

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-1149-PET

Petition of New Cingular Wireless PCS, LLC
d/b/a AT&T pursuant to 30 V.S.A. § 248a
requesting a Certificate of Public Good for a
wireless communications facility in Mendon,
Vermont

PROJECT NARRATIVE:
248A REGULAR PROJECT (NEW SUPPORT STRUCTURE)

I. Index to Prefiled Testimony, Exhibits, and Third Party Documents Referenced in Narrative

<u>Document Name</u>	<u>Date Filed</u>	<u>ePUC Doc. No.</u>	<u>Purpose / Status</u>
PFT Jeffrey Dellicolli	05/06/2020	409093/149108	Original Project Description [Partially Superseded]
5A: Resume for Jeffrey Dellicolli	05/06/2020	409094/149108	Witness Credentials
5B: Site Plans	05/06/2020	409095/149108	Project Features [Superseded]
5C: Equipment Specifications	05/06/2020	409097/149108	Project Features
5D: Natural Resources Review	05/06/2020	409098/149108	Natural Resources (248a(c)(1))
5E: Permit Authorization Letter	05/06/2020	409099/149108	Land Control
5F: TOWAIR Report	05/06/2020	409100/149108	No Lighting Required (248a(c)(1))
5G: Historic Properties Review	05/06/2020	409101/149108	Cultural Resources (248a(c)(1))
5H: MPE Report	05/06/2020	409102/149108	Public Safety (248a(c)(1))

<u>Document Name</u>	<u>Date Filed</u>	<u>ePUC Doc. No.</u>	<u>Purpose / Status</u>
Supp PFT Jeffrey Dellicolli	08/10/2020	423926/149108	Revised Project Description; Natural Resources (248a(c)(1))
5I: Revised Site Plans (08/05/2020)	08/10/2020	423927/149108	Project Features [Superseded]
2nd Supp PFT Jeffrey Dellicolli	09/16/2020	429914/149108	Project Features, Town / RPC Docs ((248a(c)(2))
5J: Second Revised Site Plan (09/02/2020)	09/16/2020	429915/149108	Project Features, Town / RPC Docs ((248a(c)(2))
5K: Removal Bond Request Form with Estimate	09/16/2020	429916/149108	Town / RPC Docs ((248a(c)(2))
5L: Project Narrative	05/06/2020	TBD	Project Description and References
PFT Sohail M. Usmani	05/06/2020	409112/149108	Public Good / Need
6A: Resume for Sohail M. Usmani	05/06/2020	409113/149108	Witness Credentials
6B: RF Report Proposed Wireless Facility	05/06/2020	409114/149108	Public Good / Need / Propagation Maps [Partially Superseded]
Supp PFT Sohail M. Usmani	08/10/2020	423934/149108	Public Good / Need (248a(a)), Alternatives Analysis (248a(c)(2))
6C: Revised RF Report	08/10/2020	423935/149108	Alternatives Analysis (248a(c)(2))

<u>Document Name</u>	<u>Date Filed</u>	<u>ePUC Doc. No.</u>	<u>Purpose / Status</u>
6D: Mendon Zoning Map	08/10/2020	423936/149108	Alternatives Analysis (248a(c)(2))
6E: Alternative Candidate Locations	08/10/2020	423937/149108	Alternatives Analysis (248a(c)(2))
PFT Jennille A. Smith and David Archambault	05/06/2020	409126/149108	Aesthetics (248a(c)(1)), Town / RPC Docs ((248a(c)(2)), Collocation (248a(c)(3))
7A: Resume for Jennille A. Smith	05/06/2020	409127/149108	Witness Credentials
7B: Resume for David Archambault	05/06/2020	409128/149108	Witness Credentials
7C: Viewshed Analysis and Photographic Simulations	05/06/2020 05/07/2020	409129/149108 (superseded 5/7/2020 – see below) Revised Version: 409187/149108 409188/149108	Aesthetics (248a(c)(1)) [Superseded]
7D: Mendon Town Plan (Excerpts)	05/06/2020	409130/149108	Town / RPC Docs ((248a(c)(2))
7E: Telecommunications Bylaws (Excerpts)	05/06/2020	409131/149108	Town / RPC Docs ((248a(c)(2))
7F: Rutland Regional Plan (Excerpts)	05/06/2020	409132/149108	Town / RPC Docs ((248a(c)(2))
7G: AT&T Presentation Slides Re: Balloon Test	05/06/2020	409133/149108	Aesthetics (248a(c)(1))
7H: VSS Balloon Test Methodology	05/06/2020	409134/149108	Aesthetics (248a(c)(1))

Document Name	Date Filed	ePUC Doc. No.	Purpose / Status
Supp PFT Jennille A. Smith and David Archambault	08/10/2020	423954/149108	Aesthetics (248a(c)(1)), Town / RPC Docs ((248a(c)(2)), Collocation (248a(c)(3))
7I: Predictive Visibility Analysis (140' to 96') ¹	08/10/2020	423955/149108	Aesthetics (248a(c)(1))
7J: Photo Simulations with Redesigned Tower (Original Locations)	08/10/2020	423956/149108 423957/149108 423958/149108	Aesthetics (248a(c)(1))
7K: Photo Simulations with Redesigned Tower (Additional Locations)	08/10/2020	423959/149108 423960/149108 423961/149108	Aesthetics (248a(c)(1))
7L: Mendon Town Plan (Additional Excerpts)	08/10/2020	423962/149108	Town / RPC Docs ((248a(c)(2))
7M: Mendon Zoning Regulations (Excerpts)	08/10/2020	423963/149108	Town / RPC Docs ((248a(c)(2))
2nd Supp PFT Jennille A. Smith and David Archambault	09/16/2020	429920/149108	Aesthetics (248a(c)(1)), Town / RPC Docs ((248a(c)(2))
AT&T Response to Rutland Regional Planning Commission	08/05/2020	423324/149108	Town / RPC Docs ((248a(c)(2))
AT&T Response to Town of Mendon Planning Commission	08/14/2020	424780/149108	Town / RPC Docs ((248a(c)(2)); Public Good / Need (248a(a))

¹ No Exhibit AT&T 7H was submitted.

Document Name	Date Filed	ePUC Doc. No.	Purpose / Status
AT&T Response to Town of Mendon Joint Recommendations	09/16/2020	429931/149108	Town / RPC Docs ((248a(c)(2))
AT&T Response to Comments of Justin Lindholm	10/02/2020	432360/149108	Wildlife Habitat (248a)(c)(1))
Town of Mendon Joint Recommendation	09/01/2020	427415/149108	Town / RPC Docs ((248a(c)(2))
Comments of Justin Lindholm	09/16/2020	430025/149108	Wildlife Habitat (248a)(c)(1))
Town of Mendon Letter	10/02/2020	432479/149108	Town / RPC Docs ((248a(c)(2)); Aesthetics (248a)(c)(1))
Agency of Natural Resources Letter	06/30/2020	416680/149108	Natural Resources (248a)(c)(1))
Department of Public Service Aesthetics Report	10/02/2020	424803/149108	Aesthetics (248a)(c)(1))
Department of Public Safety Support Letter	08/04/2020	423136/149108	Public Good / Need (248a(a))
Rutland Regional Planning Commission Original Response	07/22/2020	420518/149108	Town / PRC Docs ((248a)(c)(2))
Rutland Regional Planning Commission Revised Response	09/29/2020	431546/149108	Town / PRC Docs ((248a)(c)(2))

II. Introduction

By this Petition, New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”) seeks approval from the Vermont Public Utility Commission (the “Commission”) to install a new telecommunications facility located at 3410 US Route 4, Mendon, Vermont, on property owned by CVMENDON, LLC (the “Property” or “Site”).

An overview of the characteristics of the Site and the Project are as follows:

Proposed Tower Location	3410 US Route 4, Mendon, VT, Rutland County ²
Tax Map or Parcel ID	06-02-11.006 ³
Zoning District	Wheelerville & Ridgeline Overlay ⁴
Latitude / Longitude	N 43° 38' 38.03", W 72 ° 55' 06.29" ⁵
Closest State/Fed Hwy	US Route 4 ⁶
Tower Owner	New Cingular Wireless PCS, LLC
Tower Height / Type	89' AGL stealth tapered “monopine” tower with camouflage crown extending to overall height of 96' ⁷

The petition was filed pursuant to the PUC’s “Sixth Amended Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a,” dated September 21, 2018 (the “Procedures Order”).

III. Project Description and 248a Categorization

The proposed facility on the Property will generally consist of the following components (the “Facility” or “Project”):

1. A stealth tapered “monopine” telecommunications tower measuring 89’ aboveground level (“AGL”), with a camouflage crown extending to a total height of 96’ AGL (the “Tower”);
2. Six (6) panel antennas, three (3) measuring approximately 96” x 11.7” and three (3) measuring approximately 96” x 21”, all mounted on the Tower at a centerline height of 85’ aboveground level (“AGL”), with each wrapped in a camouflage shroud;

² Dellicolli 05/06/2020 pft. at 3.

³ Exh. AT&T 5J.

⁴ Smith / Archambault 08/10 supp. pft. at 13-15; Exh. AT&T 7M.

⁵ Exh. AT&T 5J.

⁶ *Id.*

⁷ Dellicolli 08/10 supp. pft. at 2.

3. Twelve (12) remote radio head units (“RRUs”) and three (3) surge arrestors, mounted behind the panel antennas at roughly 85’ AGL;
4. A 6’ 8” x 6’ 8” walk in cabinet situated on a 8’ 8” x 8’ 8” concrete pad for housing AT&T’s antenna operating equipment (the “WIC”);
5. A 20kW diesel emergency backup generator with self-contained diesel fuel source mounted on a 6’ 6” x 6’ 6” concrete pad to be located to the south of the WIC (the “Generator”);
6. A 50’ x 50’ communications site gravel compound to enclose the Tower, the WIC, the Generator, and other appurtenances within an 8’ high fence with privacy slats, to be accessed by a 12’ wide access gate (the “Compound”);
7. Minor improvements and grading along an existing 12’ wide gravel access road extending to the Compound from U.S. Route 4 (the “Access Road”);
8. Underground utilities (power and telephone) to be run underground from an existing utility pole on U.S. Route 4 within the Access Road until reaching a new meter board inside the Compound; and
9. An ice bridge, GPS antenna, and other equipment and appurtenances located within the Compound, to be used in connection with the operation of the Facility.

The Project is expected to result in 26,779 square feet of permanent earth disturbance (0.615 acres) in total, mostly associated with improvements to the existing Access Road.⁸ Based on the proposed height of the Tower and amount of permanent earth disturbance, the Project does not qualify as a project of limited size and scope for purposes of Section 248a. 30 V.S.A. §248a(b)(4)(A).

This proceeding is subject to the general authority and limitations of the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B)(i)-(v), and the corresponding regulations promulgated by the Federal Communications Commission (“FCC”), as it involves a decision by the State of Vermont regarding the placement, construction, and modification of a personal wireless service facility. AT&T hereby preserves its rights under the Telecommunications Act to the extent necessary to proceed with the Project.

Sources: Dellicolli 05/06 pft at 5-6; Dellicolli 08/10 supp. pft. at 2; Dellicolli 09/16 pft. at 2; exh. AT&T 5J; Joint Recommendation at 2-3; Smith / Archambault 08/10 supp. pft. at 13-15; exh. AT&T 7M.

IV. Project Objective and Public Good (30 V.S.A. § 248a(a) and 202c(b))

The Project is being undertaken to improve AT&T service in Mendon and to benefit first responders subscribing to FirstNet. The Project as redesigned will provide AT&T wireless

⁸ Exh. AT&T 5J.

service to over 3,000 residents and businesses in a 9.5 square mile area (including 30 miles of roadway) in Mendon and adjacent communities. Road coverage includes portions of U.S. Route 4, U.S. Route 7, Post Road, Pittsford Road, Meadow Lake Drive, North Chittenden Road, and Creek Road. Both the Department of Public Service and the Department of Public Safety recognize that the Project as redesigned will be in the public good. AT&T submitted comments noting evidence that Vermonters support infrastructure improvements to enhance wireless networks, for home, work, schools, and public institutions.

Sources: Usmani 05/06 pft. at 4; Exh. 6B; Dellicolli 08/10 supp. pft. at 6-7; Usmani 08/18 supp. pft. at 2-3; exh. 6C; Department of Public Safety Letter 08/04 at 1; Department of Public Service Letter 10/20 at 1; Petitioner Resp. to Town 08/14.

V. Environmental Siting Criteria (30 V.S.A. § 248a(c)(1))

The Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the public health and safety, or the public's use and enjoyment of the I-91 or I-89 corridors or other scenic roads and byways, pursuant to 30 V.S.A. § 248a(c)(1), as informed by the Procedures Order. AT&T has considered the criteria set forth in 10 V.S.A. §§ 6086(a)(1) through (8) and 9(K), and submits that its Project to construct and operate the Facility complies with each of these criteria, as discussed more fully below.

A. Undue Water Pollution (10 V.S.A. §6086(a)(1))

The Facility will not have an undue adverse effect on water purity. The Project will not involve the use of water for commercial or industrial manufacturing or processing. Any water that is needed in connection with cleanup following construction activities will be brought in from sources off of the Property, and will be *de minimis*. The Project will not involve the discharge of waste or process water into ground water or wells.

Source: Dellicolli 05/06 pft. at 7.

B. Undue Air Pollution / Noise (10 V.S.A. §6086(a)(1))

The generator will be used only in the case of a prolonged outage (i.e., after exhaustion of the 8-hour battery backup), and will otherwise be run for roughly one half hour each week during daylight hours. The HVAC equipment within the WIC is equipped with noise reduction kits to reduce any effect on neighboring properties.

As with other projects, AT&T will abide by the Commission's requirement that construction activities occur on weekdays only between the hours of 7:00 a.m. and 7:00 p.m., and on Saturdays only between 8:00 a.m. and 5:00 p.m., consistent with the Commission's conditions on recent CPGs. AT&T will observe the standard condition preventing construction activities on Sundays, as well as state and federal holidays.

Source: Dellicolli 05/06 pft. at 7.

C. Reduction in Quality of Headwaters (10 V.S.A. §6086(a)(1)(A))

The Project will have no impact on headwaters or outstanding resource waters, as the Project is not located near these resources.

Source: Dellicolli 05/06 pft. at 7.

D. Waste Disposal (10 V.S.A. §6086(a)(1)(B))

The Project will involve no disposal of solid waste or other wastes. All soils excavated as part of the Project will remain on site following completion of the Project.

Source: Dellicolli 05/06 pft. at 8.

E. Water Conservation (10 V.S.A. §6086(a)(1)(C))

The Project will have minimal impact on water conservation measures, as the Project will not require water or sewer facilities.

Source: Dellicolli 05/06 pft. at 8.

F. Floodways (10 V.S.A. §6086(a)(1)(D))

The Project is not located within a floodway or floodway fringe and therefore will not restrict or divert the flow of flood waters, significantly increase the peak discharge of a river or stream within or downstream from the Project, or endanger the health, safety, or welfare of the public or of riparian owners during flooding. AT&T confirmed this information as part of its National Environmental Policy Act (“NEPA”) review process.

Sources: Dellicolli 05/06 pft. at 8; Exh. 5D.

G. Streams (10 V.S.A. §6086(a)(1)(E))

Several small streams traverse or run parallel to sections of the lower portions of the existing access road. All of the streams are forded by existing culverts, none which are impaired. The only disturbances within riparian zones around the streams will involve installation of the underground utility lines, as shown on Exhibit AT&T 5J. At the request of ANR, Petitioner has mapped and delineated the streams on its site plan in order to identify the riparian zone within 50’ of each stream where construction should be limited to the utilities. AT&T is also in agreement with a condition requested by ANR, as follows:

The CPG Holder shall maintain an undisturbed, naturally vegetated riparian zone along streams, except as proposed in the revised site plans, Exhibit AT&T 5J. The riparian zone shall be measured inland, perpendicular to and horizontally 50-feet from the top-of-bank/slope/ or, in areas where a wetland is contiguous to the stream, from the upland edge of the delineated wetland, and

extends to the water's edge at base flow conditions. The term "undisturbed" means no activities that may cause or contribute to ground or vegetation disturbance, or soil compaction, including but not limited to construction; earth-moving activities; storage of materials; tree trimming or canopy removal; tree, shrub or groundcover removal; plowing or disposal of snow; grazing and mowing. Where the Project is within 100 feet of any riparian zone boundary, prior to commencement of site preparation and construction, the CPG Holder shall install a continuous line of visible flagging inside the Project limits, to remain for the duration of construction.

Sources: Dellicolli 08/10 supp. pft. at 2-4; exh. AT&T 5J; ANR Letter at 2.

H. Shorelines (10 V.S.A. §6086(a)(1)(F))

The Project is not located near a shoreline, and thus the criterion is inapplicable.

Sources: Dellicolli 05/06 pft. at 9; exh. AT&T 5D.

I. Wetlands (10 V.S.A. §6086(a)(1)(G))

AT&T has delineated the wetlands in the vicinity of the Access Road and Compound, and the delineation has been reviewed and approved by ANR. Dellicolli 08/10 supp. pft. at 4-5. The Access Road traverses the buffer of a Class II wetland, and several Class III (non-jurisdictional) wetlands; however, the only construction to take place within the buffer of the Class II wetland involves installation of the utility conduit, which is an allowed use not requiring a state wetlands permit.

AT&T is in agreement with two conditions requested by ANR related to the wetlands, as follows:

The Project shall avoid impacts to Class II wetlands and 50-foot wetlands buffer zones, or the CPG Holder shall obtain and comply with the provisions of a Vermont Wetlands Permit for any activity that is not an Allowed Use designated in Section 6 of the Vermont Wetland Rules.

Where the Project is within 100 feet of any Class II wetlands buffer zone boundaries, then prior to site preparation and construction, maintenance involving earth disturbance, and decommissioning, the CPG Holder shall install a continuous line of visible flagging inside the Project limits identifying the wetland and buffer as protected areas.

Sources: Dellicolli 08/10 supp. pft. at 4-5; exh. AT&T 5J; ANR Letter at 2-3.

J. Water Supply (10 V.S.A. §6086(a)(2) and (3))

The Project involves no use of any municipal or private on-site water supply. The Project will not adversely affect an existing water supply. As part of the work with ANR and the Town, AT&T identified and incorporated maps of the Rutland Source Protection Area boundary in relation to the Project, and has confirmed that no construction-related soil disturbances other than minor road grading will occur within the source protection area. AT&T included emergency contact information for the Rutland Source Protection Area in the unlikely event of any type of gasoline or kerosene spill.

Sources: Dellicolli 08/10 supp. pft. at 2, 5; exh. AT&T 5J.

K. Soil Erosion / Soil Water Retention Capacity (10 V.S.A. §6086(a)(4))

For construction and post-construction activities, AT&T's personnel will comply with Vermont standards and specifications for erosion prevention and sediment control as set forth in the Department of Environmental Conservation *Low Risk Site Handbook for Erosion Prevention and Sediment Control* to ensure that any soil erosion associated with the Project is minimized through periodic inspections of the work in progress and that disturbed areas are properly stabilized upon completion. Any disturbed soils on the Property will be re-used on the Property post-construction, rather than being removed.

Due to the amount of earth disturbance being one acre, AT&T will not be required to obtain construction stormwater discharge permits in advance of construction. Nevertheless, AT&T will ensure that periodic work inspections and stabilization of disturbed areas at the end of construction will minimize soil erosion from the Project.

Source: Dellicolli 05/06 pft. at 9-10.

L. Transportation Impacts (10 V.S.A. §6086(a)(5))

Traffic associated with construction will occur during a roughly one month period. Following installation, trips will occur on a scale of approximately one visit every one to two months. Given the overall volume of traffic on the existing logging road, construction and maintenance of the Facility will contribute only marginally to overall volume of vehicles.

The Project will not require lighting or marking that could interfere with air navigation.

Sources: Dellicolli 05/06 pft. at 5, 10; exh. AT&T 5F.

M. Educational Services (10 V.S.A. §6086(a)(6))

The Project will have no effect on educational services in Hardwick, as it will not result in any new students being added to the rolls. Consequently, the criterion is not applicable.

Source: Dellicolli 05/06 pft. at 10.

N. Municipal or Governmental Services (10 V.S.A. §6086(a)(7))

The Project will not adversely affect municipal or governmental services. Rather, the Project will enhance the ability of subscribing first responders in the area to use priority data service on handheld devices to respond and intercommunicate among other first responders during regular and emergency situations, specifically through first responder subscriptions to FirstNet.

Source: Dellicolli 05/06 pft. at 10.

O. Aesthetics (10 V.S.A. §6086(a)(8), 30 V.S.A. §248a(c)(1))

The Project will not have an undue adverse effect on the scenic or natural beauty of the area or aesthetics. As recounted in the testimony of Jennille Smith and David Archambault, as well as the accompanying exhibits, AT&T has extensively documented the Project's potential aesthetic effects using predictive viewshed analyses and several balloon tests, which were then used to create photos and photo simulations to document areas where the tower would be visible, partially visible, or not visible. AT&T made the visual information associated with the Project, as well as the methodology for undertaking balloon tests, available to the Town of Mendon through visual presentations, all as part of overall public outreach efforts. AT&T also separately communicated visual information taken from 45 locations identified in coordination with the Town of Mendon on public rights of way near private residences to apprise non-adjointing landowners as to potential impacts, based upon a request from the Town. The testimony provided by Ms. Smith and Mr. Archambault include an analysis under the *Quechee Lakes* standard to demonstrate that the visual impacts will not be undue.

AT&T acknowledges that the Project will introduce a new visual element into a forested, undeveloped landscape; however, through interaction with the Town of Mendon, AT&T has taken several steps to mitigate the Project's potentially undue adverse effects.

First, AT&T reduced the height of the tower as originally proposed from 140' down to 89' in order to eliminate or substantially reduce the Project's visibility from points along U.S. Route 4, the Journey's End neighborhood north of the site, and the Sherwood Lane / Terra Drive north of the site. This measure reduced the overall area of visibility in Mendon by 77% (i.e., from 7.8 acres down to 2.1 acres). The height reduction also brought the tower height into conformity with Section 1.6(H) of the Town's Telecommunications Bylaw requiring that new towers extend no more than 20' above the surrounding treeline, established by Petitioner as 69.1' above ground level.

Second, AT&T changed the design of the tower from a monopole to a stealth tapered monopine design, maintaining a “crown” on the top to hide the antennas, and covering the antennas in camouflage “shrouds” to further reduce visibility. These measures have proven effective to screen towers at other AT&T projects in Vermont.

Third, AT&T has agreed to maintain a 250’ vegetative buffer around the compound and tower, as well as a tall tree located 400’ away, in order to enhance the Project’s blending with the surrounding ridgeline.

The wording of the conditions that AT&T has developed with the Town of Mendon based on continuing dialogue over several months is encapsulated below:

The CPG Holder shall add antenna “socks” or “shrouds” to reduce glare and improve the blending of the antennas with the camouflaging features of the redesigned tower, as shown on Pages C-16 and C-19 the Revised Site Plans, Exhibit AT&T 5J.

The CPG Holder and the landowner shall establish a vegetative buffer extending to a 250’ radius from the tower location, with the CPG Holder and/or the landowner to mark or blaze the trees on the edge of the buffer area to prevent tree clearing for the life of the project, except as follows: (i) clearing in connection with initial construction of the compound (consistent with the limits of disturbance shown on the revised site plans); and (ii) after construction, in instances where trees are damaged or destroyed by disease, weather events, or other non-human causes, as shown on Page C-15A of the Revised Site Plans, Exhibit AT&T 5J.

In addition to the vegetative buffer, the CPG Holder shall mark or blaze and maintain the ±90 hemlock tree situated approximately 400’ west of the proposed compound as shown on Page C-15A of the Revised Site Plans, Exhibit AT&T 5J, and maintain said tree for the life of the project.

The Department’s analyst concluded that the Petitioner had made good faith efforts to meet the requirements of the Town’s regulations and planning goals, and had taken generally available mitigating steps to improve the Project’s harmony with its surroundings, based on the height reduction and use of the monopine design. The analyst also concluded that the Project would not be shocking or offensive. DPS Report at 12-15.

Sources: Smith / Archambault 05/06 pft. at 2-11; Smith / Archambault 08/10 supp. pft. at 3-12; Smith / Archambault 09/16 supp. pft. at 3-4; exhs. 7G, 7H, 7I, 7J, 7K; exh. 5J; Dellicolli 09/16 supp. pft. at 2-3; exh. 5J; DPS Report at 12-15.

P. Historic Sites (10 V.S.A. §6086(a)(8))

The Project will not have an undue adverse effect on any state or federal historic sites, as confirmed from the submission that AT&T's consultant made to the Division for Historic Preservation, and the "no adverse effect" determination by the Division for purposes of Section 106 of the National Historic Preservation Act.

Sources: Dellicolli 05/06 pft. at 11; exh. AT&T 5G; DHP Letter at 1.

Q. Necessary Wildlife Habitat and Endangered Species (10 V.S.A. §6086(a)(8)(A))

The Project will not destroy or significantly imperil endangered species as there are none in the Project vicinity. The Project has the potential to affect a deer wintering area situated east of the compound and the access road. The Agency has proposed several seasonal conditions to reduce or avoid impacts to this necessary wildlife habitat. Apart from the deer wintering area, the only other threatened or endangered species in the area is the Northern long-eared bat; however, Petitioner confirmed the absence of any known hibernaculum within a quarter mile, and found no roosting trees within 150' of the proposed site.

AT&T is in agreement with two conditions requested by ANR to address the deer wintering area, as follows:

No Project site preparation, construction or decommissioning activity shall occur within the deer wintering area or its 300-foot buffer during the deer wintering period from December 15 to April 15, unless given specific prior written authorization by the Vermont Fish and Wildlife Department ("VFWD").

During the deer wintering period, access shall be limited to once per month for maintenance or upgrades. When emergency circumstances or essential non-routine repairs require additional access during this time, the CPG Holder shall notify the VFWD within 24 hours of the visit.

Beyond ANR's concerns, Justin Lindholm, a member of the Planning Commission and former member of the Vermont Fish and Wildlife Board, expressed his concern that the existing access road known as the Old Stockbridge turnpike, extending on to the Property from properties to the west, has the potential to bring dog walkers on to the Property, which may in turn interfere with the deer wintering area.

In response to Mr. Lindholm's concern, and by agreement between AT&T and the Town, Mr. Chris Voda, principal of CVMENDON, LLC and owner of the Property, has represented his intent to pledge a total of sixteen "no trespassing" signs as follows: eight along the Property boundary (four on each side of the so-called 'Old Turnpike', facing west and spaced 75 feet apart); and eight 300' to the west of the property boundary (again four on each side of the so-called "Old Turnpike", spaced 75 feet apart, oriented in an alternating "east-west-east-west"-

facing pattern). This is consistent with what the Town has requested. Mr. Voda has memorialized this letter as shown below, and will provide it directly to the Town upon issuance of a CPG.⁹

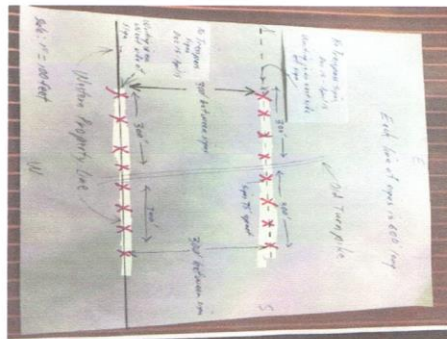
CVMENDON, LLC
3570 Lake Dunmore Road
Brandon, VT 05733
Email: christophervoda5@gmail.com

November 5th, 2020

Town of Mendon Selectboard
Town of Mendon Planning Commission
2282 U.S. Route 4
Mendon, VT 05701

To the Members of the Mendon Selectboard and Planning Commission:

Please accept this letter as a statement of intent on behalf of CVMENDON, LLC, owner of the Property at 3410 U.S. Route 4, Mendon, Parcel ID: 06-02-11.006 (the "Property") that in the event that a certificate of public good is issued to New Cingular Wireless PCS, LLC d/b/a AT&T in Public Utility Commission Case No. 20-1149-PET, I pledge to post a total of 16 "no trespassing" signs as follows: eight along the property boundary (four on each side of the so-called "Old Turnpike", facing along the west and spaced ± 75 feet apart); and eight ± 300 feet to the east of the property boundary (again four on each side of the so-called "Old Turnpike", ± 75 feet apart, oriented in an alternating "east-west-east-west" facing pattern, roughly as illustrated below. I further pledge to maintain said signage for the duration of the time that the wireless facility is located on the Property.



Thank you for your consideration.

Sincerely,

CVMENDON, LLC

By: Christopher Voda

Christopher Voda, Member Manager

Sources: Dellicolli 05/06 pft. at 11-12; Dellicolli 08/10 pft. At 3, 5; ANR Letter at 4; AT&T 10/02 Comments at 1-2; Mendon 10/02 Letter at 2.

R. Development Affecting Public Investments 10 V.S.A. §6086(a)(9)(K)

The Facility will be situated on private property, away from any public property. There is no reason to believe that the addition of the Facility would have any effect on public investments in and around Mendon.

⁹ Because this issue pertains to Mr. Voda's management of the Property (rather than the telecommunications facility per se), AT&T recommends that this not be a formalized condition of the CPG holder.

Moreover, insofar as AT&T and the federal government has made a substantial investment in the implementation of FirstNet, the introduction of FirstNet service for first responders, together with the corresponding improvements for commercial service in the area, will improve the overall safety and reliability of telecommunications in this area of the State.

S. Public Health and Safety (30 V.S.A. §248a(c)(1))

The Project will not have an undue adverse impact on public health and safety because it will be constructed to meet the requirements of the Vermont Building Code relative to structural safety. The Facility will comply with FCC standards regarding radiofrequency emissions, with maximum emissions not to exceed 1.6% of the limit for general population / uncontrolled access.

The access road, while steep, is similar to other roads throughout northern New England where towers have been successfully transported to a high-elevation compound without incident. AT&T's construction team has carefully evaluated the logging road and concluded that the Project can be constructed safely, with only minor drainage and grading improvements as shown in the revised site plans. Although some work has been done in connection with silvicultural activities at the site to improve access for skidders and logging activities, the property owner has agreed to conduct no further clearing or modification of the existing Access Road pending issuance of the CPG.

Sources: Dellicolli 05/06 pft. at 12-13; Dellicolli 08/10 supp. pft. at 6; Exh. 5H, 5J;.

T. Public's Use and Enjoyment of Scenic Highways, Roads or Byways

The Project will not have an undue adverse effect on the public's use and enjoyment of the I-89 or I-91 scenic corridors, as it is not situated within range of either highway.

The stretch of U.S. Route 4 running through Mendon has been officially designated by the State as the Crossroad of Vermont Byway pursuant to 23 U.S.C. § 162. See generally <https://vermontvacation.com/landing-pages/byways/crossroad-of-vermont-byway>. As noted on the website describing the Byway, Mendon provides four-season mountain activities, including outdoor recreation activities in the Rutland / Killington / Chittenden area, and Mendon serves as an important point along the route for both lodging and food.

The Project will improve the use and enjoyment of the Byway by ensuring better wireless service in the area for outdoor recreation, shopping, and other roadside businesses, without detracting from the scenic quality of the area. The Project is also important by providing first responders in Rutland County with access to the FirstNet network along U.S. Routes 4 and 7, providing uninterrupted data / voice access during emergencies. As previously stated, the location was identified by the Vermont Public Safety Broadband Network as a critical area to provide service for first responders.

VI. Municipal Impacts: Town Plan, Bylaws, Recommendation, and Good Cause, 30 V.S.A. § 248a(c)(2)

As part of its due diligence, AT&T has analyzed provisions of the Mendon Town Plan, as well as provisions of the 2004 Telecommunications Bylaw (the “Bylaw”), and has made certain changes to the Project based on the Town’s Joint Recommendation. AT&T’s interpretation of the Plan and the Bylaw are summarized below.

The Mendon Town Plan sets a “goal ... to allow for the installation of wireless telecommunications facilities, within the town limits, that will provide good service for the residents and local businesses while preserving the aesthetic character of its neighborhoods, property values, natural areas, ridgelines, historic districts, community preservation goals and environment.” The Town Plan looks to the Bylaw for the regulation of telecommunications facilities.

Section 1.6 of the Bylaw—entitled “Permitted and Prohibited Locations”—lays out nine separate areas where “freestanding telecommunications towers or antennas over 20 feet in height may not be located,” including within certain distances of wetlands, property boundaries, residences, rivers and streams, and scenic roads, as well as within rare or endangered species habitat, and where the tower exceeds the height of the treeline by more than 20 feet. The proposed Facility, as redesigned, will not be located in any of the prohibited locations set forth in Section 1.6 (A) through (I) of the Bylaws. The Project also meets the other substantive requirements in the Bylaws, including the required safety zone, the absence of lighting, and the use of an existing access road.

Section 1.6 also states that wireless telecommunications towers or facilities may be permitted as conditional uses in the Commercial District, East District, and Village District, but without explicitly stating that facilities are prohibited in all other zoning districts. The Project is not situated in the Commercial, East, or Village District. Instead, it is situated in the Wheelerville Zoning District, a district designed to “maintain its remoteness to insure its continued use as recreational open space,” but where various conditional uses are allowed. The provisions of the Regulations concerning this District do not expressly address towers, but generally limit development. Beyond the Tower, the only other activities on the property currently are permitted silvicultural practices, none of which will be affected by the Project.

The Project is also situated in the Ridgeline Overlay District, a district created to protect the scenic qualities of Mendon’s ridgeline, but where certain uses are allowed. The provisions of the Regulations concerning this District do not expressly address towers, but also provide limits on development (apart from silvicultural practices).

In its Joint Recommendation, the Town opined that the Project does not comply with Section 1.6 of the Bylaw—and by extension with the Telecommunications provisions of the Town Plan—because of its location in the Wheelerville District and the Ridgeline Overlay District, as opposed to one of the three conditional use districts where towers are listed as conditional uses. The Town asserts that the prohibition is implicit; AT&T disagrees, citing to Vermont case law requiring that prohibitions in municipal planning documents be clear and unambiguous.

Notwithstanding the disagreement, in response to the Town's concern regarding the Project's location in the Wheelerville and Ridgeline Overlay Districts, AT&T asked radiofrequency engineer Sohail Usmani to analyze potential alternative locations in the Commercial, East, and Village Districts where towers are permitted as conditional uses under Section 1.6 of the Bylaw. Mr. Usmani concluded that no tower in the Commercial or East Districts could obviate the need for the proposed Project. While a facility could be located in the Village District to satisfy AT&T's coverage objective, such a facility would require a new tower well in excess of the proposed 89' height for the redesigned Project, and would be substantially more visible than the Project in light of the mitigation measures taken. Given the absence of any alternative locations or collocation options offered for consideration as part of the site acquisition process by other private landowners or through Town officials, AT&T posits that there is good cause for the Commission to grant a certificate of public good at the proposed location, notwithstanding its location in the Wheelerville and Ridgeline Overlay District.

The Town's Joint Recommendation states that if the Commission approves the Project as redesigned, it should incorporate certain mitigation measures (previously discussed in the aesthetics section, above), together with requiring Petitioner to furnish a removal bond to ensure decommissioning upon termination of operations, as well as submitting an annual statement affirming the Project's continued operation. The Town also agrees with Mr. Lindholm that the issue of potential effects on wildlife from prospective trespassers on the Property should be addressed.

In response, and in addition to the aesthetic-related conditions described above, AT&T has provided a removal bond estimate to the Town, and has indicated a willingness to accept conditions relating to removal, as follows:

The CPG Holder shall provide to the Town a removal bond in an amount satisfactory to remove the tower and the compound upon termination of operations, based on applicant's removal cost estimate as set forth in Exhibit AT&T 5K.

The CPG Holder shall provide an annual statement to the Town confirming that the facility remains in operation. If the facility is no longer in operation, the tower and compound must be decommissioned no later than 180 days from termination of operations. If removal is not completed, the Town and its contractors or agents are authorized to enter upon the land to remove the facility, drawing upon the removal bond to cover the decommissioning costs.

The signage request to address concerns of trespassers is separately addressed through Mr. Voda, as owner of the Property, as described in the wildlife habitat section, above.

Sources: Dellicolli 08/10 supp. pft. at 7; Usmani 08/10 supp. pft. at 2-5; exhs. 6C, 6D, 6E; Smith / Archambault 05/06 pft. at 7; Smith / Archambault 08/10 supp. pft. at 11-18; Exh. 7D; Exh. 7E;

Town Joint Recommendation at 1-3; Dellicolli supp. pft at 2-4; Town Response of 10/02/2020 at 1.

VII. Regional Impacts: Regional Plan and Recommendation, 30 V.S.A. § 248a(c)(2)

AT&T analyzed the provisions of the Rutland Regional Plan that recognize the importance of improvements to telecommunications needed in Rutland for both consumers and public safety. The Project as redesigned is intended to be consistent with the Rutland Regional Plan. AT&T also reviewed, in response to initial concerns raised by the Rutland Regional Planning Commission, sections of the Regional Plan related to preservation of wildlife habitat and natural features such as ridgelines. AT&T bore these concerns in mind as part of its efforts to redesign the Project.

Following a presentation made by AT&T at a videoconference held on September 15, 2020, the Rutland Regional Planning Commission concluded that the Project as redesigned is consistent with the regional plan, provided that additional conditions requested by the Town are incorporated in the final certificate of public good.

Sources: Smith / Archambault pft. 05/06 at 7; AT&T 08/05/2020 Response at 1-2; exh. 7F; Smith / Archambault supp. pft. 08/10 at 10-15; Smith / Archambault supp. pft. 09/16 at 5; Rutland Regional Planning Commission Letters.

VIII. Reasonableness of Co-location (30 V.S.A. § 248a(c)(3))

The Project cannot be located on or at an existing telecommunications facility. There are no existing facilities in the area that would allow the Petitioner to satisfy its coverage objectives for AT&T and FirstNet.

Sources: Usmani 05/06 pft. at 3; Smith / Archambault 05/06 pft. at 11-12; Dellicolli 08/10 supp. pft. at 6-7.

IX. Compliance with Existing Permits (30 V.S.A. § 248a(d))

Based on due diligence conducted by AT&T, the Project does not trigger any state and local permits encumbering the underlying property. AT&T has neither applied for or obtained, nor been denied, a permit or permit amendments under Titles 24 or 10 V.S.A. for the proposed Project.

Source: Dellicolli 05/06 pft. at 12.

X. Compliance with Requirements for Advance Notice and Public Meetings (30 V.S.A. §248a(e))

A list of the names and addresses of all adjoining property owners is included with the Petition (Documents 3 and 7), and the locations of the adjoining parcels are shown on the Site Plan (Exhibit AT&T 5J). As described in the “Certification of Advance Notice” included as Document

2 with the Petition, AT&T has complied with the advance notice requirements under Section 248a and the Procedures Order. A copy of the Advance Notice is being included with Document 2.

Public hearings via videoconference were held with the Town of Mendon on 02/24/2020, 06/10/2020, and 08/17/2020, and with the Rutland Regional Planning Commission on 09/15/2020. AT&T has incorporated input from these hearings into the final Project design.

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