

TOWN OF MANCHESTER

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Via ePuc Filing

Vermont Public Utility Commission

112 State Street

Montpelier, VT 05620

Re: Bell Atlantic Mobile Systems, LLC
d/b/a Verizon Wireless and Vertex Towers, LLC
for a Certificate of Public Good, pursuant to
30 V.S.A. § 248a, authorizing the construction
of a telecommunications facility in Manchester Vermont
No. 24-0097-PET

Dear Commissioners:

This letter, sent on behalf of the Selectboard of the Town of Manchester, Vermont (“Town”), as the legislative body of the Town, serves as notice to the Vermont Public Utility Commission (“PUC”) pursuant to 30 V.S.A. § 248a(c)(2), that the Selectboard formally voted on January 2, 2024, to oppose the petition for the project described in the above-referenced docket, having determined that such proposed telecommunications facility does not comply with the Town’s municipal plan (“Town Plan”)¹ or with the Manchester Land Use & Development Ordinance (“Land Use Ordinance”).²

INTRODUCTION

On July 18, 2023, Petitioner Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless and Vertex Towers, LLC (“Petitioner”) submitted its 60-Day Advance Notice to the Town of Manchester pursuant to 30 V.S.A. § 248a, of its intent to submit to the PUC a petition for approval to construct and install a new telecommunications facility (“proposed Facility”) on a parcel of land located at 410 Hunter Park Road in Manchester, Vermont (“proposed Site”), for the initial use of Verizon Wireless and subsequent use by other communications providers. On January 12, 2024, Petitioner filed its petition in the above-referenced docket for a certificate of public good for the proposed Facility on the proposed Site.

The proposed Site is located in a mixed use zoning district, Mixed Use 2 (“MU2”), where telecommunications towers are prohibited under the Land Use Ordinance. Land Use Ordinance, Section 4.17, p. 58.

The petition describes the proposed Facility as follows:

¹ Available at <https://manchester-vt.gov/vertical/Sites/%7BCE718C6D-0EC0-43CE-B71E-5A023B5D13EA%7D/uploads/Manchester-Town-Plan-2017-adopted-May-9-2017.pdf>

² Available at <https://drive.google.com/file/d/1mT6w9YxYv5ItR11ORlgqaxYw-zwtFG7s/view>

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Town Selectboard

Ivan C. Beattie, Chair

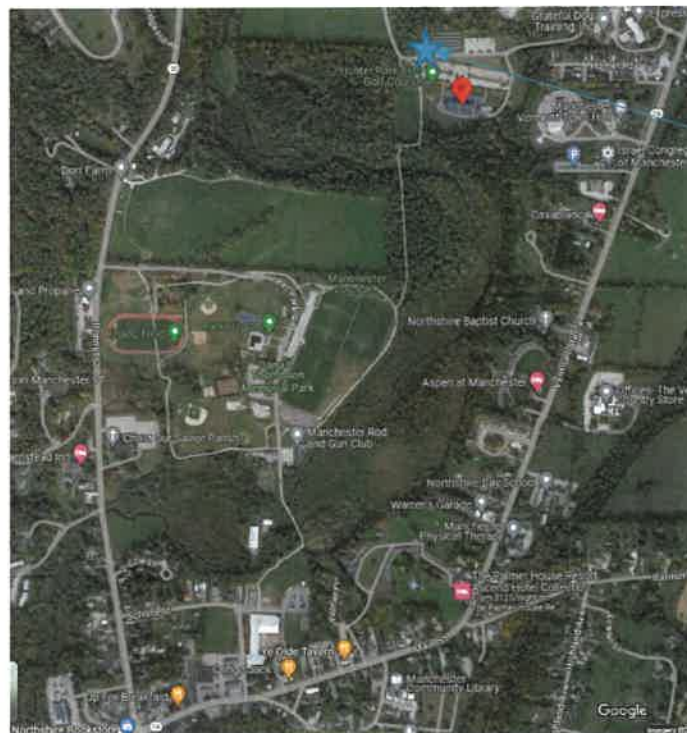
Gregory T. Cutler, *Vice-Chair*

Jan Nolan

Heidi Chamberlain

Laurie Kunz

- A. A 50' x 50' "Compound" enclosed by an 8' high chain link fence, with a locked gate, and topped with barbed wire, with a 140' above-ground level ("AGL") telecommunications monopole tower ("Monopole") constructed within the Compound.
- B. Six (6) panel antennas ("Antennas"), six (6) Remote Radio Heads ("RRHs") and three (3) "clip-on" combined Antennas and RRHs known as "MMUs" at the 135' AGL level on the Monopole on a triangular mounting bracket with two (2) Antennas, two (2) RRHs, and one (1) MMU per side or "sector." Each Antenna will measure approximately 72" long and 11.9" wide, and the topmost point will extend a height of 140' AGL.
- C. Each of the RRHs, measuring approximately 15.9" long and 15.5" wide, will be mounted directly behind each of the Antennas. The MMU, measuring approximately 35" long and 16" wide will also be mounted with a centerline elevation of 137' AGL.
- D. One (1) OVP distribution box ("OVP") measuring approximately 25.8" long by 15.9" wide will be mounted on the Monopole at the same centerline as the Antennas and the RRHs.
- E. The Tower, OVP and Antennas will be painted gray.
- F. A 12' by 20' equipment steel platform with ice canopy ("Platform") will be installed within the Compound, located to the northwest of the Monopole.
- G. An emergency generator will also be placed on the Platform, which will function if there is a power outage, with testing one time per week. If diesel is used to power the Generator, its tank will be placed underneath the Generator. If propane is used to power the Generator, a 500-gallon propane tank on an 11' by 4' concrete pad will be installed in the Compound.
- H. Co-axial and fiber optic cables from the Antennas will descend inside the hollow Monopole. The cables will exit near the base of the Monopole and will connect with the Platform via conduits. Electric and telephone services will be brought to the Platform from an equipment backboard adjacent to the Monopole. Access to the Compound will be by an existing paved drive extending from Winter Park Road.
- I. No clearing is required; and proposed new impervious surface will total approximately 4,691 square feet.



Proposed Site

Proposed Site Location – 410 Hunter Park Road, Manchester Center, Vermont

I. Town Plan

The Town Plan was re-adopted on May 9, 2017, pursuant to 24 V.S.A. §§ 4381 *et seq.* The Town Plan begins with a section entitled “Vision, Policies & Actions,” in which it provides:

Manchester is a quintessential New England Community with a historic core surrounded by rural pastures and forested mountain backdrops. Situated in the Batten Kill Valley between the Green and Taconic Mountains, Manchester cherishes its natural beauty as the basis of a high quality of life for residents and the foundation of a strong visitor economy.

Town Plan, Part 1, p. 1.

The Town Plan identifies Recreation Pathways as part of a “greenway network of pedestrian, cross country ski, and bicycle paths that would link the outskirts of town with the downtown,” which include the corridors through the Dana Thompson Memorial Park and on to Riley Rink through Hunter Park, as an important community asset. Town Plan, pp. 30–31. Section 4.1 also recognizes the Dana L. Thompson Memorial Park as a community asset for residents and visitors alike.

The results of the balloon test conducted on behalf of Petitioner on October 18, 2023 demonstrate that the proposed Facility would be prominently visible from the heart of the Dana L. Thompson Memorial Park, from Hunter Park, and from sections of Bonnet Street and Main Street.

Section 3.3 of the Town Plan addresses Power & telecommunications Facilities. Town Plan Section 3.3, pp. 37–38. The Town Plan requires that telecommunications facilities be sited “in a manner that protects the scenic, cultural and natural resources of the Town.” *Id.* at p. 37. The Town Plan specifies that:

In order to enhance the aesthetics and visual character of the downtown area, public utilities (including . . . telecommunications facilities) should be relocated from public view along main streets wherever possible. This may include behind buildings, away from the street, along streets, or underground. Where this is not possible, these should be screened from adjacent properties with dense coniferous plantings.

Town Plan, Section 3.3, pp. 38. Accordingly, where a proposed telecommunication facility is presented through the local zoning process, it is subject to conditional use review, with careful consideration by the Development Review Board of all “[v]isual impacts, lighting, noise generation, natural resource impacts, and site screening.” *Id.*

The Selectboard has determined that the location of the proposed Facility, in particular the tower, would have an adverse visual impact on views from the scenic recreational areas surrounding and linking to the downtown area.

Recommendation as to Town Plan:

Accordingly, the Selectboard recommends that the PUC deny Petitioner’s petition for a CPG with regard to the proposed facility for failure to comply with the Town Plan.

II. Land Use Ordinance

As set forth in 30 V.S.A. § 248a(c)(2), “[n]othing in this section or other provision of law shall prevent a municipal body from basing its recommendations to which substantial deference is required under this subdivision (2) on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117.” The Town’s Land Use Ordinance was adopted pursuant to

24 V.S.A. chapter 117, and regulates the construction, alteration, and developments of wireless telecommunications facilities. *See* Land Use Ordinance, Section 7, pp. 91–96. The Land Use Ordinance in effect at the time of the Petition came into effect on June 1, 2022.

As explained, *supra*, telecommunications towers are prohibited within the MU2 District.

Section 7.1.8 provides that “[a]pplicants are encouraged to locate antennae within existing tall structures such as church steeples or barn silos.”

Section 7.1.9 provides that colocation is to be employed to the greatest extent possible. “The applicant shall demonstrate that there are no other existing tower sites that can accommodate the proposed facilities. If other sites do exist, then the applicant must demonstrate that they are technically inadequate, or that bona fide, good faith negotiations with that landowner have failed.”

Petitioner’s application does not meet the standard set forth in Section 7.1.9.

Section 7.1.12 prohibits towers taller than 130 feet, or which are higher than 10 feet above the average tree canopy height measures in the area of the proposed facility.

The petition acknowledges that the proposed Facility will exceed the maximum allowable height under Section 7.1.12.

Recommendations as to Land Use Ordinance:

The Town’s Land Use Ordinance, to which the Town Plan refers, contains strict, detailed requirements to maintain the aesthetics and character of the Town, including its scenic recreational pathways. The proposed Facility fails to comply with those requirements.

The Selectboard recommends that the PUC deny the petition for a CPG with regard to the proposed Facility because it would violate multiple provisions of the Land Use Ordinance.

Respectfully,

A handwritten signature in dark ink, appearing to read 'ICB', followed by a long horizontal flourish.

Ivan Beattie
Chair, Manchester, Vermont Selectboard