

March 7, 2025

Motion to Intervene

We are abutters to the proposed cell tower development at 127 Crow Hill Road in Pownal. We oppose the project due to its extreme proximity to our home at 316 Crow Hill Road. The tower would be 690 feet from our house, 92 feet from our property line, and 179 feet from our driveway, with the utility road starting mere feet from our driveway entrance. The nearly 200-foot tower would rise 117 feet *above* the tree line, would be visible year-round from nearly all areas surrounding our house including our garden, newly landscaped outdoor dining area and hot tub. We have miles of hiking trails on our 166 acre property with the Taconic Ridge trail at the highest elevation; views from many trails would be impeded by this project.

This tower would also degrade our views from all eight south/southeastern facing windows and we would see it from our dining table, kitchen, and living room. Its presence would irreparably harm our enjoyment of the natural beauty, peace, and privacy we value, replacing mountain views with an intrusive, inescapable eyesore.

The tower's proximity to our challenging cliffside driveway also raises safety concerns as it is our sole ingress/egress. Lastly, the compound at the base of the tower would be visible upon entering and exiting our property. Rather than trees and wildlife, we would be looking at barbed wire fencing and generators.

We respectfully request standing on the statutory criteria and the undue adverse affects on the following:

1. Town Telecommunications Bylaw violations: Height limit is 20' above the treeline (project exceeds by 101'), setbacks are 10' more than the tower height (project is short 112'), and adverse visual impact cannot be minimized.
2. Public Health & Safety Risk: Setback violations endanger my only ingress/egress.
3. Town/Regional Plan Incompatibility: Land use and conservation goals prioritize scenic resources, and require telecommunications facilities to be compatible with the intent of the district.
4. Aesthetics: Compromised aesthetics of our personal property and views, as well as the aesthetics of the surrounding land.

The following outline demonstrates, in detail, that this project fails to meet the above statutory criteria required in Vermont's 30 V.S.A. § 248a(c) for obtaining a Certificate of Public Good.

1. Town of Pownal By-law/Zoning Violations

While we recognize the need for improved telecommunications infrastructure, it is vital that such projects abide by local zoning regulations and land-use principles. According to the Town of Pownal By-Laws:

SECTION 8.12(b)(c)

- “Towers shall not exceed the height limitation for the district in which they are located or 20 feet above surrounding structures or trees, whichever is greater; (*Section 8.12b*)
- “Towers shall be of a non-reflective, unobtrusive color with a non-reflective finish and may be required to be painted or otherwise camouflaged to minimize the adverse visual impact; (*Section 8.12c*)

The proposed 190-foot lattice tower would not merely obstruct our view—it would become the focus, dominating every aspect of our cherished southern and southeastern views. This colossal structure, extending **117 feet above** the natural tree canopy, threatens to become an inescapable eyesore. The tower’s overwhelming presence would extend beyond our home, rendering our yard and outdoor recreational areas devoid of their former charm and enjoyment. This is not a minor alteration to our viewshed; it would redefine our entire living environment, fundamentally altering the character and appeal of our home’s surroundings.

SECTION 8.12(d)

- “The distance from the base of the tower to the property line shall be a minimum of 10 feet longer than the height of the commercial telecommunication tower;” (*Section 8.12d*)

The proposed tower’s placement raises significant safety concerns. According to the current plans, the tower’s base would be situated a mere 92 feet from my western property boundary and only 179 feet from the northern property line, which encompasses Crow Hill Road and my driveway—both precariously positioned on a steep cliff.

Given that the tower is slated to reach a height of 194 feet, these setback distances are alarmingly insufficient. In this case, it would necessitate a setback of at least 204 feet from all property lines.

The current proposal’s inadequate setbacks not only fail to meet this crucial safety standard but also violate local zoning ordinances. This discrepancy underscores the need for a thorough reassessment of the tower’s proposed location to ensure both regulatory compliance and the safety of my property and roadways.

- “Infrastructure development should align with regional land use and conservation goals to avoid adverse impacts on natural and scenic resources” (*Bennington Regional Plan Section 12.5*).
- “Uses not allowed are land uses which cannot be established in a given zoning district because they are considered incompatible with the intent of the district. (*Town of Pownal By-Laws 3.8.4*)

2. Public Health and Safety Concerns

The proposed placement increases existing risks to our driveway, which is already challenging due to its steep cliffside location. As our family's sole access point, even minor obstructions or reduced clearance could compromise safe entry and exit. Additionally, structural vulnerabilities from severe weather or unforeseen events pose potential hazards to both our family's safety and emergency responders' ability to reach the property. A self collapsing tower design is not a 100% guarantee of safety for my family. Such a violation not only risks liability but also undermines my property's functionality. The Bennington Regional Plan emphasizes infrastructure development that prioritizes public safety:

- "Any development of telecommunications facilities must conform to standards designed to protect public health, safety...and scenic character" (*BCRC Forest Stewardship Report 2012*).
- "Planned development should create conditions favorable to transportation, health, safety, civic activities..." (*Bennington Regional Plan Section 2.2.A*).
- "In their interpretation and application, the provisions of this Bylaw shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. (*Pownal Town Plan Section 9.1*).

A telecommunications tower at this location contradicts these principles by exposing my property to unnecessary risk.

3. Town/Regional Plans

The proposed site is situated in a "High Priority Rank" Habitat Block in the Forest zone (as identified in Map 5-2 of the BCRC Forest Stewardship Plan) near a spring-fed stream, raising serious concerns about its impact on the local ecosystem. According to the Vermont ANR, the project site is located in the "Highest Priority Interior Forest Block", "Highest Priority Connectivity Block", and the "Highest Priority Geologic Block". The Bennington Regional Plan emphasizes the importance of preserving forest lands and high-quality habitats:

- "As defined by the Vermont Agency of Natural Resources (ANR), a Habitat Block "is an area of natural cover (including forest, wetland, shrubland, rivers, streams, lakes & ponds). It is bounded by roads, development and agriculture." All lands identified in the Vermont Conservation Design initiative are significant; those areas designated as "highest priority" reflect their additional importance relative to their regional context. Habitat Blocks can vary in size, but within the VCD project, all identified Habitat Blocks are larger than 20 acres. (Bennington Regional Plan Section 9.5)
- "The forest lands in the Green and Taconic Mountains and at other steep, high elevation, and remote locations should remain free from permanent development

and be reserved for forest and recreation uses” (Bennington Regional Plan Section 2.2.A).

- “The majority of the region’s upland forest landscape areas are characterized as providing “high” quality habitat because of the large areas of remote land with few or no roads, the presence of critical landscape elements, and the extensive surface waters in those areas (notably streams throughout the region and high elevation ponds and wetlands in the Green Mountains). Many rural valley forests at the upland forest landscape boundary are included as the “high” quality habitats because those blocks are contiguous with the remote forests that extend into the mountain ranges on either side of the valleys.” (BCRC Forest Stewardship Report 2012, Section V).
- The ANR Map shows a significant natural community, rare species, and a Federally protected long eared bat population at the Project site.

4. Aesthetics

The installation of a cell tower in this pristine forested area would compromise its scenic beauty and recreational value. We have miles of hiking trails with the Taconic Mountain trail running along the ridge above. The Bennington Regional Plan underscores the importance of protecting these attributes:

- “Protection of natural, scenic, and historic resources that contribute to the unique character of the region”. (*Bennington Regional Plan Section 2.2.F*)
- “Such facilities [telecommunications towers] are, of course, visible over a wide area, so planning studies should be undertaken to ascertain locations that are both economically viable and acceptable to residents of the region.” (*Bennington Regional Plan, Section 8.6*)
- “Low-density residential, small-scale commercial, and compatible recreational uses are appropriate in rural areas.” (*Bennington Regional Plan, Section 8.7*)

Alternative Siting Recommendations

The proposed tower location is geographically unsuitable for the target coverage area, situated behind a tall mountain ridge and on the furthest corner away from Route 7 on the landowner’s property. A site on the other side of this ridge would allow for a shorter tower as it would be closer to the section of Route 7 the applicant is trying to reach. The landowner at 127 Crow Hill Road owns roughly 50 acres of land, with every *other* acre more closely located to the target service area than the currently proposed site.

In an attempt to compromise, we proactively invited the developer to explore our 166-acre property for a safer, more viable alternative outside our sightline. However, the developer chose not to pursue this opportunity to survey the adjacent parcel for potential solutions.

The landowner—a part-time resident—benefits financially without bearing the tower’s visual or safety impacts. We are being asked to bear the full burden of this project without compensation or benefit. Given Pownal’s expansive terrain, viable alternatives should be explored that align with coverage requirements and regulatory standards.

Conclusion

Our property encompasses 166 acres of privately owned land, featuring a spring-fed stream and bordered by thousands of acres of untouched wilderness and iconic Green Mountain vistas. Visitors often describe this setting as “Heaven on Earth.” Constructing a nearly 200-foot commercial telecommunications tower here would significantly compromise safety, disrupt the natural aesthetic, and threaten the pristine environment we’ve worked to preserve. We invested in this land to protect its integrity, not to see it overshadowed by such a structure.

We respectfully urge the Commission to advocate for relocating this project to a more appropriate site that aligns with the environmental, safety, and land-use goals and bylaws outlined in the Bennington Regional Plan (2024), the Pownal Town Plan (2019), and the Town of Pownal Land Use Bylaw (2021).

Request for Action

We respectfully request to intervene in this case to oppose the current proposed location of the cell tower since it violates local by-law and poses safety risks.

Because this project raises substantive issues under the criteria, we request a hearing.

Thank you for your attention to this matter. We trust that the Commission will work diligently to balance infrastructure needs with preserving our region’s natural resources and ensuring public safety. Please see images below for your reference.

Sincerely,

Tanya and Jesse Hart









