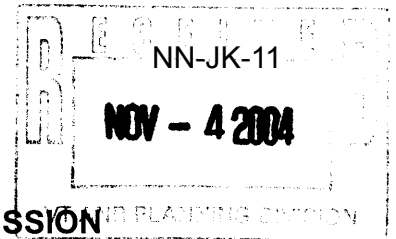


**STATE OF VERMONT
DISTRICT 3 ENVIRONMENTAL COMMISSION
Environmental Board**



Re: VT RSA Limited Partnership
d/b/a Verizon Wireless
c/o Brian J. Sullivan, Esq.
Murphy Sullivan Kronk
275 College Street
Burlington, VT 05401
and
Gardner L. Lewis, III, sole Trustee
of the Gardner L. Lewis, Jr. Trust
Box 1344
West Falmouth, MA 02574

**Memorandum of Decision
Land Use Permit #3W0917**

Introduction:

On September 27, 2004, the District 3 Environmental Commission (Commission) issued Land Use Permit (LUP) and Findings #3W0917 which authorized the construction of an 89-foot telecommunications tower disguised as a pine tree with 12 panel antennas, each approximately four feet long, mounted approximately 80 feet above ground with an equipment shed at the base of the tower and related infrastructure. The project is located off Upper Loveland Road in Norwich.

On October 11, 2004, the permittees filed a timely Motion to Alter (Motion) requesting the Commission alter the LUP and the Findings of Fact and Conclusions of Law (Findings).

Discussion:

LUP:

1. The permittees request the Commission alter the project description. Currently, it states:

This permit specifically authorizes the permittees to construct an 89-foot telecommunications tower disguised as a pine tree with 12 cellular panel antennas, each approximately four feet long, mounted approximately 80 feet above ground with an equipment shed at the base of the tower and related infrastructure. The project is located off Upper Loveland Road in Norwich.

The permittees request the description be altered to state . . . "a total of 12 panel antennas, comprised of both cellular and PCS antennas."

The Commission agrees to alter the project description.

2. The permittees request the Commission alter Condition 16. Currently, Condition 16 states:

The permittees shall limit use of the utility lines to carriers located on the tower.

The permittees request the Commission add a sentence stating, "If the parcel is developed for residential use, the permittees may seek an amendment to allow such residence(s) to be served by this electric line."

The Commission agrees to alter Condition 16 accordingly.

Findings:

3. The permittees request the Commission alter Finding 33. Currently the Finding states:

The access to the tower will be along an existing gravel road. The road will be widened to be 12 feet wide with a 12-inch gravel base. Access will be via 4-wheel drive vehicles and snowmobiles. The Applicants will not plow the road in the winter.

The permittees request the Commission alter the Finding to state:

The access to the tower will be along an existing gravel road. The road will be widened to be 12 feet wide with a 12-inch gravel base. Access will be via 4-wheel drive vehicles and snowmobiles. The Applicants will not plow the road in the winter except in the case of an emergency requiring immediate attention. If the parcel is developed for residential use, the permittees may seek an amendment to allow for more frequent plowing.

The Commission will alter Finding 33.

4. The permittees request the Commission alter Finding 35 which currently states:

Parking for vehicles will be provided within the access road and at the tower site. The Applicants will gate the access road.

The permittees request the Commission add a sentence to state:

Parking for vehicles will be provided within the access road and at the tower site. The Applicants will gate the access road. If the parcel is developed for residential use, the permittees may seek an amendment to allow for more streamlined access.

The Commission agrees to alter Finding 35.

5. The permittees request the Commission alter Finding 54 which currently states:

Verizon Wireless has both cellular and PCS licenses to operate in this section of Vermont. The same antennas are used for both operations. Verizon Wireless does not have a license in New Hampshire and must locate its antennas in Vermont.

The permittees request the Commission correct the Finding to indicate cellular and PCS services use different antennas, mounted on the same platform.

The Commission agrees to alter Finding 54.

6. The permittees request the Commission alter Finding 62 which currently states:

The Applicants will gate the access road and will not plow it in the winter.

The permittees request the Commission alter this Finding to state:

The Applicants gate the access road and will not plow it in the winter except in the case of an emergency requiring immediate attention. If the parcel is developed for residential use, the permittees may seek an amendment to allow for more frequent plowing and/or for more streamlined access.

This Finding is under Criterion 8(A) Critical Wildlife Habitat. The request for not plowing came from the Wildlife Biologist of the Vermont Fish and Wildlife Department. The Applicants did not object to this request. The Commission agrees to alter Finding 62, but will require the Applicants to notify the Commission prior to plowing for an emergency.

7. The permittees request the Commission alter Finding 64 which currently states:

The access road will be utilized solely by the Co-applicants for access to the tower. The electrical service will be utilized solely for carriers on the tower.

The permittees request the Commission add a sentence to this Finding so it states:

The access road will be utilized solely by the Co-applicants for access to the tower. The electrical service will be utilized solely for carriers on the tower. If the parcel is developed for residential use, the permittees may seek an amendment to allow such residence(s) to be served by this road and this electric line. In the interim, permittee Lewis is permitted to use the access road to allow potential buyers to visit this property.

The Commission recognizes that co-Applicant Lewis may seek an amendment for residential use of the road and utilities. The amendment application would address potential impacts. The imposition of restrictions regarding the road and utilities is not

intended as a permanent restriction, critical to issuing this decision. Although an application would be necessary for the changes, future Applicants would not be expected to address Environmental Board Rule 34(E) in that application. The Commission agrees to alter Finding 64.

8. The permittees request the Commission alter its Conclusions under Criterion 9(A) Impact on Growth. Currently, the Conclusions state in part:

The Commission will limit the electrical use to carriers located on the tower.

The permittees request the Commission add, "Except as specified in Paragraph 64, above . . . "

The Commission agrees to alter its Conclusions under Criterion 9(A).

Order:

1. The Commission hereby alters the project description to state:

This permit specifically authorizes the permittees to construct an 89-foot telecommunications tower disguised as a pine tree with a total of 12 panel antennas, comprised of both cellular and PCS antennas, each approximately four feet long, mounted approximately 80 feet above ground with an equipment shed at the base of the tower and related infrastructure. The project is located off Upper Loveland Road in Norwich.

2. The Commission hereby alters the Condition 16 of the LUP to state:

The permittees shall limit use of the utility lines to carriers located on the tower. If the parcel is developed for residential use, the permittees may seek an amendment to allow such residence(s) to be served by this electric line.

3. The Commission hereby alters Finding 33 to state:

The access to the tower will be along an existing gravel road. The road will be widened to be 12 feet wide with a 12-inch gravel base. Access will be via 4-wheel drive vehicles and snowmobiles. The Applicants will not plow the road in the winter except in the case of an emergency requiring immediate attention. If the parcel is developed for residential use, the permittees may seek an amendment to allow for more frequent plowing.

4. The Commission hereby alters Finding 35 to state:

Parking for vehicles will be provided within the access road and at the tower site. The Applicants will gate the access road. If the parcel is developed for residential use, the Applicants may seek an amendment to allow for more streamlined access.

5. The Commission hereby alters Finding 54 to state:

Verizon Wireless has both cellular and PCS licenses to operate in this section of Vermont. Cellular and PCS services use different antennas mounted on the same platform. Verizon Wireless does not have a license in New Hampshire and must locate its antennas in Vermont.

6. The Commission hereby alters Finding 62 to state:

The Applicants gate the access road and will not plow it in the winter except in the case of an emergency requiring immediate attention. The Applicants will notify the Commission prior to plowing for an emergency. If the parcel is developed for residential use, the Applicants may seek an amendment to allow for more frequent plowing and/or for more streamlined access.

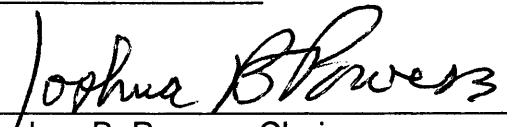
7. The Commission hereby alters Finding 64 to state:

The access road will be utilized solely by the Co-applicants for access to the tower. The electrical service will be utilized solely for carriers on the tower. If the parcel is developed for residential use, the Applicants may seek an amendment to allow such residence(s) to be served by this road and this electric line. In the interim, Co-applicant Lewis may use the access road to allow potential buyers to visit this property.

8. The Commission hereby alters its Conclusions under Criterion 9(A) Impact of Growth to state:

Except as specified in Finding 64 above, the Commission will limit the electrical use to carriers located on the tower.

Dated at Springfield, Vermont, on November 4, 2004.

By: 

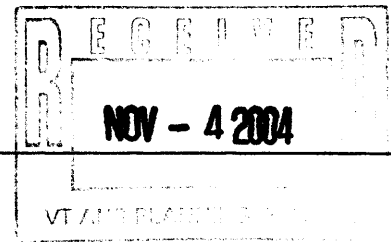
Joshua B. Powers, Chair
District 3 Environmental Commission
Environmental Board

Commissioners participating in this decision: Susan B. Ford and Paul E. Kendall, Jr.

Any appeal of this decision must be filed within 30 days and comply with all provisions of 10 V.S.A. § 6089 and Environmental Board Rule 40, including the submission of a filing fee of \$150.00 and the original and ten copies of the following: notice of appeal, a statement of why the appellant believes the commission was in error, a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, a preliminary list of witnesses and this decision.



State of Vermont



LAND USE PERMIT

CASE NO: 3W0917(Altered)
PERMITTEES: VT RSA Limited Partnership
ADDRESS: d/b/a Verizon Wireless

LAWS/REGULATIONS INVOLVED:
10 V.S.A. §§ 6001 - 6092 (Act 250)

c/o Brian J. Sullivan, Esq.
Murphy Sullivan Kronk
275 College Street
Burlington, VT 05401
and
Gardner L. Lewis, III, sole Trustee
of the Gardner L. Lewis, Jr. Trust
Box 1344
West Falmouth, MA 02574

District Environmental Commission #3 hereby issues Land Use Permit #3W0917(Altered), pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6092. This permit applies to the lands identified in Book 125, Page 100, of the land records of the Town of Norwich, Vermont, as the subject of a deed to the Gardner L. Lewis, Jr. Trust, and a lease agreement with VT RSA Limited Partnership, the permittees as grantees.

This permit specifically authorizes the permittees **to construct an 89-foot telecommunications tower disguised as a pine tree with a total of 12 panel antennas, comprised of both cellular and PCS antennas, each approximately four feet long, mounted approximately 80 feet above ground with an equipment shed at the base of the tower and related infrastructure.** The project is located off Upper Loveland Road in Norwich.

The project is subject to Act 250 jurisdiction because the project involves the construction of a commercial project on more than ten acres and thus constitutes "development" pursuant to Environmental Board Rule 2(A)(1)(b), and the project involves construction of a communication tower higher than twenty feet and thus constitutes "development" pursuant to Environmental Board Rule 2(A)(1)(l).

The permittees, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Environmental Commission in accordance with the following conditions:

1. The project shall be completed, operated and maintained in accordance with: (a) the plans and exhibits on file with the District Environmental Commission and (b) the conditions of this permit.

The approved plans are:

Sheet 3 - "Upper Loveland Road Access Drive Layout," dated October 2003, last revised August 11, 2004;

Sheet 4 - "Upper Loveland Road Access Drive Profile," dated October 2003, last revised August 11, 2004;
Sheet 5 - "Upper Loveland Road Access Drive Cross Sections," dated October 2003, last revised August 11, 2004;
Sheet 6 - "Upper Loveland Road Detail Site Plan & Tree Elevation," dated October 2003, last revised August 11, 2004;
Sheet 7 - "Upper Loveland Road Civil Details," dated October 2003;
Sheet 8 - "Upper Loveland Road Civil Details," dated October 2003.

2. No changes shall be made in the design or use of this project without the written approval of the District Coordinator or the District Environmental Commission, whichever is appropriate under the Environmental Board Rules.
3. By acceptance of the conditions of this permit without appeal, the permittees confirm and agree that the conditions of this permit shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the permittees and all assigns and successors in interest.
4. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holders file an affidavit certifying that the project is being completed, operated and maintained in accordance with the terms of the permit, as provided by 10 V.S.A. Chapter 151 and the rules of the Environmental Board.
5. By acceptance of this permit, the permittees agree to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
6. The permittees shall apply and maintain calcium chloride and/or water on all roadways or disturbed areas within the project during construction as needed and until vegetation is fully established to control dust.
7. The permittees shall comply with Exhibits #3, 11, 47 and 49 for erosion control. The permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas. The District Environmental Commission reserves the right to schedule hearings and site inspections to review erosion control and to evaluate and impose additional conditions with respect to erosion control as it deems necessary.
8. All mulch, siltation dams and other temporary devices shall be installed immediately upon grading and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.

9. All forest debris and stumps shall be disposed of on-site above the seasonal high water table or at a State-approved disposal site. The permittees shall dispose of all construction debris at a State-approved site.
10. The installation of additional antennas on the tower or raising the height of the tower shall require a permit amendment.
11. Prior to the commencement of construction, the permittees shall establish a performance bond or similar form of surety with the Town of Norwich to cover the full costs for removal of the project tower and all ancillary facilities and restoration of the site.
12. The permittees shall remove the communication facility within 90 days of the date the facility is abandoned, unused or obsolete.
13. The installation of exterior light fixtures is limited to that approved in Exhibit #21 and shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.
14. The proposed equipment shelter shall have insulation levels of R-10 in the floor, R-13 in the walls and R-19 in the ceiling.
15. Mechanical cooling equipment for the equipment shed will have a high energy efficiency Bard Wall Mount 12 SEER HVAC equipment or an approved equal. The EER of this equipment shall be a minimum of 11.3 and will incorporate an economizer to cool equipment with ambient air. Electric resistant heat will not exceed five kilowatts per HVAC unit and will be controlled to not operate when the shelter interior temperature is above 60 degrees Fahrenheit and for cooling to activate between 72 degrees and 76 degrees Fahrenheit.
16. The permittees shall limit use of the utility lines to carriers located on the tower. If the parcel is developed for residential use, the permittees may seek an amendment to allow such residence(s) to be served by this electric line.
17. No further subdivision, alteration, and/or development of any parcel of land approved herein shall be permitted without the written approval of the District Environmental Commission.
18. Pursuant to 10 V.S.A. § 6090(b), this permit is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.
19. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittees have not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).

20. All construction shall be completed in accordance with the approved plans by October 1, 2005, unless an extension of this date is approved in writing by the District Environmental Commission.

Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. § 6090(c).

Dated at Springfield, Vermont, on November 4, 2004.

By Joshua B. Powers
Joshua B. Powers, Chair
District #3 Environmental Commission
Environmental Board

Members participating in
this decision:

Susan B. Ford
Paul E. Kendall, Jr.

Any appeal of this decision must be filed within 30 days and comply with all provisions of 10 V.S.A. § 6089 and Environmental Board Rule 40 including the submission of a filing fee of \$150.00 and the original and ten copies of the following: notice of appeal, a statement of why the appellant believes the commission was in error, a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, a preliminary list of witnesses and this decision.

**STATE OF VERMONT
ENVIRONMENTAL BOARD
DISTRICT ENVIRONMENTAL COMMISSION #3**

RE: VT RSA Limited Partnership d/b/a Verizon Wireless c/o Brian J. Sullivan, Esq. Murphy Sullivan Kronk 275 College Street, Burlington, VT 05401 and Gardner L. Lewis, III, sole Trustee of the Gardner L. Lewis, Jr. Trust Box 1344 West Falmouth, MA 02574	Application #3W0917(Altered) FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER 10 V.S.A. §§ 6001 - 6092
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I. INTRODUCTION

On May 19, 2004, VT RSA Limited Partnership and Gardner L. Lewis, III, filed an application for an Act 250 permit for a project generally described as **the construction of a 107-foot telecommunication tower, disguised as a pine tree with 12 panel antennas, each approximately four feet long and mounted 98 feet above ground, with an equipment shed at the base of the tower and improvement of 1,050 feet of access drive. The project is located off Upper Loveland Road in the Town of Norwich.** The tract of land consists of 40.4 acres. The Applicants' legal interest is ownership in fee simple for Gardner L. Lewis, III, as described in a deed recorded on October 6, 1997, in the land records of the Town of Norwich, Vermont, and a lease agreement with Vermont RSA Limited Partnership.

Under Act 250, projects are reviewed based on the 10 Criteria of 10 V.S.A. § 6086(a) (1)-(10). Before granting a permit, the District Environmental Commission (Commission) must find that the project complies with these criteria and is not detrimental to the public health, safety or general welfare.

Decisions must be stated in the form of Findings of Fact and Conclusions of Law. The facts we have relied upon are contained in the documents on file identified as Exhibits 1 through 55, and the evidence received at a hearing held on July 12, 2004. The Commission conducted a site visit on July 12, 2004. At the end of the hearing, the Commission recessed the proceeding pending submission of additional information from the Applicants. The Commission received the final submittal from the Applicants on August 18, 2004. Pursuant to 10 V.S.A. § 6085(f), all parties were allowed an opportunity to review and respond to the submittal. The Commission adjourned the hearing on September 27, 2004, upon receipt of the additional information, review of the record and completion of Commission deliberations. On October 11, 2004, the permittees filed a Motion to Alter requesting the Commission alter its Findings of Fact and Conclusions of Law and the Land Use Permit. These altered Findings include the changes addressed in Memorandum of Decision #3W0917.

II. JURISDICTION

Jurisdiction attaches because the project involves the construction of a commercial project on more than ten acres and thus constitutes "development" pursuant to Environmental Board Rule 2(A)(1)(b), and the project involves construction of a communication tower higher than twenty feet and thus constitutes "development" pursuant to Environmental Board Rule 2(A)(1)(l).

III. PARTY STATUS

A. Preliminary Party Status Determinations

Parties to this application who attended the hearing are:

1. The Applicants by Gardner Lewis, landowner; Brian Sullivan, Esq. and Sandy Carter, Verizon Wireless.
2. The Municipality of Norwich did not attend the hearing.
3. The Norwich Municipal Planning Commission by Phil Dechert, Zoning Administrator.
4. The Two Rivers-Ottawquechee Regional Commission did not attend the hearing.
5. The State of Vermont, Agency of Natural Resources (ANR) did not make an Entry of Appearance.

The following adjoining property owners were either admitted as parties or denied party status, as indicated, pursuant to Environmental Board Rule (EBR) 14(A):

6. Joy Kenseth, an adjoining property owner, requested party status under Criteria 1(B) Waste Disposal as it relates to stormwater, 1(G) Wetlands, 4 Soil Erosion, 7 Impact on the Municipality, 8 Aesthetics, 8(A) Critical Wildlife Habitat and 10 Local Plan. The Applicants objected under Criteria 1(G), 7 and 8, if the tower will not be visible from her tract of land. The Commission granted preliminary party status under Criteria 1(B), 1(G), 4, 8, 8(A) and 10. The Commission denied party status under Criterion 7 as it was not convinced Ms. Kenseth's property interest will be affected under that criterion.
7. John Lamperti, an adjoining property owner, requested party status under Criteria 1 Air Pollution, 5 Traffic Safety, 7 Impact on the Municipality, 8

Aesthetics and 10 Local Plan. The Applicants objected under Criteria 5, 7 and 8, if the tower will not be visible from his tract of land. The Commission granted preliminary party status under Criteria 1, 5, 8 and 10. The Commission denied party status under Criterion 7 as it was not convinced Mr. Lamperti's property interest will be affected under that criterion.

8. Anita Lathrop rents a home which adjoins the project tract of land. She requested party status under Criteria 1(G) Wetlands, 4 Soil Erosion, 5 Traffic Safety, 7 Impact on the Municipality, 8 Aesthetics, 8(A) Critical Wildlife Habitat, 9(A) Impact on Growth and 10 Local Plan. The Applicants objected under Criteria 1(G), 5, 7 and 8, if the tower will not be visible from the tract of land and 9(A). The Commission granted preliminary party status under Criteria 8, 8(A) and 10. The Commission denied party status under Criteria 1(G), 4, 5, 7 and 9(A) as it was not convinced Ms. Lathrop's interest will be affected under those criteria.
9. Stephen and Claire Michlovitz, adjoining property owners, requested party status under Criteria 1(B) Waste Disposal as it relates to stormwater, 1(G) Wetlands, 4 Soil Erosion, 7 Impact on the Municipality, 8 Aesthetics, 8(A) Critical Wildlife Habitat and 10 Local Plan. The Applicants objected under Criteria 1(G), 7 and 8, if the tower will not be visible from their tract of land. The Commission granted preliminary party status under Criteria 1(B), 1(G), 4, 8, 8(A) and 10. The Commission denied party status under Criterion 7 as it was not convinced the Michlovitz' property interest will be affected under that criterion.
10. John Moody, who lives in Hartford, requested party status under Criteria 8 Historic Sites and 8(A) Critical Wildlife Habitat. The Applicants objected under Criteria 8 and 8(A). The Commission denied party status under Criteria 8 and 8(A) as it was not convinced Mr. Moody's interests were different from all the residents of Norwich.
11. Thomas Porter, an adjoining property owner, requested party status under Criterion 8 Aesthetics. The Applicants objected, if the tower will not be visible from his tract of land. The Commission granted preliminary party status under Criterion 8.

B. Final Party Status Determinations

Pursuant to 10 V.S.A. § 6085(c)(2) and Board Rule 14(F), the Commission made preliminary determinations concerning party status at the commencement of the hearing on this application. Prior to the completion of deliberations, the Commission

re-examined the preliminary party status determinations and revised its determinations as follows. Anita Lathrop left the hearing prior to discussion of the criteria under which she had received party status and did not submit any additional information to the Commission at a later date. The Commission, therefore, denies Ms. Lathrop party status under Criteria 1(G), 4, 5, 7, 8, 8(A), 9(A) and 10.

At the hearing, Commissioner Ford disclosed that she knows Stephen and Claire Michlovitz and Phil Dechert. She further indicated she can impartially consider the merits of the application. At the hearing, Commissioner Powers disclosed he knows Thomas Porter. He also indicated he can impartially consider the merits of the application. In response to the disclosures, all parties indicated they had no objections to Commissioners Ford's and Powers' participation in this proceeding.

IV.

FINDINGS OF FACT

The Commission initiated the review process on this application as a Minor application under Environmental Board Rule 51 on May 25, 2004. The Commission distributed a Notice and Proposed Permit establishing a deadline of June 10, 2004, by which parties, or the Commission on its own motion, could request a hearing on this matter. At the request of an adjoining landowner, and with the agreement of the Applicants, the Commission extended the time in which to request a hearing until June 18, 2004. The Commission received a timely request for a public hearing from Stephen and Claire Michlovitz under Criteria 4 Soil Erosion, 8 Aesthetics, 8(A) Necessary Wildlife Habitat and 10 Local Plan. On June 25, 2004, the Commission issued a Memorandum and Notice of Hearing indicating that a public hearing would be held to discuss Criteria 4, 8, 8(A) and 10. At the hearing, the adjoiners raised additional concerns regarding Criteria 1 Air Pollution, 1(B) Waste Disposal, 1(G) Wetlands, 5 Traffic Safety, 7 Impact on Municipal Services and 9(A) Impact on Growth. Pursuant to Environmental Board Rule 51(F), the Commission need only prepare Findings of Fact and Conclusions of Law on those criteria or subcriteria at issue during the hearing. Therefore, the following Findings of Fact are limited to Criteria 1 Air Pollution, 1(B), 1(G), 4, 5, 7, 8, 8(A), 9(A) and 10 Local Plan.

Therefore, the application shall serve as the Findings of Fact on these criteria.

In making the following findings, the Commission has summarized the statutory language of the 10 Criteria of 10 V.S.A. § 6086(a):

SECTION 6086(a)(1) AIR POLLUTION:

12. The project is the construction of a 107-foot telecommunications tower with twelve panel antennas. Exhibit 1.

13. No noise from this project will be audible at property lines. The loudest equipment will be the diesel generator which will operate during brief test periods and power outages. The generator is enclosed in a metal sandwich panel structure and its exhaust outlet is equipped with a silencer. The HVAC units, which will operate more frequently, will not create noise above 45 decibels at 100 feet. Exhibits 3, 22 and Testimony.
14. Construction will be limited from 7:00 a.m. until 5:00 p.m., Monday through Friday, with occasional weekend work. Exhibit 3.
15. During construction, the Applicants will control dust through the use of a stabilized construction entrance and through the use of water and/or calcium chloride. Exhibit 3.
16. The Applicants indicated that the project will generate 14.10% of the Maximum Permissible Exposure, based on the human exposure to Radio Frequency Magnetic Fields. Exhibit 30.

Conclusions:

The Commission concludes that this project will not result in undue air pollution. The project, therefore, conforms with Criterion 1 Air Pollution.

SECTION 6086 (a)(1)(B) WASTE DISPOSAL:

17. Wastes generated by the project will include stormwater runoff and stumps generated by site clearing. Exhibit 3.
18. The proposed tower site is located near the top of a wooded slope. Stormwater will sheetflow overland through existing vegetation. Stormwater will drain into the crushed stone surrounding the tower and shelter. The Applicants will preserve existing drainage patterns wherever possible. Exhibits 3 and Testimony.
19. There will be no appreciable increase or change in stormwater flows. Testimony.
20. The Applicants will dispose all forest debris, including stumps and slash, and construction debris at a State-approved site. Testimony.
21. The Applicants will provide back-up power from a diesel generator. The diesel fuel will be stored in a 210-gallon, above ground, double-walled tank. Exhibit 3.

Conclusions:

The Commission concludes that this project will meet applicable Division of Wastewater Management Regulations and will not result in the injection of waste materials or harmful or toxic substances into groundwater or wells. The project, therefore, conforms with Criterion 1(B).

SECTION 6086(a)(1)(G) WETLANDS:

22. There are no Class 1 or Class 2 wetlands located on the project tract. Exhibit 3.
23. There is a Class 2 bog on an adjoining property. The project is more than 50 feet from the bog and downhill. Testimony.

Conclusions:

The Commission concludes that this project will not impact the Class 2 wetland on the adjoining property and will not violate the rules of the Water Resources Board relating to significant wetlands. The project, therefore, conforms with Criterion 1(G).

SECTION 6086 (a)(4) SOIL EROSION AND THE CAPACITY OF THE LAND TO HOLD WATER:

24. The project site is near the top of a wooded hill. The project involves clearing for construction of the tower in a 50-foot by 50-foot tower compound. The Applicants will improve the approximately 1,050-foot access road to the tower site and bring utilities along the road. Exhibits 1, 3 and 47.
25. The access road will follow an existing road. The Applicants will re-gravel and improve the access road. There will be two culverts, one at the start of the road and a second one in about 100 feet. The Applicants will install overhead utility lines along the access road. Exhibits 3, 47 and Testimony.
26. The tract of land contains shallow soils with bedrock beneath. Blasting should not be required for this project. Exhibit 53.
27. An area totaling approximately 12,856 square feet will be disturbed for the entire project. This number breaks down to 1,700 square feet for ditching, 500 square feet from the base of the road. The Applicants will leave the stumps in the area cleared for utility lines. The project will take four months to construct. Exhibit 44 and Testimony.

28. Temporary measures for soil erosion control consist of the placement of silt fences around the north and south of the tower compound. The Applicants will conform with *The Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites*, revised 1987 and 2001. The Applicants will maintain the temporary measures until the ground is stabilized with vegetation. All stockpiled soil will be encircled with a sediment control device. After every storm, the Applicants will inspect the sediment control devices for failure or clogging. Exhibits 3, 47 and Testimony.
29. All disturbed areas will be stabilized with seed and mulch. Exhibit 3.
30. We incorporate by reference our Findings under Criterion 1(B) Waste Disposal as they relate to stormwater.

Conclusions:

The Commission will condition the permit requiring compliance with the proposed erosion control plan. With this condition, the Commission concludes that the construction of the project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water. The project, therefore, conforms with Criterion 4.

SECTION 6086 (a)(5) TRANSPORTATION:

31. The project involves construction, maintenance and operation of a 107-foot communications tower with twelve, 4-foot panel antennas and a 12-foot by 30-foot by 10-foot high equipment shed within a 50-foot by 50-foot tower compound and use of 1,050 feet of access road. Access to the site will be from Upper Loveland Road, a town road. Exhibits 3, 47 and Testimony.
32. Upper Loveland Road is a residential road with light traffic. Testimony.
33. The access to the tower will be along an existing gravel road. The road will be widened to be 12 feet wide with a 12-inch gravel base. Access will be via 4-wheel drive vehicles and snowmobiles. The Applicants will not plow the road in the winter except in the case of an emergency requiring immediate attention. If the parcel is developed for residential use, the permittees may seek an amendment to allow for more frequent plowing. Exhibits 3 and 51.
34. Once the site is operational, it is expected to generate two trips per month. Exhibit 3 and Testimony.

35. Parking for vehicles will be provided within the access road and at the tower site. The Applicants will gate the access road. If the parcel is developed for residential use, the Applicants may seek an amendment to allow for more streamlined access. Exhibit 47 and Testimony.

Conclusions:

The Commission concludes that this project will not cause unreasonable congestion or unsafe conditions with respect to transportation. The project, therefore, conforms with Criterion 5.

SECTION 6086(a)(7) MUNICIPAL SERVICES:

36. The project will utilize municipal police, fire and rescue services. Exhibit 3.
37. The Town of Norwich indicates it has the capacity to provide these services without an unreasonable burden. Exhibit 18.
38. The Applicants redesigned the access road to increase the radius of the curve. This will allow the fire department an easier access. Exhibit 44.

Conclusions:

The Commission concludes that this project will not place an unreasonable burden on the ability of the municipality to provide educational, municipal or governmental services. The project, therefore, conforms with Criterion 7.

SECTION 6086 (a)(8) AESTHETICS, SCENIC BEAUTY, HISTORIC SITES AND NATURAL AREAS:

39. There are no historic sites or rare and irreplaceable natural areas which will be affected by this project. Exhibits 3, 46 and Testimony.
40. The Division for Historic Preservation indicates the project will not have an adverse impact on historic properties listed on or eligible for the National Register. Exhibit 46.
41. The existing site is a wooded hillside. The Applicants propose construction of 107-foot monopole with twelve, four-foot panel antennas, and a compound for the equipment at the base of the tower. There is space for a total of three carriers on the proposed tower. The utilities will be aboveground, crisscrossing the access road. Some clearing of brush and small trees for the utility lines and the road improvements will be necessary. Exhibits 3, 47 and Testimony.

42. The Applicants will disguise the pole to resemble a tree. The antennas will be painted green and hidden by the artificial branches. Exhibits 1 and 3.
43. The tower and equipment shed will be contained within a 50-foot by 50-foot compound surrounded by an eight-foot high, chain-linked fence. Exhibits 3 and 47.
44. The 107-foot telecommunication tower will be located in a wooded area. The average tree height within a 100-foot radius from the tower is 59.6 feet. Of the seven highest trees, five are deciduous. The Applicants will not top any trees. No trees will be cut within the 100-foot radius unless they are dead, dying or presenting a hazard. The Applicants will encourage evergreen tree growth in key areas. Exhibits 3, 13, 47 and Testimony.
45. The Applicants can increase the height of the tower, after the initial tower is constructed. Exhibit 44.
46. The Applicants will allow co-location on the pole if other carriers are interested. Exhibit 3 and Testimony.
47. The Applicants are attempting to create a seamless communication network along I-91. There currently is a 22-mile gap from West Newbury to White River Junction. The objective of this site is to provide coverage to a 5.1-mile section on I-91 and a 5.3-mile section on Route 5. Verizon Wireless plans to apply for an additional site in Norwich and has received a LUP for a site in Hartford that would hand-off to the instant site. Exhibits 28, 38 and Testimony.
48. The tower site is located 600 feet west of I-91 and 8,000 feet north of Interchange 13, overlooking a 140-acre plateau, 100 feet above the Connecticut River. Exhibit 3.
49. The Applicants conducted a balloon test on February 18th. The day was not windy so the balloon remained at the 107-foot height. The balloon was not visible from I-91 or Route 5. The tower is not expected to be visible from either of these heavily-traveled roads. The tower compound and the base of the tower will not be visible off-site. Exhibits 3, 20 and Testimony.
50. The tower will be visible from two locations on Upper Loveland Road and from Misty Ridge development. Both of these areas are rural residential in nature. The tower will be hidden from adjoining properties by trees or shrubs in excess of 20 feet, due to the change in elevation. Vegetation will screen most of the tower when the leaves are out. Exhibits 3, 13, 20, 54 and Testimony.

51. The proposed tower will not be visible from the Connecticut River or the Appalachian Trail. Exhibit 45.
52. The utility lines will be above ground, crisscrossing the access road to limit the amount of clearing necessary. The utility line will not be visible off-site. Exhibit 3.
53. The Applicants investigated other possible sites, including churches, silos, windmills and commercial properties. No sites exist that would serve the Applicants' coverage objectives for the number of miles that the proposed site can provide. Exhibit 28 and Testimony.
54. Verizon Wireless has both cellular and PCS licenses to operate in this section of Vermont. Cellular and PCS services use different antennas mounted on the same platform. Verizon Wireless does not have a license in New Hampshire and must locate its antennas in Vermont. Testimony.
55. The radio waves for cellular and PCS communication must have direct line of site to function and cannot penetrate dense foliage or earth. Testimony.
56. The propagation maps indicate that locating the antennas with a center at 80 feet instead of 100 feet will reduce PCS coverage creating a coverage hole at Interchange 13. It does not decrease coverage along I-91. This would satisfy Verizon Wireless' stated coverage objective. Exhibits 28, 36 and 42.
57. The exterior of the proposed 12-foot by 30-foot by 10-foot high, prefabricated, equipment shelter will be an earth tone. Exhibit 3.
58. Exterior lighting will consist of a single light on the outside of the equipment shelter. The light will be activated via a motion sensor. The light will be a shielded, 75-watt bulb. There will be no light on the tower. Exhibits 3 and 21.
59. Two signs are required to identify the owner/operator of the tower site. The signs will be approximately three square feet each, unlighted and located on the equipment shed. Exhibit 3.
60. We incorporate by reference our Findings under Criterion 10 Local Plan.

Conclusions:

The Environmental Board uses a two-part test to determine whether a project satisfies Criterion 8. First, it determines whether the project will have an adverse effect. *Re: James E. Hand and John R. Hand, d/b/a Hand Motors and East Dorset*

Partnership, #8B0444-6-EB (Revised), Findings of Fact, Conclusions of Law, and Order at 24 (August 19, 1996) [EB #629R]; *Re: Quechee Lakes Corp.*, #3W0411-EB and #3W0439-EB, Findings of Fact, Conclusions of Law, and Order at 17-20 (November 4, 1985) [EB #254]. Second, it determines whether the adverse effect, if any, is undue. *Hand, supra*, at 24; *Quechee Lakes, supra*, at 17-20.

a. Adverse Effect

In determining whether a project will have an adverse effect,

[t]he Board looks to whether a proposed project will be in harmony with its surroundings or, in other words, whether it will "fit" the context within which it will be located. In making this evaluation, the Board examines a number of specific factors including the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability for the project's context of the colors and materials selected for the project, the locations from which the project can be viewed, and the potential impact of the project on open space.

If a project "fits" its context, it will not have an adverse effect. *Re: Talon Hill Gun Club Inc.*, #9A0192-2-EB, Findings of Fact, Conclusions of Law, and Order at 9 (June 7, 1995). In evaluating the "fit," the Board looks at the nature of the project's surroundings and the compatibility of the project with those surroundings. *Id.*

The proposed project is a 107-foot high monopole tower, disguised to resemble a tree, with twelve, four-foot panel antennas for wireless communication. The antennas will be green and hidden within the artificial tree branches. The average tree height is 59.6 feet within a 100-foot radius from the tower base. The tower will not be readily visible from I-91, Route 5, the Appalachian Trail or the Connecticut River. The tower will be visible from two locations on Upper Loveland Road and from Misty Ridge. Both settings are rural residential. The Commission concludes that the project, a commercial communication tower, does not fit with its surroundings. The project, therefore, will have an adverse impact on aesthetics. The Commission will continue the analysis to determine if the adverse impact will be undue.

b. Undue Effect

In evaluating whether a project's adverse effects on aesthetics are "undue," the Board analyzes the following three factors and concludes that a project is undue if it reaches a positive conclusion with respect to any one of the factors.

- 1) Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?
- 2) Has the applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the proposed project with its surroundings?
- 3) Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?

Quechee Lakes, supra, at 19-20.

1. Clear Community Standard:

The Commission concludes the wireless communication facilities section of the Norwich Zoning bylaws is a clear, written community standard designed to preserve aesthetics in this area. The Commission is not convinced that the height of the antennas must be at 100 feet to reach the Applicants' stated coverage objectives. By lowering the antennas to 80 feet, and thus lowering the tower to 89 feet, the only coverage that is lost is at Interchange 13. This area is not included in the coverage objectives. The Commission will limit the height of the tower to 89 feet. With this condition, the Commission concludes the project conforms with these standards.

2. Mitigation:

The Applicants have disguised the proposed tower as a tree and will paint the antennas green. The Commission will require the Applicants to file amendment applications to add antennas to the tower or to increase the height of the tower. As stated above, the Applicants have not convinced the Commission that the stated coverage objectives cannot be met with a shorter tower. The shorter tower would have less visual impact on Upper Loveland Road and Misty Ridge. The Commission will limit the center height of the antennas to 80 feet, shortening the tower. With this condition, the Commission concludes the Applicants have taken appropriate measures a reasonable person would take to improve the harmony of the project with its surroundings.

3. Offensive or Shocking:

The Commission concludes that the project, a tower disguised as a pine tree, will not be shocking or offensive to the average person.

The Commission concludes the adverse impact on aesthetics will not be undue.

The Commission concludes that the project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas. The project, therefore, conforms with Criterion 8.

SECTION 6086 (a)(8)(A) NECESSARY WILDLIFE HABITAT:

61. The tract of land contains necessary wildlife habitat in the form of a deer wintering area. There is broken softwood shelter that exhibits some winter use by deer. Exhibit 43.
62. The Applicants gate the access road and will not plow it in the winter except in the case of an emergency requiring immediate attention. The Applicants will notify the Commission prior to plowing for an emergency. If the parcel is developed for residential use, the Applicants may seek an amendment to allow for more frequent plowing and/or for more streamlined access. Exhibit 51.

Conclusions:

The Commission will require the Applicants to gate the access road and not to plow it in the winter. With these conditions, the Commission concludes that the project will not destroy or significantly imperil necessary wildlife or endangered species habitat. The project, therefore, conforms with Criterion 8(A).

SECTION 6086 (a)(9) CONFORMANCE WITH THE CAPABILITY AND DEVELOPMENT PLAN:

The Commission concludes that this project conforms to the capability and development plan.

SECTION 6086(a)(9)(A) IMPACT OF GROWTH:

63. The project is a telecommunication tower with an access road and utilities. Exhibit 3.
64. The access road will be utilized solely by the Co-applicants for access to the tower. The electrical service will be utilized solely for carriers on the tower. If the parcel is developed for residential use, the Applicants may seek an amendment to allow such residence(s) to be served by this road and this electric line. In the interim, Co-applicant Lewis may use the access road to allow potential buyers to visit this property. Exhibit 3 and Testimony.

Conclusions:

Except as specified in Finding 64 above, the Commission will limit the electrical use to carriers located on the tower. With this condition, the Commission concludes that the municipality will be able to accommodate the total growth and rate of growth that will result from this project. The project, therefore, conforms with Criterion 9(A).

SECTION 6086(a)(10) CONFORMANCE WITH THE LOCAL PLAN:

65. The Norwich Town Plan (NTP) states in part in its Land Use section:

Commercial Use:

Due to transportation constraints and the desire to preserve the rural character of the town, the most appropriate location for commercial development serving regional markets is east of Route 5 south. Commercial development in the rural areas should be limited to businesses that will have a very low impact on town services or infrastructure and will not adversely affect the rural character and residential or agricultural use.

Wireless Communication Facilities:

Technological developments in the telecommunications and broadcast industries have resulted in demands for development of property to accommodate these land uses. Wireless communication facilities have become increasingly important to the security and economic needs of residents and businesses in the Town. This trend will continue, creating new opportunities for commerce, reducing demand for travel by conventional modes. Given the potential impacts these facilities may have on the public good, safety and welfare of Norwich citizens, it is in the Town's interest to plan for and regulate the orderly development of such facilities in a manner that will comply with the other goals and objectives of this plan particularly regarding scenic beauty and rural character.

NTP, Pages 7 and 8.

66. The Town of Norwich has adopted a Wireless Communications Facilities (WCF) section in its Zoning Regulations. Exhibit 24.
67. Under Conditional Use Approval for Wireless Communications Facilities, the WCF states in part:

19.3.2. Height Limitations - The height limit for towers, antenna, and tower related fixtures in all districts shall not exceed twenty (20) feet above the average height of the tree line measured within one hundred (100) feet of the base of the tower. Notwithstanding the above, additional height may be approved upon findings by the board that it is necessary to provide adequate coverage, or to accomplish co-location as outlined in sub-section 19.3.7 [sic] below and does not have an undue adverse visual impact on scenic or natural beauty as outlined in sub-section 19.3.9 below.

19.3.3. Setbacks - All wireless communications facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding, the above, in order to ensure public safety, the minimum distance of any ground mounted wireless service facility to any property line, dwelling, or similar structure shall be no less than the height of the tower, including antennas or vertical appurtenances. This setback shall be referred to as a fall zone.

19.3.5. Bulk, Height and Glare - All wireless communication facilities shall be designed in such a manner as to minimize the visual impact of height, mass, and guy wire supports for the intended use. Materials utilized for the exterior of any structure shall be of a type, style, and location so as to minimize glare and not result in an undue adverse visible impact on any scenic or historic viewshed, public vantage point or from abutting properties.

19.3.6. Screening - Screening shall be required at the perimeter of the site unless it can be demonstrated that existing natural foliage is adequate. A planted or natural vegetative screen shall be a minimum of ten (10) feet in depth with a minimum height of six (6) feet and shall have a potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized, unless the disturbance is demonstrated to result in less visual impact on the wireless facility on surrounding properties and areas.

19.3.8.1. Co-location - An application for a new telecommunications tower shall not be approved unless the Zoning Board of Adjustment finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure . . .

19.3.8.2. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

19.3.8.3. The owner of an approved wireless communication facility shall allow other wireless service providers to co-locate on the tower subject to reasonable terms and conditions.

19.3.9. Access Roads and Above Ground Utilities - Where new wireless communication facilities require construction of or improvement to access roads, to the extent practicable, roads shall follow contour of the land. Access roads, when consistent with the purposes of this section and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area.

19.3.10. Protection of Scenic Ridges, Views and Hillsides - Proposed facilities shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district or major view corridor. Where, the Board, after consultation with the Zoning Administrator and the applicant, determines that a proposed wireless facility will likely be visible against the skyline from at least one vantage point from any public park, natural scenic vista, historic building or district, or major view corridor or from a State highway or Class I or II highway, or at least two vantage points on a Class III town highway at no less than 1000 feet apart, or at least three vantage points at no less than 1000 feet apart on a Class IV town highway, a public trail, the Connecticut River, or the Ompompanoosuc River, the applicant shall prepare a report identifying the duration for which the tower would be visible to a passing traveler in feet and the distance to the proposed facility from the vantage points.

19.3.11. Innovative siting techniques - The Board may waive any of the requirements of Section 19.3 for the purpose of approving the development of a wireless communication facility utilizing innovative siting techniques that camouflage or conceal the presence of antennas or towers. These techniques may include the use of existing complying or noncomplying structures or new complying structures to contain or support antennas.

68. We incorporate by reference our Findings under Criterion 8 Aesthetics.
69. The Town of Norwich indicates it prefers co-location, but must find a balance between co-location and visibility. Testimony.
70. The Norwich Zoning Board of Adjustment is doing a concurrent review with the Commission and has not issued its decision. Testimony.

Conclusions:

The Environmental Board has fashioned an analysis of whether a project conforms to a Town's Plan. The Board has relied on the Supreme Court decision in *Re: Molgano*, 163 Vt. 25 (1994); and has set out its analysis in the following decisions: *Re: Herbert and Patricia Clark*, supra, at 39-40; *Re: The Mirkwood Group and Barry Randall*, #1R0780-EB, Findings of Fact, Conclusions of Law, and Order (August 19, 1996) [EB #641]; *Re: Manchester Commons Associates*, #8B0500-EB, Findings of Fact, Conclusions of Law, and Order at 27 (September 29, 1995) [EB #631]. We look to the Board's decisions for guidance.

In *Molgano*, the Supreme Court held that zoning bylaws are germane to interpreting ambiguous provisions of a town plan. *Molgano*, 163 Vt. at 29-31. *Molgano* does not stand for the proposition that zoning bylaws control or override the specific policies of a town plan in an Act 250 proceeding. *Re: Herbert and Patricia Clark*, supra, at 40. Thus, the Board first considers whether the town plan provisions at issue are specific policies or ambiguous. *Id.* If such provisions are specific policies, they are applied to the proposed project without any reference to the zoning bylaws. *Id.* However, if such provisions are ambiguous, the Board next examines the relevant zoning bylaws for provisions which help the Board construe the town plan provisions at issue and thereby resolve their ambiguity. *Id.* This does not mean a general review of the project for its compliance with the zoning bylaws, but rather an examination to see if there are provisions in the zoning bylaws which address the same subject matter addressed by the town plan provisions at issue. *Id.*

In order for a town plan provision to be deemed a specific policy, the applicable provision must: (a) pertain to the area or district in which the project is located; (b) intend to guide or proscribe conduct or land use within the area or district in which the project is located; and (c) be sufficiently clear to guide the conduct of an average person, using common sense and understanding. *Mirkwood*, supra, at 29.

The Commission concludes the town plan is ambiguous because it is not sufficiently clear to guide the conduct of an average person. However, the town's Zoning bylaws include a WCF provision. The Commission will review the project for conformance with the WCF.

The WCF requires the tower to rise no more than twenty feet above the average tree height within a 100-foot radius from the tower center, unless the additional height is necessary to provide coverage or for co-location. The Applicants indicate the tower will rise forty-seven feet above the average tree height within the 100-foot radius and two additional carriers may be willing to co-locate on this tower. The Commission is not convinced the Applicants have met this portion of the WCF, even with the tower disguised as a tree. The Applicants apparent coverage objective of I-91 and Route 5, can be met with a shorter tower. The only area not covered by the shorter tower would be Interchange 13. It appears to the Commission that the Applicants can reach their coverage objective with a shorter tower. The Commission is aware this may limit co-location on this tower, but concludes the impact on Upper Loveland Road and Misty Ridge will be lessened with this change, and that the shorter tower is a reasonable balance between co-location and visibility. The Applicants have met the remaining requirements of the WCF. The Commission will limit the height of the antennas to 80 feet. With this condition, the Commission concludes the project conforms with the WCF. The project, therefore, conforms with Criterion 10 Local Plan.

V.

SUMMARY CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, it is the conclusion of this District Environmental Commission that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit #3W0917(Altered), will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A. § 6086(a).

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Findings of Fact and
Conclusions of Law and Order #3W0917(Altered)

VI.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #3W0917(Altered) is hereby issued.

Dated at Springfield, Vermont, on November 4, 2004.

By: 

Joshua B. Powers, Chair
District #3 Environmental Commission
Environmental Board

Commissioners participating
in this decision:

Susan B. Ford
Paul E. Kendall, Jr.

Any appeal of this decision must be filed within 30 days and comply with all provisions of 10 V.S.A. § 6089 and Environmental Board Rule 40, including the submission of a filing fee of \$150.00 and the original and ten copies of the following: notice of appeal, a statement of why the appellant believes the commission was in error, a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, a preliminary list of witnesses and this decision.

Exhibit List #3W0917(Altered) / Verizon Wireless and Gardner L. Lewis, Jr. / Norwich

No.	Date Admitted/ Received	By Applicants	Subject
1	6/10/04		Cover Letter (5/18/04)
2	"	"	Act 250 Application and project description
3	"	"	Schedule B
4	"	"	Municipal Impact Questionnaire
5	"	"	Sheet 1 of 8, Vicinity Plan (10/03)
6	"	"	Sheet 2 of 8, Overall Site Plan (10/03)
7	"	"	Sheet 3 of 8, Access Drive Layout (10/03)
8	"	"	Sheet 4 of 8, Access Drive Profile (10/03)
9	"	"	Sheet 5 of 8, Access Drive Cross Sections (10/03)
10	"	"	Sheet 6 of 8, Detail Site Plan and Tree Elevation (10/03)
11	"	"	Sheet 7 of 8 & 8 of 8, Civil Details (10/03)
12	"	"	Propagation Plots (11 sheets)
13	"	"	Photographic Simulations (5 photos)
14	"	"	Power Density Calculations
15	"	"	Equipment Shelter Specifications
16	"	"	Air Conditioning Unit Specifications
17	"	"	Emergency Generator Specifications
18	"	"	Municipal Impact Questionnaire
19	"	"	Antenna Specifications
20	"	"	Viewshed Analysis
21	"	"	Exterior Light Fixture Specifications
22	"	"	Noise Analysis
23	"	"	Norwich Town Plan Excerpt
24	"	"	Norwich Telecommunication Regulations

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22	"	"	Noise Analysis
23	"	"	Norwich Town Plan Excerpt
24	"	"	Norwich Telecommunication Regulations

Exhibit List #3W0917(Altered)
Page Two

No.	Date Admitted/ Received	By	Subject
25	6/10/04	Applicants	Green Mountain Power Ability-to-Serve (5/11/04)
26	"	"	Verizon Communications Ability-to-Serve (4/21/04)
27	"	"	Upper Valley Lake Sunapee Regional Plan Excerpt
28	"	"	Site Justification
29	7/12/04	"	Estimate Radiation Emissions
30	"	"	Power Density
31	"	"	Propagation Map re: Proposed Coverage/Existing & Approved Sites
32	"	"	Propagation Map MCS Coverage: Existing & Approved Sites
33	"	"	Propagation Map Hartford Proposed Coverage
34	"	"	Propagation Map Hartford: Proposed PCS Coverage
35	"	"	Propagation Map Norwich: Proposed Coverage @ 100 feet
36	"	"	Propagation Map Norwich: PCS Coverage @ 100 feet
37	"	"	Propagation Map Hartford w/Norwich @ 100 feet
38	"	"	Propagation Map Proposed PCS Coverage: Hartford & Norwich @ 100 feet
39	"	"	Propagation Map Norwich: Proposed Coverage @ 80 feet
40	"	"	Propagation Map Proposed PCS Coverage w/Norwich @ 80 feet
41	"	"	Propagation Map Norwich: Proposed Coverage @ 80 feet with Hartford
42	"	"	Propagation Map Norwich: Proposed PCS Coverage @ 80 feet with Hartford
43	"	"	Wildlife Consultant's Comments (7/9/04)

Exhibit List #3W0917(Altered)
Page Three

No.	Date Admitted/ Received	By	Subject
44	7/12/04	Applicant	Response (8/13/04) to Recess Memo
45	"	"	Visual Analysis (8/11/04)
46	"	"	Division for Historic Preservation Sign-off (10/21/03)
47	"	"	Revised Access Drive Layout (10/03) rev. 8/11/04
48	"	"	Revised Access Drive Profile (10/03) rev. 8/11/04
49	"	"	Access Drive Cross Sections (10/03) rev. 8/11/04
50	"	"	Detail Site Plan & Tree Elevations (10/03) rev. 8/11/04
51	"	"	Memo (7/23/04) from Vt. District Wildlife Biologist
52	8/17/04	Michlovitz & Kenseth	Letter (8/12/04)
53	8/18/04	Applicant	Response (8/17/04) to Adjoiner's Letter
54	"	Porter	Letter (8/14/04) with Photo
55	9/2/04	Michlovitz & Kenseth	Letter (9/1/04)

CERTIFICATE OF SERVICE - 3W0917(Altered)

I hereby certify that I sent a copy of the foregoing Memorandum of Decision, Land Use Permit (Altered) and Findings of Fact and Conclusions of Law(Altered) on November 4, 2004, by U.S. Mail, postage prepaid, to the following:

Vermont RSA Limited Partnership
d/b/a Verizon Wireless
c/o Brian J. Sullivan, Esq.
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Burlington, VT 05401

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Norwich, VT 05055

Norwich Town Planning
Ed Childs, Chair
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FOR INFORMATION ONLY

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By: 

Julia Schmitz
District 3 Coordinator