



July 21, 2015

To: Parties on attached Service List

Re: Application for a Certificate of Public Good, pursuant to 30 V.S.A. § 248a
(LIMITED SIZE AND SCOPE)

Applicant: Vermont RSA Limited Partnership and Cellco Partnership, each d/b/a Verizon Wireless ("Verizon")
Project: Modifications to an Existing Wireless Telecommunications Facility
Location: 2382 Ridge Road, Brookfield, VT
Landowner: Douglas & Diane Haggatt
Tower Owner: American Tower Corp. ("ATC")

Dear Statutory Party:

Our firm represents Verizon Wireless ("Verizon"). You are receiving this notification because Verizon intends to file an application with the Public Service Board ("Board"), under the provisions of 30 V.S.A. § 248a ("Section 248a"), for a Certificate of Public Good to allow modifications of an existing wireless telecommunication facility in Brookfield, Vermont. The "Notice" provision of the Section 248a process, as amended, requires that,

The applicant must provide written notice, at least 45 days in advance of filing a § 248a application, to the following entities:

- (a) legislative bodies and municipal and regional planning commissions in the communities where the project will be located;
- (b) the Secretary of the Agency of Natural Resources;
- (c) the Division of Historic Preservation;
- (d) the Commissioner of the Department of Public Service and its Director for Public Advocacy;
- (e) the Secretary of the Agency of Transportation;
- (f) the landowners of record of property adjoining the project sites;
- (g) the Public Service Board...

The application will be filed pursuant to the Amended Order Implementing Standards and Procedures for Issuance of a Certificate of Public Good for Communications Facilities Pursuant to 30 V.S.A. § 248a, which was issued by the Board on September 5, 2014 ("Amended Order"). A copy of the Amended Order is available from the Board's offices, located on the 4th Floor of the Peoples United Bank Building at 112 State Street, Montpelier, Vermont 05620-2701; or on the Board's website at <http://psb.vt.gov>.

Project Location

The proposed Project involves modifications to an existing wireless telecommunication facility owned by American Tower Corp., LLC ("ATC"). The current facility consists of a 100' x 100' foot leased area containing an approximately 28' x 50' fenced compound ("Compound") with an approximately 85' above ground level ("AGL") monopole tower ("Monopole"), a small equipment cabinet belonging to T-Mobile, and a 12' x 20' equipment shelter belonging to AT&T.

The telecommunications facility is located on approximately 71 acres of property owned by Douglas and Diane Haggett. ATC owns the monopole which currently has twelve (12) AT&T panel antennas mounted at 81' AGL and twelve (12) T-Mobile panel antennas mounted at 72' AGL. The site is accessed from the eastern side of Ridge Road and follows an approximately 1,000' gravel driveway. The coordinates of the Compound are latitude 44°-00'-38.69" North and longitude 72°-36'-58.37" West.

Project Description

The original facility was permitted in 2009, pursuant to LUP#3R102. At that time, T-Mobile Northeast, LLC, constructed a 75' AGL monopole tower holding nine (9) panel antennas. In 2013, Public Service Board Docket No. 8126 authorized AT&T to add a 10' extension to the tower, mount twelve (12) panel antennas on a triangular frame at the top of the tower at approximately 85' AGL, and construct a 12' x 20' equipment shelter located on the ground adjacent to the Monopole (the "Project"). See Dkt No. 8126, PSB Findings and Order, attached.

In order to improve the quality of its wireless service in this area, Verizon proposes to add a second 10' extension to the existing Monopole, raising the height of the tower to 95' AGL. Verizon proposes to locate twelve (12) antennas and six Remote Radio Heads ("RRH") at the top of the tower extension. A structural analysis completed by ATC on June 3, 2015, confirmed that the tower meets the requirements of the Vermont State Building Code and TIA-222 with the proposed extension and addition of antennas and equipment.

Verizon proposes to mount twelve (12) panel antennas and six (6) Remote Radio Heads ("RRH"), on a triangular mounting frame, with four (4) antennas and two (2) RRH per side or "sector", centered at a height of approximately 95' on the Monopole. Each sector will consist of two (2) 1900-2100 MHz AWS/PCS antennas measuring approximately 54.7" long by 12.7" wide, two (2) 700-850 MHz XLTE antennas measuring approximately 76.1" long by 11.9" wide.¹

¹ From time to time, equipment manufacturers may slightly alter their products or Verizon may purchase from different suppliers. Therefore, there is a possibility that the actual antennas may be a different model than what is described in this letter.

Parties on attached Service List

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Each sector will have two (2) RRH measuring approximately 24.4" long and 10.63" wide installed directly behind the antennas. The topmost point of the tallest antenna will extend approximately 38" above the top of the Monopole.

Verizon Wireless proposes to extend the existing Compound by approximately 1000 square feet, from the existing 28' x 50' to 50' x 50', in order to accommodate its 12'x30' two-room equipment shelter within the Compound. The shelter will contain the transmitting and receiving base station equipment and a diesel-fueled emergency generator that will provide back-up power if needed. Co-axial and fiber optic cables from the mounted antennas will descend inside the hollow Monopole. The cables will exit near the base of the Monopole and will connect with the equipment shelter via a cable bridge.

There will be no changes to the existing access drive or the underground utilities, and no new clearing is required. Access to the site will continue to be restricted through the use of a locked gate.

These modifications to an existing Project will allow Verizon to provide needed improvements in service and coverage in the Town of Brookfield, and along the portions of Interstate I-89 and Vermont Routes 12 and 14 that are located near the Project.

Conformance to Local and Regional Plans

According to 30 V.S.A. § 248a(c)(2), during the Board's review, "substantial deference [will be] given to the land conservation measures" in the local and regional plans of the "affected municipality." We are addressing the relevant provisions of the 2011 Town of Brookfield Master Plan ("Town Plan") and the 2012 Two Rivers-Ottauquechee Regional Plan ("Regional Plan") to illustrate that the proposed Project will comply.

Along with economic growth comes demands for increased wireless telecommunications services, and the infrastructure required to supply those services. The Town Plan recognizes the need for telecommunications infrastructure and encourages such development in a manner that preserves the aesthetics and scenic beauty of the Town and protects the scenic qualities of the town's ridgetops, wetlands, wildlife habitat and natural areas.

Careful siting by Verizon's engineers ensures that each of its wireless telecommunications facility delivers the best performance possible in terms of coverage and capacity. The Project accounts for the Town's aesthetic concerns by utilizing an existing tower in a location that is visually familiar to area residents. Radio Frequency ("RF") analysis ensured that the telecommunications facilities comply with all FCC regulations.

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July 21, 2015

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Modern communication technology is essential for economic development, education and efficient medical and emergency services. Cell phone capability and high-speed internet are especially important for economic development. The modifications to this facility should improve both the area of coverage and the system's overall carrying capacity for high-speed wireless data.

In Docket No. 8126, the Brookfield Planning Commission ("BPC") contended that the modifications proposed by AT&T (specifically the 10-foot tower extension) would conflict with the section of the Town Plan that purports to limit the height of all communications towers to no more than ten feet above the surrounding tree line. However, in that same Docket, the BPC and then the Public Service Board determined that the proposed changes would be in the general good of the state, and a Certificate of Public Good ("CPG") was issued on that basis. See BPC Memorandum of July 12, 2013 ("BPC Memo"), attached.

The same reasoning that supported that decision also supports the issuance of a CPG for the modifications proposed by Verizon Wireless in this project. For example, as the BPC observed in Docket No. 8126, that:

[I]n 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).

BPC Memo at 2.

Verizon Wireless' proposed modifications at this existing site will support universal availability of voice and high-speed data, both within travel corridors and in the community and will enhance the competitive choices for consumers among telecommunications providers. As with AT&T's modifications, Verizon Wireless will co-locate its antennas on an existing communications tower with a ten foot extension

The Regional Plan specifically addresses wireless telecommunications facilities through the following goals:

- to enable new economic opportunities through the use of wireless telecommunications technology;



- to support the enhancement of the wireless telecommunications network when such facilities do not have significant adverse environmental, health, or aesthetic impacts;
- to make high-speed internet access available to all areas in the region;
- to support the enhancement of the broadband internet network when such facilities do not have significant adverse environmental, health, or aesthetic impacts;
- to actively support public and private initiatives to expand or improve high-speed internet access throughout the region including the Vermont Public Service Board's requiring deployment from private telecom firm; and
- to provide an exceptional telecommunications system that supports the interests of both current and future businesses and residents.

This Project fulfills the goals of the Town and Regional Plans by improving the existing wireless coverage to areas inadequately served by the current telecommunications facility as it now exists, thus enhancing the infrastructure necessary for businesses and home offices to succeed in the global economy. The Project will provide for improved communications for industry, residents, travelers, educational institutions and emergency responders and for greater competitive choices for consumers of wireless services.

Verizon Wireless attempts to co-locate whenever possible, either on an existing tower or other structure that has sufficient height to accommodate the "line of sight" needs of a wireless telecommunications facility. In this case, Verizon considered a number of locations, including the construction of a new support structure, and determined that, with the proposed tower extension, this co-location will meet Verizon's service objectives.

Based on terrain and vegetation, Verizon is requesting the minimum height to allow Verizon to achieve its service objectives for this site. The 10' tower extension is required to make co-location possible on this existing tower. The modest extension to the height of the tower will cause no adverse effect on the Town of Brookfield's scenic vistas and will obviate the need for construction of a new tower in a different location.

Please feel free to contact me, either by email or at the address or telephone number listed below, if you have any questions or comments regarding the proposed Project. We would like to receive comments no later than 30 days from receipt of this Notice so that they can be considered prior to the application filing.

Parties on attached Service List

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As a recipient of this notice, you will also be notified when the application is filed, which will be at least 45 days from the above date. You will then have 21 days from receipt of that notification to file comments, a motion to intervene or request for hearing with the Board. Please review the Amended Order for additional information and procedures.

Very truly yours,



Brian J. Sullivan, Esq.
BSullivan@mskvt.com

Enclosures

c: Statutory Parties (w/enclosure)
 Adjoining Landowners on attached Service List



SERVICE LIST

Statutory Parties

Susan Hudson, Clerk
Vermont Public Service Board
112 State Street, 4th Floor
Montpelier, VT 05620-2701

John Benson, Chair
Town of Brookfield Selectboard
PO Box 463
Brookfield, VT 05036

Aaron Adler, Chair
Town of Brookfield Planning Commission
PO Box 463
Brookfield, VT 05036

Peter Gregory, Executive Director
Two Rivers-Ottauquechee Planning Comm.
128 King Farm Road
Woodstock, VT 05091

Douglas & Diane Haggett
7523 Vermont Route 14
Brookfield, VT 05036

Karin McNeill
ANR Office of Planning and Legal Affairs
1 National Life Drive, Davis 2
Montpelier, VT 05402-3901

Jamie Duggan
Vermont Division for Historic Preservation
National Life Building, 6th Floor
Montpelier, VT 05620-1201

Chris Recchia, Commissioner
Vermont Department of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601

Geoff Commons, Dir. for Public Advocacy
c/o Dan Burke, Esq.
Vermont Department of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601
Secretary
Vermont Agency of Transportation
One National Life Drive
Montpelier, VT 05633-5001

Adjoining Landowners

Donald and Darlene West
351 Shenipsit Lake Road
Tolland, CT 06084

Mark & Elizabeth Parker
2043 Ridge Road
Brookfield, VT 05036

Robert & Hope Krenick
2401 Ridge Road
Brookfield, VT 05036

Bruce & Leslie Bowman
2060 Ridge Road
Brookfield, VT 05036

Pastor Stephen Barry
The Ridge, Inc.
2252 Ridge Road
Brookfield, VT 05036

Marjorie & Kevin Haupt
7 Fales Street
Randolph, VT 05060

Douglas & Suzanne Sprague
2544 Ridge Road
Brookfield, VT 05036

Corey Haggett
2902 Ridge Road
Brookfield, VT 05036

Ray Churchill
404 Churchill Road
Brookfield, VT 05036

Brenda Flint
629 Churchill Road
Brookfield, VT 05036

Thomas E. Bahre, Trustee
Thomas Edward Bahre Revocable Living Trust
161 Howland Road
Hubbardton, VT 05735



LOCATION MAP
NOT TO SCALE

**NOT FOR
CONSTRUCTION
PRELIMINARY
PLANS**

**DuBois
& King Inc.**
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MANAGEMENT • DEVELOPMENT
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SPRINGFIELD, VT
BEDFORD, NH
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PROJECT ID 20130925599
PROJECT TYPE:
LOCATION CODE 271257

**BROOKFIELD
SOUTH**

2382 RIDGE ROAD
BROOKFIELD, VT
05036

LEGEND

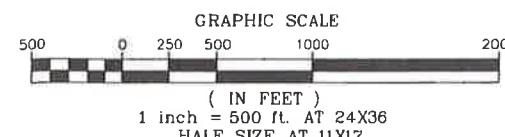
- | | |
|--|--------------------------------|
| | APPROXIMATE PROPERTY LINE |
| | EROSION CONTROL SILT FENCE |
| | CONSTRUCTION FENCE |
| | UNDERGROUND ELEC & TEL LINE |
| | CHAIN LINK FENCE |
| | EXISTING OVERHEAD UTILITY POLE |
| | EXISTING 2' CONTOUR LINE |
| | EXISTING 10' CONTOUR LINE |
| | STONEWALL |
| | EXISTING TREE LINE |
| | PROPOSED TREE LINE |
| | POSTED SPEED LIMIT = 35 M.P.H. |

AREA OF CLEARING = 0 S.E.

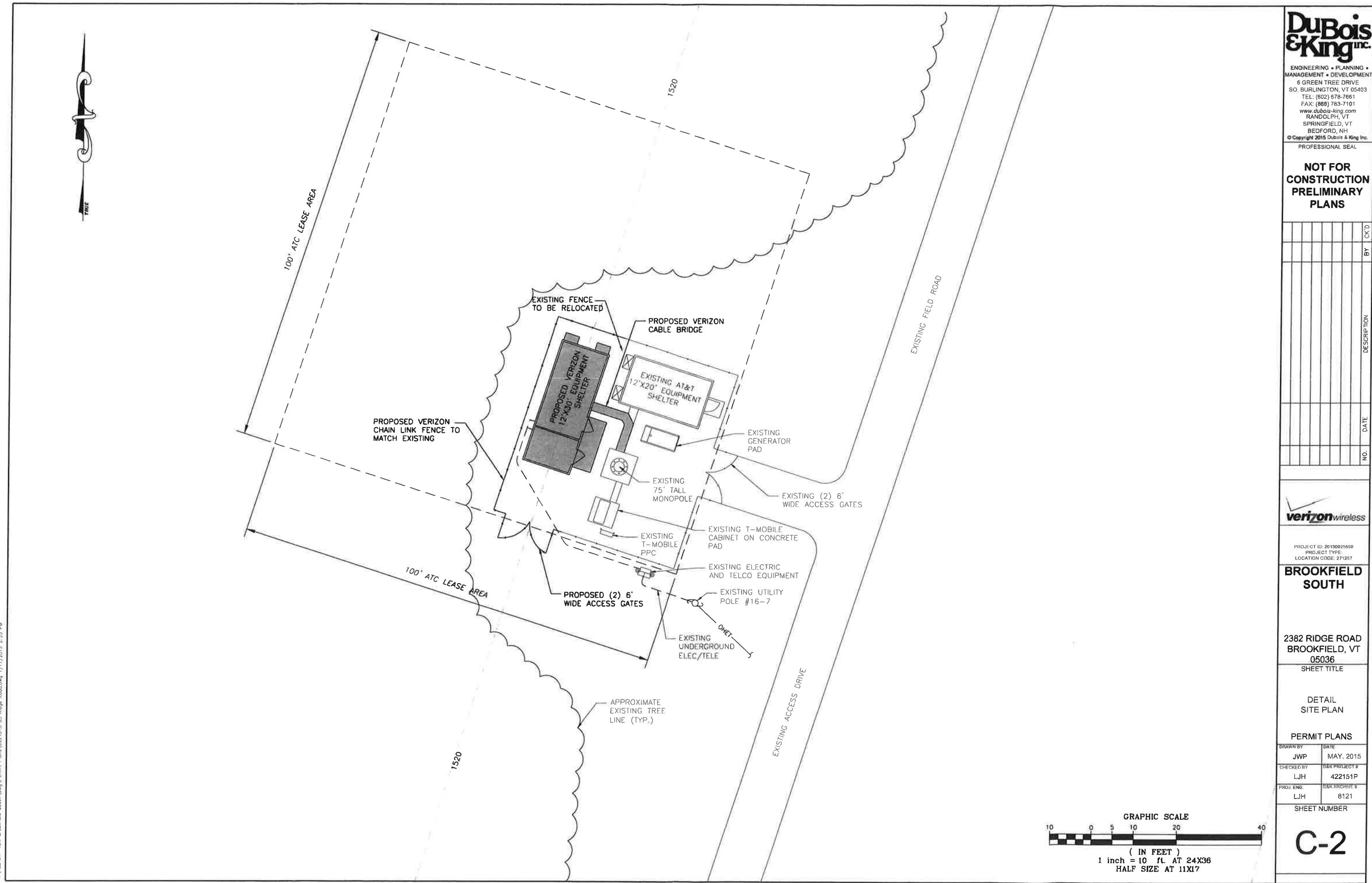
AREA OF DISTURBANCE = 891 S

OVERALL SITE PLAN

PERMIT PLANS	
DRAWN BY	DATE
JWP	MAY. 2015
CHECKED IN	USR PROJECT #
LJH	422151P
PRINT ENG.	USR ARCHIVE #
LJH	8120
SHEET NUMBER	



C-1



**NOT FOR
CONSTRUCTION
PRELIMINARY
PLANS**

DESCRIPTION

DATE

NO.



PROJECT ID: 20130025569
PROJECT TYPE:
LOCATION CODE: 271267

**BROOKFIELD
SOUTH**

2382 RIDGE ROAD
BROOKFIELD, VT
05036

SHEET TITLE

SOUTHEAST
TOWER
ELEVATION

PERMIT PLANS

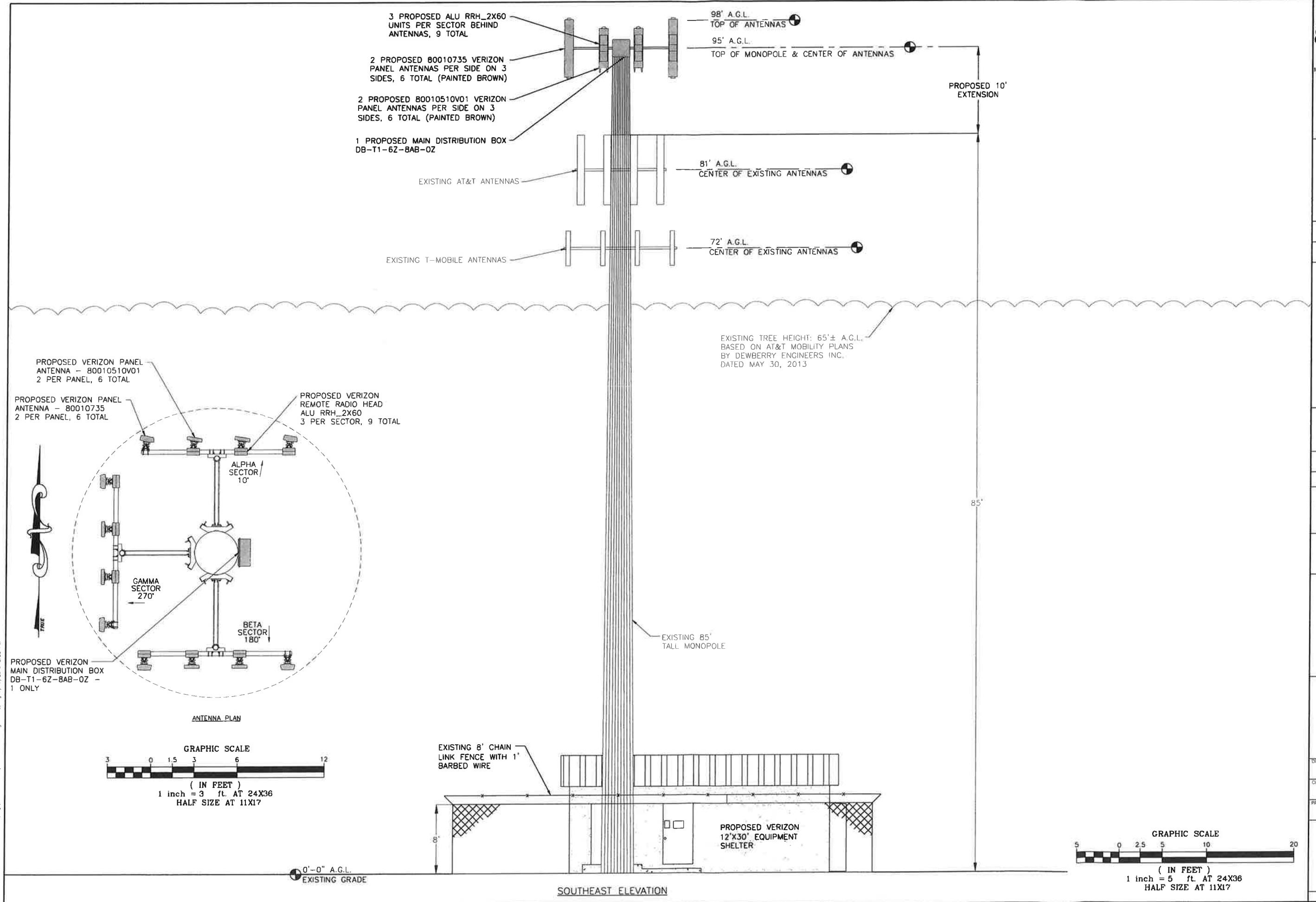
DRAWN BY JWP DATE MAY. 2015

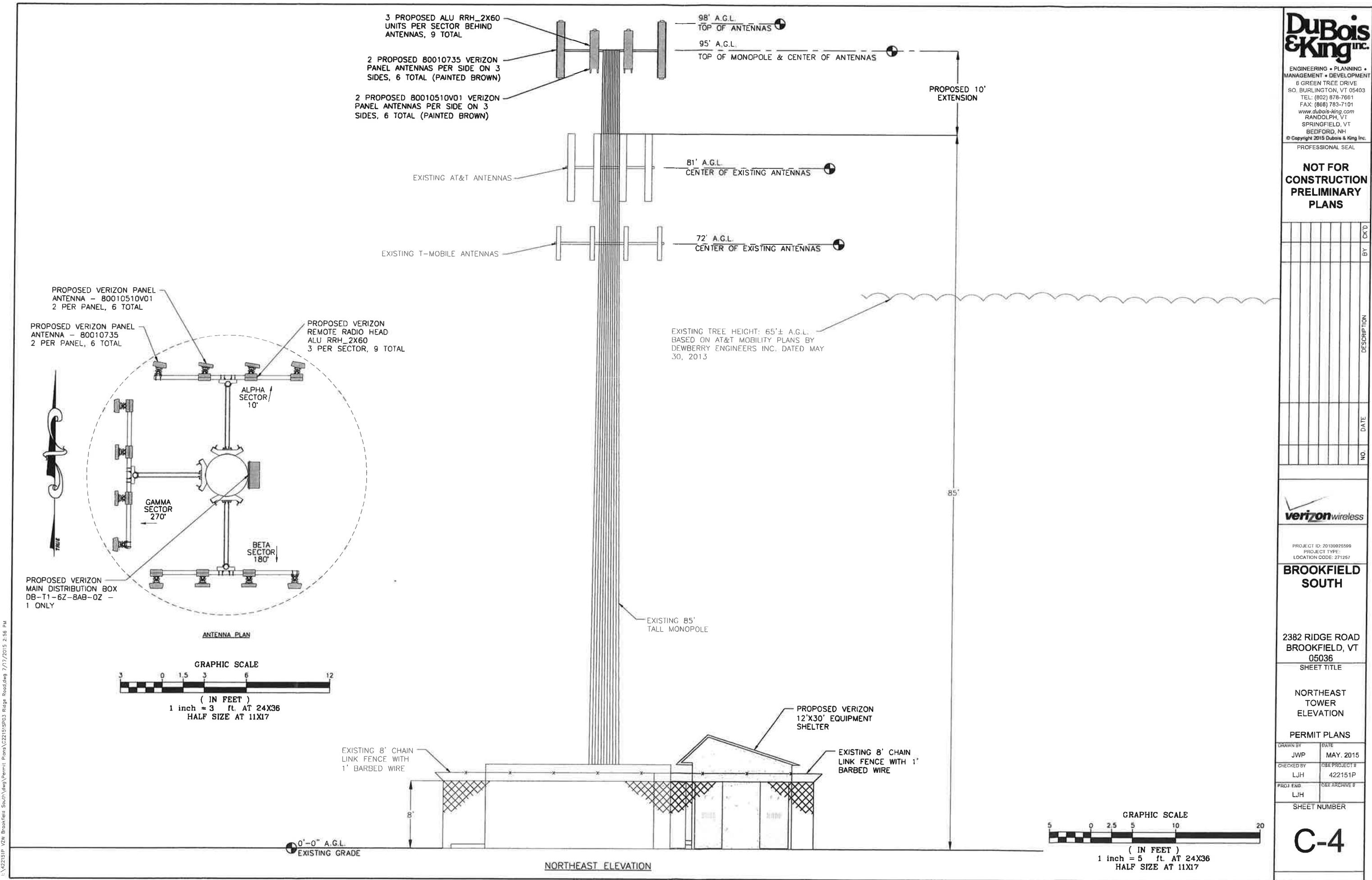
CHECKED BY LJH D&K PROJECT # 422151P

PROJ ENQ LJH D&K ARCHIVE # 8122

SHEET NUMBER

C-3





STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8126

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility, for a certificate of public)
good, pursuant to 30 V.S.A. § 248a, for the)
installation of telecommunications equipment in)
Brookfield, Vermont)

Order entered: 10/18/2013

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order"),¹ and grants Petitioner a certificate of public good ("CPG") authorizing the installation of wireless telecommunications equipment at an existing telecommunications facility in Brookfield, Vermont (the "Project").² The Board does not approve or adopt the Stipulation filed with the Board by AT&T and the Town of Brookfield Planning Commission ("Planning Commission") on September 19, 2013.

II. BACKGROUND

This case involves a petition and prefilled testimony filed by the Petitioner on July 31, 2013, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the installation of telecommunications equipment at an existing facility in Brookfield, Vermont.

On August 21, 2013, the Vermont Department of Public Service ("Department") filed a letter with the Board stating that the "Project does not adversely impact any of the applicable

1. *Amended order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

2. As used herein, the term Project is limited only to the equipment and modifications being proposed to the existing facility and described in Finding No. 4, below.

§ 248 criteria" and recommending that the Board issue an order approving the petition without additional hearings or investigation.

On August 21, 2013, the Planning Commission filed comments on the Project, a request for a hearing, a notice of appearance, and a motion to intervene in this proceeding.³ The Planning Commission argues that the Project will have an undue adverse effect on aesthetics. However, the Planning Commission nonetheless recommends that the Board approve the Project because of the benefits associated with the Project.⁴

On September 19, 2013, AT&T filed a Stipulation setting forth agreements reached between AT&T and the Planning Commission, together with a Stipulated Proposed Decision and CPG. In the Stipulation, AT&T and the Planning Commission agree that the Petition satisfies the applicable statutory criteria under 30 V.S.A. § 248a, subject to the Stipulation's conditions. The stipulating parties further agree that litigation of this matter is not necessary and waive their right to a technical hearing in this docket, and request that the Board issue an order authorizing the Petitioners to install a wireless telecommunications facility, subject to the terms of the Stipulation.

No other comments on the petition were filed with the Board.

The Board has determined that the petition and prefiled testimony have satisfied the substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and that therefore no hearings are required.⁵

3. In the absence of any objection, we hereby grant the Planning Commission's motion to intervene on a permissive basis.

4. Comments of the Brookfield Planning Commission, dated August 21, 2013, at 1 ("Planning Commission Comments").

5. We note that the Planning Commission waived its right to a hearing in this proceeding as part of the Stipulation. However, because we decline to adopt the Stipulation, the Planning Commission's request for a hearing in this case must be ruled upon. For the reasons explained later in this Order, we have determined that the petition does not raise a significant issue under the applicable criteria. Accordingly, the Planning Commission's request for a hearing is denied.

III. FINDINGS

1. The Project involves the collocation of wireless telecommunications equipment at an existing wireless telecommunications facility located at 2382 Ridge Road in Brookfield, Vermont. In 2009, T-Mobile Northeast, LLC received conditional use and site plan approvals from the Town of Brookfield and a land use permit under 10 V.S.A. Chapter 151 (Act 250) from the District No. 3 Environmental Commission, authorizing the construction of the existing facility. Exhs. 6B-1 at 1-3, and 6B-11.
2. The objective of the Project is to expand and enhance AT&T's wireless coverage in the Town of Brookfield, along Interstate Highway 89, and in the surrounding area. In addition, the Project will provide capabilities for the use of devices employing 4G LTE service in the Town of Brookfield and the surrounding area. Once operational, the Project will result in significant improvements to AT&T's existing wireless coverage in Vermont. Exh. 6B-1 at 1-3.
3. The existing facility consists of a 75' monopole tower with several antennas, and a 28' by 48' fenced-in compound served by an existing access road. Exhs. 6B-1 at 1, and 6B-2.
4. The Project involves installing a 10' extension to the existing 75' tower, and mounting twelve panel antennas, each measuring approximately 96" by 12" by 7", at a centerline height of 81' on the tower. The Project also includes the installation of an approximately 12' by 20' equipment shelter, a diesel generator on a new 4' by 8' concrete pad, a new 12' wide swing gate in the existing fence, and ancillary conduit, cabling, and equipment. Exh. 6B-1 at 1-2.
5. In order to minimize the visual impact of the Project, AT&T chose to use a 10' antenna mounting array which represents the smallest commercially available mount for the proposed antennas and tower. Exh. 6B-1 at 5.
6. The Project will involve earth disturbance of approximately 258 square feet. Exh. 6B-1 at 2.
7. The Project will not have an undue adverse impact on floodways, the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 8-12, below.
8. The Project will fit within the context of its surroundings insofar as the Project involves the collocation of antennas and equipment at an existing telecommunications facility. The 10'

extension to the existing tower will increase the visibility of the Project, however the extension will use suitable colors and materials that are compatible with the existing equipment, and will have virtually no effect upon either the views of the Project from surrounding areas, or on open spaces. Therefore, the Project will not have an adverse effect on aesthetics. Exh. 6B-1 at 4.

9. The Project as a whole furthers the goals and policies set forth in the applicable municipal and regional plans. Exh. 6B-1 at 8, 12-13.

10. AT&T investigated an alternative structure in the area for collocation, and concluded it could not be used to fulfill its coverage objectives for the Project. Exh. 6B-1 at 10.

11. The Project, which involves collocation of equipment at an existing telecommunications facility with minimal ground disturbance, will have no impact on rare or irreplaceable natural areas, wildlife habitat, or endangered species within the vicinity of the Project. Exhs. 6B-1 at 6-7 and 6B-8.

12. The Project will have no undue adverse effect on historic sites. Exh. 6B-1 at 5-6.

13. The Project will have no adverse impacts on floodways. Exh. 6B-1 at 7.

14. The Project substantially complies with the applicable land use conservation measures in the municipal and regional plans other than the zoning bylaw provision limiting the height of these types of facilities to approximately 75', in the Brookfield Town Plan. The Planning Commission supports the Project in light of the significant societal benefits it will bring: improved safety, and increased wireless coverage in the surrounding area. The Project is also supported by the Two Rivers-Ottauquechee Regional Planning Commission. Exhs. 6B-1 at 8-13, 6B-14, and 6B-16.

15. The Project, with the exception of height restrictions placed on the previously approved tower, is consistent with existing land use and zoning permits. Exh. 6B-1 at 13-14.

IV. DISCUSSION

The procedures governing Board approval of communications facilities are set forth in 30 V.S.A. § 248a. Section 248a(l) provides that the Board:

may issue rules or orders implementing and interpreting this section. In developing such rules or orders, the board shall seek to simplify the application and review process as appropriate

In order to implement the statute the Board adopted the Procedures Order. In accordance with § 248a(b)(3), the Procedures Order, at Section II, defines a project of "limited size and scope" as:

a new telecommunications facility, including ancillary improvements, that does not exceed 140 feet in height; or an addition, modification, replacement, or removal of equipment at an existing telecommunications facility or support structure, and ancillary improvements, that would result in a total facility height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet. In order to qualify as a project of limited size and scope, construction of the project shall not result in earth disturbance of more than 10,000 square feet of earth, excluding temporary earth disturbance associated with construction activities.

As required by § 248a (c)(1), and set forth in Section IV(H) of the Procedures Order, in reviewing projects of limited size and scope the Board conditionally waives:

all criteria under 30 V.S.A. § 248a (c)(1), with the exception of 10 V.S.A. §§ 6086(a)(1)(D) (floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife).

The Project will result in an overall facility height of approximately 85' and will result in approximately 258 square feet of earth disturbance. Therefore, the Project qualifies as a project of limited size and scope within the meaning of § 248a(b)(3)(A).

Pursuant to § 248a(c)(2), unless there is good cause to find otherwise, the Board is required to give substantial deference to land conservation measures and recommendations of municipal and regional entities. The Town of Brookfield has adopted a zoning bylaw that has been incorporated by reference into Brookfield's town plan, and that restricts the maximum height of telecommunications facilities to approximately 75' in this area. Construction of the Project will cause the existing facility to exceed this height restriction by 10'. However, notwithstanding these circumstances, the Planning Commission nonetheless recommends that the Board approve the Project because of its societal benefits, including the increased coverage, improved safety, and expanded capacity that the Project will bring to the area. Accordingly, in substantial deference to the Planning Commission's ultimate approval recommendation, we find

that it is appropriate to approve the Project, notwithstanding that the Project will exceed the height restrictions reflected in the Town of Brookfield's town plan and in its zoning bylaw.

Based upon all of the evidence set forth above, we conclude that the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, that the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and that the proposed Project will promote the general good of the State.

The Planning Commission's Comments

The Planning Commission states that, when originally approved by the District Three Environmental Commission, the existing facility was found to have an adverse effect on aesthetics. Therefore, the Planning Commission contends that the Project raises a significant issue with regard to the aesthetics criterion because "adding height and facilities" to the existing facility will necessarily "magnify that adverse effect."⁶ Accordingly, the Planning Commission has requested a hearing regarding the significant issue it believes it has raised.

We note that no party to this proceeding opposes the construction of the Project. We recognize that the Planning Commission has sought to raise several arguments regarding the appropriate legal analysis to be applied in reviewing this Project pursuant to Section 248a, but we observe that none of these legal arguments, if adopted, would result in any change to the project as proposed by AT&T. Given that we have expressly afforded substantial deference to the Planning Commission's ultimate recommendation to approve the Project as proposed by AT&T, we find the Planning Commission's legal arguments regarding the additional aesthetic impacts of the Project on the existing facility to be of no avail in the absence of any objection from the Planning Commission as to the design, approval and eventual construction of the Project. Therefore, notwithstanding the Planning Commission's legal arguments, we find no significant issue has been raised with regard to aesthetic impacts that would require a hearing. Accordingly, we decline to grant the Planning Commission's request for a hearing.

6. Planning Commission Comments at 4.

The Stipulation

The Stipulation submitted by AT&T and the Planning Commission memorializes their disagreement as to "whether the Project will have an adverse effect on aesthetics."⁷ However, AT&T and the Planning Commission contend that the Board "need not resolve this disagreement because the two parties agree that the Board should approve the Facility."⁸ Typically, a stipulation or a memorandum of understanding seeks to resolve a disagreement between the parties to a proceeding through joint advocacy for the placement of mutually agreeable conditions by the Board on its approval of a proposed project. In this case, AT&T and the Planning Commission do not request that the Board resolve any disagreement between them, nor do they request that the Board place any conditions on the Project. Given that the Planning Commission does not oppose the approval of the Project as proposed by AT&T, we perceive no purpose to be served by adopting the Stipulation, and therefore we decline to do so.

V. CONCLUSION

Pursuant to 248a(j)(1) with regard to telecommunications facilities of limited size and scope:

The Board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the application does not raise a significant issue with respect to the substantive criteria of this section. The Board may make findings based on the application and the supporting evidence submitted by the applicant.

As noted above, we have determined that the Project is of limited size and scope. Furthermore, based upon all of the above evidence and having considered all of the comments we have received about the Project, we conclude that the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, that the public interest is satisfied

7. Stipulation at 10 and Stipulation Attachment A at 5-6.

8. *Id.*

by the procedures authorized in 30 V.S.A. § 248a, and that the proposed Project will promote the general good of the State.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 18th day of October, 2013.

<u>s/James Volz</u>)	PUBLIC SERVICE
)	
<u>s/John D. Burke</u>)	BOARD
)	
<u>s/Margaret Cheney</u>)	OF VERMONT

OFFICE OF THE CLERK

FILED: October 18, 2013

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.

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

MEMORANDUM

FROM: Town of Brookfield Planning Commission *[Signature]*

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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