TOWN OF BROOKFIELD PLANNING COMMISSION
P.O. BOX 463
BROOKFIELD, VT 05036

MEMORANDUM

FROM: Town of Brookfield Planning Commission, Chair

DATE: July 12, 2013

RE: AT&T Mobility; Wireless Communications Facility; 2382 Ridge Road, Brookfield VT; Recommendations of the Planning Commission

Pursuant to 30 V.S.A. § 248a(c)(2), this memorandum is the recommendation of the Brookfield Planning Commission (the BPC) on the changes proposed by New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to an existing 75-foot monopole tower located on 2382 Ridge Road in Brookfield. The changes are described in AT&T's letter and attachments dated May 30, 2013 entitled "45-Day Notice and Request for Recommendation Pursuant to 30 V.S.A. § 248a(e)" (the 45-Day Notice). In 2009, the existing tower received conditional use and site plan approvals from the Town of Brookfield (application no. 2009.16) and a land use permit from the District No. 3 Environmental Commission (no. 3R1021).

In considering the proposed changes under 30 V.S.A. § 248a, the BPC recommends that the Public Service Board (PSB) determine that the proposed extension of the tower structure from 75 to 85 feet will have an undue adverse effect on aesthetics and scenic beauty; conclude that, under the facts and circumstances of the proposed changes and pursuant to the PSB's consideration of the general good of the state, the benefits of the changes outweigh this undue adverse effect; and issue a certificate of public good (CPG) on this basis.

With the proposed changes, the resulting tower will have an adverse effect on aesthetics and scenic beauty through the increased tower height and placement of 12 additional antennae. The District No. 3 Environmental Commission previously determined that the then-proposed (and now existing) 75-foot tower would have an adverse effect on aesthetics. In re T-Mobile Northeast LLC, Findings of Fact, Conclusions of Law, and Order No. 3R1021 at 7-8 (Dec. 1, 2009). The proposed changes will make the tower and antennae more visible from various locations in Brookfield, including places on West Street and Old Stage and Cross Roads. The industrial nature of the resulting tower will not fit within the existing rural and natural context.

Under the Quechee analysis, this adverse effect will be undue because the extension of the tower height will violate a clear written community intended to preserve the aesthetics and scenic beauty of the area. Specifically, Sec. 4.16.E.7 of the Brookfield Development Bylaw (as amended through April 12, 2010) limits the height of the facility to 10 feet above the average height of the tree line on land immediately adjoining the proposed site. The section states:

> The height of the facility shall not exceed ten feet above the average height of the tree line on land immediately adjoining the proposed site. Notwithstanding the above, where the girth of the tower, antennae or related fixture does not exceed sixteen inches at any point ten feet above the tree line, additional height may be permitted subject to the approval of the Board of Adjustment and conformity with other criteria in this subsection.

This section constitutes a clear written community standard with respect to aesthetics. Sec. 4.16.A of the Brookfield Development Bylaw states that the purpose of this section is, in relevant part, "to protect the scenic qualities of Brookfield's natural environment . . . ." The Brookfield Town Plan (as amended Jan. 24, 2011) states at 11:

> All of the goals and objectives of this plan that address the visual, aesthetic, scenic or rural qualities of Brookfield are meant to be written community standards intended to preserve the aesthetics and scenic beauty of Brookfield. The Brookfield telecommunications bylaw specifically constitutes and is incorporated into this plan as such a written community standard, including but not limited to those provisions that regulate the height of telecommunications facilities.

In its approval of the existing tower at the site, the District No. 3 Environmental Commission determined that Brookfield's telecommunications bylaw constitutes a clear, written community standard intended to preserve aesthetics and scenic beauty. Findings of Fact, Conclusions of Law, and Order No. 3R1021 at 8. It approved the existing tower in part because the tower's height meets the town's telecommunications bylaw. Id. at 8-9.

The Town Plan further states on page 11 that "[f]or the purposes of Public Service Board proceedings on telecommunications facilities, the height and other dimensional and decommissioning requirements of the telecommunications by-law specifically are incorporated into this plan as measures to conserve the scenic qualities of land in Brookfield and as recommendations of the Selectboard and the Planning Commission."

As AT&T states in its 45-day notice, the proposed changes will result in a tower that is more than 10 feet above the average height of the tree line and that does not meet the exception for additional height provided that a 16-inch girth limit is met. 45-Day Notice at 8. The prior approval of the existing tower established an average height of the tree line in the area of 65 feet. The resulting tower will be 20 feet above the average height of the tree line and the girth of the new antenna array will be 10 feet.

However, in deciding whether to approve the proposed changes under 30 V.S.A. § 248a, the PSB will consider the general good of the state, balancing the impacts and costs of the changes with their benefits, including whether the changes support universal availability of infrastructure for transmitting voice and high-speed data, availability of wireless telecommunications services along the state's travel corridors and in its communities, and competitive choice for consumers among telecommunications providers. 30 V.S.A. §§ 202c(b), 248a(a).

Balancing the impact discussed above against the benefits of the proposed changes, the BPC recommends that the PSB determine that the changes will be in the general good of the state and issue a CPG because of the following facts and circumstances:

- The changes will allow AT&T to increase its ability to provide 4G LTE coverage for the I-89 corridor through Brookfield and in areas of Brookfield. 45-Day Notice at 3; Exhibit E to 45-Day Notice.

- These changes will not only improve wireless services to some Brookfield residents, but also increase choice for those residents among providers of those services.

- AT&T has made significant efforts to reduce the visual intrusion of the tower extension and proposed additional antennae while still achieving these benefits. Those efforts include an extension of the tower height by 10 feet only and using mounting arrays for the proposed antennae and tower that are smaller than the typically used mounting arrays and which AT&T represents are the smallest mounting arrays that are commercially available. 45-Day Notice at 6, 8.

- AT&T represents that it will comply with all conditions in the existing conditional use and site plan approvals for the tower and its site, except for the height limit. 45-Day Notice at 9.

The BPC reached this recommendation after conducting a public meeting concerning the proposed changes on June 27, 2013. Representatives of AT&T attended the meeting. Potentially affected resident Hope Krenick attended and spoke in opposition.

In 2011, the BPC considered a similar proposal from AT&T, which AT&T subsequently did not file with the PSB. At that time, the BPC conducted two public meetings. It also received written comments from adjoining property owners who were not able to attend, expressing concern over the increased tower height and visibility and asking what is the height limit if the one contained in the town's bylaw may be exceeded. As part of the 2011 process, the BPC requested that AT&T investigate the possibility of locating a telecommunications facility on an existing silo on West Street. AT&T investigated this location and submitted correspondence stating that this location would not enable AT&T to fulfill its coverage objectives.

The BPC considered all of the information and comments received in 2011 and 2013 in deciding on its recommendation, which is made in the context of the state's current initiative to achieve "statewide cellular and broadband deployment in Vermont by the end of the year 2013" and the related expiration, on July 1, 2014, of the PSB's authority to approve towers taller than the height limit stated in the Brookfield Development Bylaw. 2011 Vt. Laws No. 53, §§ 1(a), 2; 30 V.S.A. § 248a(i).

The 45-Day Notice indicates that AT&T may propose an additional facility near the Brookfield-Williamstown border. This document does not constitute a recommendation on any such additional facility.

The BPC appreciates this opportunity to provide its recommendation and reserves the right to revise it if the application that is filed with the PSB differs from the plans and information that the BPC has reviewed or additional evidence or argument is provided to the PSB. The BPC may be contacted at brookfieldplanning@me.com.

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