constitution. These residents will have their site-line view permanently and negatively altered. In addition all Hartland residents will have their site-line view of West to East adversely affected because the tower will be seen from Route 20 across the Metropolitan District Commission (MDC) reservoir from miles away. The widespread town petition regarding this cell tower that hundreds of residents have signed indicates these residents feel that their rights have been infringed upon.

TO: WADE COLE, FIRST SELECTMAN – HARTLAND BOARD OF SELECTMEN – FEBRUARY 4, 2011

If this cell tower is constructed and courts decide after the construction that it is indeed based on an invalid lease agreement, the question is: "Would AT&T, the Hunt Club, or the Town of Hartland be responsible for dismantling of the tower?" A bond needs to be obtained prior to any construction with the responsible party or parties clearly named. Hartland residents should not be responsible for the cost of removing the tower or any site work such as drainage to Balance Rock Road.

Very truly yours,



William Emerick

cc: Selectmen's Office – Wade Cole, First Selectman  
Attorney Margaret Rattigan  
Planning & Zoning Chairman Warren Haag  
Scott Eisenlohr Enforcement Officer  
Inland Wetlands Commission Members