

BURTON B. COHEN
203.772.7714 DIRECT TELEPHONE
BCOHEN@MURTHALAW.COM

October 2, 2015

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

The Honorable Robert Stein, Chairman
Attorney Melanie Bachman, Staff Attorney/Acting Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Request for Connecticut Siting Council to Assume Jurisdiction Over an
Uncertificated Telecommunications Tower Facility Located at 1338
Highland Avenue, Cheshire, Connecticut

Dear Mr. Stein and Attorney Bachman:

An original and 15 copies of this letter are transmitted on behalf of the Town of Cheshire, Connecticut ("the Town"). The purpose of this letter is to respectfully request that the Connecticut Siting Council ("the Council") undertake the procedural steps needed to exercise jurisdiction over an existing telecommunications tower facility, within the meaning of Conn. Gen. Stat. § 16-50i(a)(6), located at the property with the address of 1338 Highland Avenue, Cheshire, Connecticut (hereinafter "the Facility").

Background. During a period when the Council eschewed applications concerning cellular and other wireless communications facilities being installed on existing structures, a telecommunications tower facility was established in an existing silo structure located at 1338 Highland Avenue, Cheshire. Sixty-four feet in height, the silo tower is located approximately 80 feet from Highland Avenue, which is the name for Route 10, which is a heavily used state road and is the major thoroughfare in Cheshire. Significantly, the site is used for a business open to the public called Tower Farms Nursery, and the Facility is in the area used for the public display of flowers and shrubs. The initial site plan application, submitted by Springwich Cellular Limited Partnership in 1999, was approved by the Cheshire Planning & Zoning Commission ("P&Z") on November 22, 1999.¹ Subsequently, an application for collocation was submitted by AT&T Wireless PCS LLC, which was approved by P&Z on July 22, 2002.² Thereafter, an application for collocation submitted by Nextel Communications was approved by

¹See Exhibit No. 1 (letter approval, application (partial), and Cheshire Traffic Division Review letter).

²See Exhibit No. 2 (letter approval, application (partial, including form lease agreement.)).

P&Z on September 26, 2005.³ Upon information and belief, these wireless carriers did not submit to the Council any applications for certification, petitions for declaratory rulings on the grounds that their facilities did not have an adverse environmental effect, or notifications of an exempt modification of the Facility. Accordingly, there was no initial proceeding in which a record was established demonstrating to the Council the public need for the Facility, nor did any subsequent collocating carrier demonstrate that its facilities satisfied the Council's standards for an exempt modification.⁴

In September 2015, the Town became aware that panels on the tower silo were missing and that the Facility site was in disrepair. Upon investigation, the Town specifically determined that five of the panels, each of which weighs approximately 30 pounds, with dimensions of approximately four by six feet, were missing from the silo tower. One of those five panels was found on the other side of Route 10. The Town and the owner of the underlying property became very concerned about the public safety hazards of the tower facility, and the owner represented to Town officials that he was unable to get the carriers to take care of the safety issues and the disrepair on the tower site. The Town then contacted Attorney Melanie Bachman,⁵ who addressed a written inquiry to an attorney who represents AT&T Wireless.⁶ In her letter, Attorney Bachman specifically requested that AT&T Wireless address its obligations under the lease and/or collocation agreement. To its credit, the attorney represented that his client, New Cingular Wireless PCS, LLC (AT&T), would address the issues, although no time frame for the corrective action was given.⁷ Moreover, the specific question about the obligations of AT&T Wireless was not addressed in the response.

Thus, as of this date, neither the Town nor the property owner are aware of the timing of any such repairs; nor is it clear which entity is legally responsible for the overall maintenance and condition of the telecommunications tower facility.

Specific Request. The Town respectfully requests that the Council initiate a proceeding to assume jurisdiction over the Facility. This request is in the overall public interest and consistent with Chapter 277a of the Connecticut General Statutes. The purposes for the request are threefold; (1) as set forth above, certain safety-related issues have recently arisen with the Facility, and while the Town has been unable to contact the current owner of the Facility to rectify those issues, the Council has the relationships with tower management companies and wireless carriers that would facilitate remedial action being taken; (2) the Town lacks the technical resources and institutional knowledge of the Council to ensure that the operator of the Facility and the wireless carriers attached thereto are complying with applicable federal and Connecticut requirements concerning

³See Exhibit No. 3 (letter approval, application for a special permit).

⁴The Town is not contending that there is no need for the Facility but is merely stating that a record on these issues was not established for evaluation by the Council, with its knowledge and expertise in these matters.

⁵See Exhibit No. 4 (email and photos).

⁶See Exhibit No. 5.

⁷See Exhibit No. 6.

The Honorable Robert Stein
Attorney Melanie Bachman
October 2, 2015
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the construction, installation, operation and modification to any such facility; and (3) with this Facility considered a Section 16-50i(a)(6) facility, the Council would be better able to consider it for purposes of assessing the feasibility of tower sharing under Conn. Gen. Stat. § 16-50p(b)(1) should any other applications for certification of a telecommunications tower facility in the area be submitted to the Council.

Moreover, the Facility, which is a silo telecommunications tower, constitutes a "tower" within the Council's own regulations.

"Tower" means a structure, whether free standing or attached to a building or another structure, that has a height greater than its diameter and that is high relative to its surroundings, or that is used to support antennas for sending or receiving radio frequency signals, or for sending or receiving signals to or from satellites, or any of these, which is or is to be: (A) used principally to support one or more antennas for receiving or sending radio frequency signals, or for sending or receiving signals to or from satellites, or any of these, and (B) owned or operated by the state, a public service company as defined in Section 16-1 of the Connecticut General Statutes, or a certified telecommunications provider, or used in a cellular system, as defined in Section 16-50i(a) of the Connecticut General Statutes.

Conn. Agencies Regs. § 16-50j-2a(23). Therefore, this Facility should be found to fall within the Counsel's jurisdiction.

Contact Information:

For the Town of Cheshire:

Michael A. Milone
Town Manager
Town Hall
84 S. Main Street
Cheshire, CT 06410
mmilone@chshirect.org

and

William S. Voelker
Town Planner
Town Hall
84 S. Main Street
Cheshire, CT 06410
wvoelker@chshirect.org

The Honorable Robert Stein
Attorney Melanie Bachman
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Please enter the appearance of the undersigned on behalf of the Town:

Burton B. Cohen
Murtha Cullina LLP
265 Church Street
New Haven, CT 06510
bcohen@murthalaw.com

Conclusion.

The Town has worked cooperatively with the Council on other matters. The Town is not requesting that the Council order that the Facility be disassembled. However, the public interest will be best served by the Council now having jurisdiction over the Facility. For all of the reasons set forth above, the Town respectfully requests that the Council take the necessary procedural measures to assert jurisdiction over this Facility pursuant to Conn Gen. Stat. §§ 16-50k(a), (b) and (e); Conn. Gen. Stat. § 16-50u; and Conn. Gen. Stat. § 16-50x.

If you have any questions or require additional information, please feel free to contact me. Thank you for your consideration

Respectfully submitted,

THE TOWN OF CHESHIRE, CONNECTICUT

By: 
Burton B. Cohen
Its Attorney

Enclosures

cc: Michael A. Milone
William S. Voelker
MUDDDM LLC
Christopher Fisher, Esq.
Thomas Regan, Esq.

TOWN OF CHESHIRE

Planning & Zoning Commission
 84 South Main Street
 Cheshire, Connecticut 06410
 203-271-6670 • Fax 203-271-6664

CERTIFIED MAIL



December 3, 1999

Springwich Cellular Limited Partnership
 c/o Keith Coppins
 500 Enterprise Drive -Suite 3A
 Rocky Hill, CT 06067

RE: Site Plan Application MAD 12/28/99
Springwich Cellular Limited Partnership
 1338 Highland Avenue
 To Install a cellular antennae and placement of an Equipment cabinet

Dear Mr. Coppins:

At the regular meeting of the Planning and Zoning Commission held on November 22, 1999, the following motion was unanimously approved:

MOTION: That the Zoning Committee recommends that the Planning and Zoning Commission approve the site plan application of Springwich Cellular Limited Partnership for a cellular antennae and equipment cabinet for property located at 1338 Highland Avenue, in an I-2 zone, as shown on the current Assessor's Map No. 28, Lot No. 15, and shown on the following plans entitled:

SNET Mobility Inc., 1338 Highland Avenue
 Cheshire, CT., Springwich Cellular Site, Cheshire-
 Tower Farms, October 15, 1999 sheets T-1, C-1, and C-2

With the following stipulation:

1. The applicant shall comply with comments in a memo from the Police Department dated November 4, 1999 and attached hereto.

Moved by Mrs. Mouris, seconded by Mr. Gaudio and unanimously approved.

Very truly yours,

William C. Freitag
 William C. Freitag, Secretary
 Cheshire Planning and Zoning Commission

RECEIVED
OCT 18 1999
PLANNING DEPT.

File No. _____

Rev. 11/89, 9/92, 1/99

APPLICATION FOR A SITE PLAN

Pursuant to the Zoning Regulations of the Town of Cheshire, effective April 24, 1970, as amended, the undersigned makes application for Site Plan approval for the property described below:

STREET ADDRESS 1338 Highland Ave

APPROX. NO. OF ACRES 3 ZONE I-2

ASSESSOR'S MAP NO.(s) 28 LOT NO. (s) 15

REASON FOR SITE PLAN REQUEST to install cellular antennae on an
existing silo + place an equipment shelter to house cellular radio
telecommunications equipment.

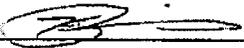
The following items, as required by Section 41.2, are attached (unless waived by the Planning and Zoning Commission):

- (1) 5 copies of a Site Plan, drawn to a scale of not more than 100 feet to the inch, showing existing and proposed grade contours, property lines, the names and address of all abutting owners including those across any street, as determined from the Assessor's records, building, structures, signs, outdoor illumination, streets, driveways, off-street parking and loading spaces, outside storage areas, water courses, storm drainage, sewage disposal facilities, and water supply facilities.
- (2) 5 copies of preliminary architectural plans of all proposed buildings, structures and signs, including general exterior elevations, perspective drawings and generalized floor plans and including drawings for proposed signs.
- (3) 5 copies of a detailed landscaping plan drawn to a scale of not more than one inch equals one hundred feet, including a plot plan showing: the name and planting size of trees and shrubs, basic contours, lawn areas, natural terrain not to be disturbed, and magnetic north. In addition, such plan shall include a planting key listing trees and shrubs with planting size.

- (4) Sanitation Certificate accompanied by Engineer's Report, WPCA approval, or Feasibility Letter.
- (5) Check, made payable to "Collector, Town of Cheshire", in the amount of \$60.00.

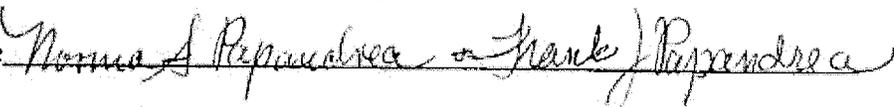
Applicant's Name Springwich Cellular Limited Partnership
(Print or Type)

Applicant's Address 500 Enterprise Drive Suite 3A Rocky Hill, CT 06067

Applicant's Signature  Keith Coppins

Telephone Number 860-513-7218 FAX 860-513-7190

Owner's Name Frank J. + Norma S. Papandrea
(Print or Type)

Owner's Signature 

Agent, if other than applicant, to be contacted with regard to this application.

Name _____

Address _____

Telephone Number _____ FAX _____

This application must be filed in the Planning Office at least seven (7) days prior to the regular Planning and Zoning Commission meeting date at which it is to be presented.

CHESHIRE POLICE DEPARTMENT

George R. Merriam, Chief of Police
500 Highland Avenue • Cheshire, Connecticut 06410-2296
(203) 271-5500 • 24 Hour Fax: 271-5515 • Chief's Office Fax: 271-5563



Forty-Five Years of Service
1954-1999

TRAFFIC DIVISION REVIEW

Application For Site Plan Approval

Applicant: SNET Co Location: 1338 Highland Av.

Approval of the Site Plan Approval should include the following stipulations:

Adequate sight distances must be maintained at the driveway intersections with Highland Av. Sight line obstructions that exist on property not controlled by the applicant are still the responsibility of the applicant to resolve.

Building unit numbers are to be posted per Town Ordinance, Section 6-2. Building alarms are to registered per Town Ordinance, Section 10-21.

Control of dust and debris on the site and the surrounding roadways during construction is the applicant's responsibility. Proper safety precautions and equipment are to be utilized when working on public roadways and are the applicant's responsibility to provide.

A Connecticut Department of Transportation encroachment permit must be obtained if any work is done in the State right of way.

Reviewed By: Lt. Christopher Loudon
Date: November 4, 1999
Number: 99040540

Approved By: George R. Merriam
Chief Of Police
Cheshire Traffic Authority

c: applicant

NOV 04 1999

Crime Prevention
271-5571
Investigative Division
271-5530

Records / Permits
271-5510

Traffic Division
271-5540

Deaf / TTY
271-5508

Drug Tips
271-5534
Youth Officer
271-5535

AT&T Wireless PCS LLC
C/o Cuddy & Feder & Worby LLP
Attn: Lucia Chiochio
Page 2

Moved by Mr. Adinolfi; seconded by Ms. Hilzinger and unanimously approved.

Very truly yours,

Beverly G. Hilzinger

Beverly G. Hilzinger, Secretary
CHESHIRE PLANNING AND ZONING COMMISSION

BGH:jp

RECEIVED
JUN 24 2002
PLANNING DEPT.

Rev. 11/89, 9/92, 1/99

File No. _____

APPLICATION FOR A SITE PLAN

Pursuant to the Zoning Regulations of the Town of Cheshire, effective April 24, 1970, as amended, the undersigned makes application for Site Plan approval for the property described below:

STREET ADDRESS 1338 Highland Avenue

APPROX. NO. OF ACRES 3 ZONE I-2

ASSESSOR'S MAP NO.(s) 28 LOT NO. (s) 15

REASON FOR SITE PLAN REQUEST Installation of co-located wireless telecommunications facility.

The following items, as required by Section 41.2, are attached (unless waived by the Planning and Zoning Commission):

- (1) 5 copies of a Site Plan, drawn to a scale of not more than 100 feet to the inch, showing existing and proposed grade contours, property lines, the names and address of all abutting owners including those across any street, as determined from the Assessor's records, building, structures, signs, outdoor illumination, streets, driveways, off-street parking and loading spaces, outside storage areas, water courses, storm drainage, sewage disposal facilities, and water supply facilities.
- (2) 5 copies of preliminary architectural plans of all proposed buildings, structures and signs, including general exterior elevations, perspective drawings and generalized floor plans and including drawings for proposed signs.
- (3) 5 copies of a detailed landscaping plan drawn to a scale of not more than one inch equals one hundred feet, including a plot plan showing: the name and planting size of trees and shrubs, basic contours, lawn areas, natural terrain not to be disturbed, and magnetic north. In addition, such plan shall include a planting key listing trees and shrubs with planting size.

- (4) Sanitation Certificate accompanied by Engineer's Report, WPCA approval, or Feasibility Letter.
- (5) Check, made payable to "Collector, Town of Cheshire", in the amount of \$60.00.

Applicant's Name AT&T Wireless PCS LLC

(Print or Type)

Applicant's Address 12 Omega Drive, Stamford, CT

Applicant's Signature See Exhibit B attached herewith

Telephone Number (203) 353-0345 FAX _____

Owner's Name Jonathan D. Manke and Debrah P. Manke

(Print or Type)

Owner's Signature See Exhibit B attached herewith

Agent, if other than applicant, to be contacted with regard to this application.

Name Cuddy & Feder & Worby, LLP attn: Lucia Chiochio

Address 90 Maple Avenue, White Plains, New York 10601

Telephone Number (914) 761-1300 FAX (914) 761-5372

This application must be filed in the Planning Office at least seven (7) days prior to the regular Planning and Zoning Commission meeting date at which it is to be presented.

SCANNED

Market: Connecticut
Cell Site Number: CT 443.1- Cheshire North
Address: 1338 Highland Avenue, Cheshire, CT

Bechtel ID# 913-008-443

AWS ID# _____

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement"), dated as of the date below, is entered into by Jonathan D. Manke and Debrah P. Manke, individuals, having a mailing address of 1725 Cheshire Street, Cheshire, CT 06410, (hereinafter referred to as "Landlord") and AT&T Wireless PCS LLC., a limited liability company, by and through its manager, AT&T Wireless Inc. d/b/a AT&T Wireless, a Delaware Corporation, having an office at 15 Midland Ave., Paramus, NJ 07652 (hereinafter referred to as "Tenant").

BACKGROUND

Landlord owns that certain plot, parcel or tract of land (See Exhibit 2 for property description), together with all rights and privileges arising in connection therewith, located at 1338 Highland Avenue, Cheshire, in the County of New Haven, State of Connecticut (collectively "Property"). Tenant desires to use a portion of the Property in connection with its federally licensed communications business. Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. **LEASE OF PREMISES.** Landlord leases to Tenant portions of the Property consisting of (a) a room/cabinet/ground area space of approximately 144 (9 x 16) square feet; and (b) space on the structure together with such easements as are necessary for the antennas and initial installation as described on attached Exhibit 1 (collectively, "Premises").

2. **PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair and replacement of its communication facility and related equipment, cables, accessories and improvements, which may include a suitable support structure associated antennas, equipment

shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively the "Communication Facility"); such use may include the right to test, survey and review title on the Property (collectively, the " Permitted Use". Landlord and Tenant agree that any portion of the Communication Facility that may be described on Exhibit 1 will not be deemed to limit Tenant's Permitted Use. If Exhibit 1 includes conceptual drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of Exhibit 1. Tenant has the right to make Premises improvements, alterations or additions ("Tenant Changes") appropriate for Tenant's use. Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the Communication Facility on the Property. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Communication Facility within the Premises at any time during the term of this Agreement.

3. **TERM.** (a) The initial lease term will be five (5) years ("Initial Term"), commencing upon the Commencement Date, as defined below. The Initial Term will terminate on the last day of the month in which the fifth annual anniversary of the Commencement Date occurs.

(b) This Agreement will automatically renew for five (5) additional five (5) year Term(s) (each five (5) year term shall be defined as the "Extension Term"), upon the same terms and conditions unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Agreement at least ninety (90) days prior to the expiration of the existing Term.

(c) If Tenant remains in possession of the Premises after the termination or expiration of this Agreement then Tenant will be deemed to be occupying the Premises on a month to month basis (the "Holdover Term"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, the Extension Term and the Holdover Term are collectively referred to as the Term ("Term").

rev. 12/11/01

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

WITNESSES:

[Signature]
Print Name: Anthony R. Delacorte

[Signature]
Print Name: Grazi Medeiros

"LANDLORD"

By: [Signature]
Print Name: Debrah P. Manke
Its: Jonathan Manke
Federal Tax ID#: _____

WITNESSES:

[Signature]
Print Name: Chris Cahill

Print Name: _____

"TENANT"

By: [Signature]
Print Name: _____
Its: System Development Manager

5/29/12

TENANT

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 200__, by _____, System Development Manager of _____, a _____ corporation, d/b/a AT&T WIRELESS, on behalf of the corporation, () who is personally known to me or who has produced _____ as identification.

Notary Public
Print Name: _____
My commission expires: _____

LANDLORD (INDIVIDUAL)

STATE OF CONNECTICUT)
) ss: Cheshire
COUNTY OF NEW HAVEN)

The foregoing instrument was acknowledged before me this 14th day of May, 2002, by John & Deborah Manker, () who is personally known to me OR () who has produced _____ as identification.

Anthony R. DePaolo
Notary Public
My Commission Expires 12/31/2003

Notary Public
Print Name: _____
My commission expires: _____

LANDLORD (PARTNERSHIP)

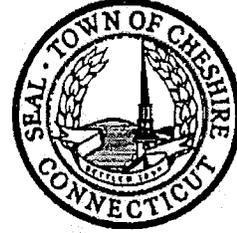
STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 200__, by _____ [name of representative], the [title] of _____, partner on behalf of _____, a _____ partnership, () who is personally known to me OR () who has produced _____ as identification.

Notary Public
Print Name: _____
My commission expires: _____

TOWN OF CHESHIRE

Planning & Zoning Commission
 84 South Main Street
 Cheshire, Connecticut 06410
 203-271-6670 • Fax 203-271-6688



CERTIFIED MAIL
 #7005 1160 0002 9290 9762

October 12, 2005

Nextel Communications of the Mid-Atlantic, Inc.
 C/o Jennifer Young Gaudet
 345 Taylor Street
 Talcottville, CT 06066

RE: Nextel Communications MAD 11/16/05
 1338 Highland Avenue
 Wireless Tele. Facility
 Co-Location - Section 80

Dear Ms. Gaudet:

At the regular meeting of the Planning and Zoning Commission held on September 26, 2005, the following motion was approved:

MOTION: That the Planning and Zoning Commission approve the special permit application of Nextel Communications, for a wireless facility, for property located at 1338 Highland Avenue in a I-2 one, as shown on the current Assessor's Map No. 28, Lot No. 15, and shown on the following plans entitled:

Nextel Communications of the Mid-Atlantic Inc., Cheshire North, CT 2523A, 1338 Highland Avenue, Cheshire, CT sheets T-1, Z-1, and Z-2 February 16, 2005 revised June 16, 2005; and Survey dated February 2005

With the following stipulations:

1. Any proposed lighting on the tower or equipment cabinet shall be full cut-off and shall comply with Section 33.9 of the Cheshire Zoning Regulations.
2. Nextel must submit to the Town's emergency key box system and provide keyed access for emergency use.
3. Proposed plantings as shown on sheet 2-1 must be evergreens such as arborvitae or white pine and shall have a minimum height of 5'-6'.

Nextel Communications of the Mid-Atlantic, Inc.
C/o Jennifer Young Gaudet
Page 2

Moved by Ms. Flynn-Harris; seconded by Ms. Marinaro. The motion passed 8-0-1 with Slocum abstaining.

Respectfully,

Earl J. Kurtz III
Earl J. Kurtz, III, Secretary
CHESHIRE PLANNING AND ZONING COMMISSION

EJK:jp
ENCLOSURES

RECEIVED

JUN 29 2005

APPLICATION FOR A SPECIAL PERMIT

Pursuant to the Zoning Regulations of the Town of Cheshire, as amended, the undersigned makes application for a Special Permit for the property described below:

PLANNING DEPARTMENT
TOWN OF CHESHIRE

STREET ADDRESS 1338 HIGHLAND AVENUE

APPROX. NO. OF ACRES 3 ZONE I-2

ASSESSOR'S MAP NO.(s) 28 LOT NO.(s) 15

REASON FOR SPECIAL PERMIT REQUEST WIRELESS TELECOMMUNICATION FACILITY - CO-LOCATION

APPLICABLE SECTION OF ZONING REGULATION 80

The following items, as required by Section 40.2, are attached (unless waived by the Planning and Zoning Commission:

- (1) 9 copies of a **Site Plan**, drawn to a scale of not more than 100 feet to the inch, showing existing and proposed grade contours, property lines, the names and addresses of all abutting owners including those across any street determined from the Assessor's records, building, structures, signs, outdoor illumination, streets, driveways, off-street parking and loading spaces, outside storage areas, water courses, storm drainage, sewage disposal facilities, and water supply facilities. State law requires certain information to be compiled and certified by licensed professionals.
- (2) 9 copies of preliminary architectural plans of all proposed buildings, structure and signs, including general exterior elevations, perspective drawings and generalized floor plans and including drawings for proposed signs.
- (3) 9 copies of a detailed landscaping plan drawn to a scale of not more than one inch equals one hundred feet, including a plot plan showing: the name and planting size of trees and shrubs, basic contours lawn areas, natural terrain not to be disturbed, and magnetic north. In addition, such plan shall include a planting key listing trees and shrubs with planting size.
- (4) Sanitation Certificate accompanied by Engineer's Report, WPCA approval, or Feasibility letter.
- (5) Check, made payable to "Collector, Town of Cheshire", in full payment of fee - \$ 330.00 paid PH Fee 175.00 PAID

BASE FEE: Residential \$205.00*
Business \$330.00*

+ Additions or new buildings of 5,000 sq. ft. or greater shall add an additional fee of \$.05 per sq. ft. of entire building.

*(Includes \$30.00 State of Connecticut fee)

- (6) In order to facilitate the filing of your approval on the Cheshire Land Records, based on Public Act 75-317 of the Connecticut General Statutes, the following information is required: The volume and page number of the deed to your property as it is filed on the Cheshire Land Records.

VOLUME(s) 1672 PAGE NO.(s) 244

APPLICATIONS FOR SPECIAL PERMITS WHICH PROPOSE TO CONDUCT NONRESIDENTIAL USES IN RESIDENTIAL DISTRICTS, the following submission (7) is also required:

- (7) An affidavit, at least ten (10) days before the hearing, stating that notification has been sent to all abutting property owners (including those across the street). The affidavit shall confirm that the notice was mailed at least fifteen (15) days prior to the hearing and shall list the names, property addresses and mailing addresses, if different from property addresses. Notification to property owners shall be in the form of letter or postcard and shall specify the date, time, and place of the public hearing.

ALL APPLICANT'S--PLEASE COMPLETE THE FOLLOWING:

Applicant's Name NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC. DBA
(Print or Type) NEXTEL COMMUNICATIONS

Applicant's Address 100 CORPORATE PLACE, ROCKY HILL, CT 06067

Applicant's Signature Jennifer Young Gaudet FOR NEXTEL COMMUNICATIONS

Telephone Number 860 513-5400 (NEXTEL) 860 513-5444 (NEXTEL)
860 798-7454 FAX # 860 643-7845

Owner's Name MUDDDM, LLC
(Print or Type)

Owner's Signature PLEASE SEE ATTACHED LETTER OF AUTHORIZATION

Agent, if other than applicant to be contacted with regard to this application:

Name JENNIFER YOUNG GAUDET

Address 345 TAYLOR ST, TALCOTTVILLE, CT 06066

Telephone Number 860 798-7454 FAX # 860 643-7845

This application must be filed in the Planning Office at least seven (7) days prior to the regular Planning & Zoning Commission meeting date.

From: Kehoss, David [mailto:dkehoss@cheshirect.org]
Sent: Thursday, September 17, 2015 12:04 PM
To: Bachman, Melanie
Cc: 'dawson.insp@gmail.com'; Voelker, William
Subject: cell tower 2038 @1338 Highland Ave Cheshire

Melanie Bachman
Acting Executive Director
Connecticut Citing Council
Ten Franklin Square
New Britain, CT 06051
melanie.bachman@ct.gov

09/17/15

Re: ATT cell tower # 2038 Cheshire Ct.

Hi Melanie

Thank you for taking my call this morning. As discussed, this department received a complaint from a Cheshire Planning and Zoning Commissioner a few days ago regarding the condition of a cell tower at 1338 Highland Ave. (aka State Highway Rte 10). The complainant pointed out that the Permit issued by the Cheshire Planning and Zoning Commission (approx. 2002, expanded 2006) requires the cell antennae which are mounted on top of a farm silo be screened from view or "stealth". He stated that several of the panels which cover the antennae have been missing for months.

As follow-up, I reviewed the special permit issued by P&Z in 2002/2005 and confirmed these stealth conditions which include fencing around some of the ground support facilities. Yesterday, 09/16/15, I visited the site and met with John Manke, property owner. I observed that approx. five panels are missing from the sixty four foot tower and that the fencing of the ground facilities was in a state of disrepair. John stated that the panels disconnect from the tower in high winds. In one instance a panel was found on the other side of the adjacent Highland Ave. (state highway #10). John stated that he was glad that this department was looking into the deteriorating conditions since he has been attempting to get ATT to address it for the last six months.

It is noted that each panel weighs an estimated 30 lbs. and approx. four by six feet in length. One such panel is visible on the ground in attached picture #0650. The tower is located approx. seventy feet from the highway, sixty four feet high (according to approved plan) and within the Tower Farms public display area for their flowers and shrubs. As such, these panels represent a public hazard to anyone in the area including motorists on Highland Ave.

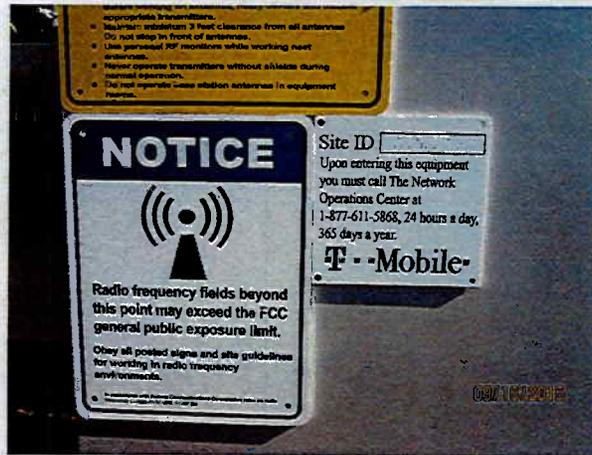
In addition to the obvious public safety issue the current state of disrepair also represents a violation of Cheshire Zoning Regulations.

Could you please take a look at this information including the attached photos and determine if your office could be of assistance in resolving these issues as well as determining who I point the finger at for documentation and enforcement purposes. I would be happy to listen to any suggestions you may have.

Attachments (5)

Thank you for your assistance
Sincerely







STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.govwww.ct.gov/csc

September 18, 2015

Christopher B. Fisher, Esq.
Cuddy & Feder, LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

Re: Telecommunications Facility located at 1338 Highland Avenue, Cheshire, Connecticut

Dear Attorney Fisher:

The Connecticut Siting Council (Council) is in receipt of correspondence from the Town of Cheshire received on September 17, 2015 regarding a complaint about the condition of the above-referenced telecommunications facility. Specifically, there are concerns regarding the panels that serve to camouflage the antennas installed on the tower and the condition of the fencing around the ground equipment. In the September 17, 2015 correspondence from the Town of Cheshire, it appears the property owner has been attempting to contact AT&T, but has been unsuccessful. A copy of the correspondence is attached hereto for your convenience.

According to the Council's Statewide Comprehensive Telecommunications Database, AT&T is located at the 49 foot level of this 64-foot silo facility. Although the Council did not certificate the facility and AT&T is not the owner of record of the facility, the Council has concerns about public safety at this site as more fully described in the correspondence from the Town of Cheshire.

The Council respectfully requests submission of written correspondence on or before Friday, October 2, 2015 regarding the obligations of AT&T under the lease and/or collocation agreement with the tower owner of record with respect to the maintenance of the panels that serve to camouflage the antennas installed on the tower and the fence around the ground equipment.

Thank you for your anticipated cooperation. Should you have any questions, please feel free to contact me.

Sincerely,

Melanie A. Bachman
Staff Attorney/Acting Executive Director

Enclosure

cc with enclosure: David Kehoss, Planning and Zoning, Town of Cheshire
Michael A. Milone, Town Manager, Town of Cheshire
Burton B. Cohen, Esq., Murtha Cullina, LLP



CONNECTICUT SITING COUNCIL
Affirmative Action / Equal Opportunity Employer

**CUDDY &
FEDER^{LLP}**

445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
Tel 914.761.1300 Fax 914.761.5372
www.cuddyfeder.com

September 30, 2015

VIA EMAIL & FIRST CLASS MAIL

Melanie Bachman, Esq.
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Telecommunications Facility
1338 Highland Avenue
Cheshire Connecticut

Dear Executive Director Bachman:

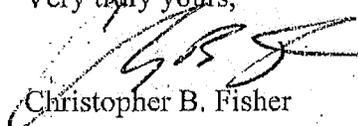
Thank you for your letter of September 18, 2015 regarding the above referenced wireless facility and bringing this matter and the Town's correspondence to our attention.

Upon sharing your letter with our client, New Cingular Wireless PCS, LLC ("AT&T"), they dispatched personnel to inspect the site. They have confirmed that maintenance is required including replacement of some of the stealth panels which shroud AT&T's antennas on top of the existing silo. AT&T has placed a work order which will be completed based on material availability and other logistics related to the specific work identified as part of the need for site maintenance. The person to whom the Town may inquire regarding this maintenance work to be completed is: Michael Schulman, Mobility Operations Manager CT-RI, Mobile 860-759-4372, ms2612@att.com.

In the interim, we reviewed our files and confirmed that the AT&T facility was approved locally in 2002 and under the Town's zoning jurisdiction. Based on our correspondence of today's date and AT&T's representations regarding procurement and planned site maintenance, we do not believe any specific zoning enforcement action is warranted at this time. We have copied Town officials on this letter as well and thank them for raising this with you so we could get it routed to the proper individuals at AT&T.

Please do not hesitate to contact me if I may be of further assistance in this matter.

Very truly yours,



Christopher B. Fisher

cc: David Kehoss, Planning and Zoning, Town of Cheshire
Michael A. Milone, Town Manager, Town of Cheshire
Burton B. Cohen, Esq., Murtha Cullina, LLP

C&F: 2893601.1