

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

IN RE: :  
: :  
APPLICATION OF CELLCO PARTNERSHIP : Docket No. 356  
D/B/A VERIZON WIRELESS FOR A :  
CERTIFICATE OF ENVIRONMENTAL :  
COMPATIBILITY AND PUBLIC NEED FOR :  
THE CONSTRUCTION, MAINTENANCE :  
AND OPERATION OF A WIRELESS :  
TELECOMMUNICATIONS FACILITY AT :  
199 TOWN FARM ROAD, FARMINGTON, :  
CONNECTICUT : APRIL 8, 2008

**OPPOSITION TO APPROVAL OF FACILITY**

**INSUFFICIENCY OF NOTICE**

The undersigned submits this opposition to the approval of the tower, without prejudice to the claim of Susan Edelson, that she has not been afforded sufficient opportunity to thoroughly review and prepare an opposition which under the present deadline must be submitted by April 8, 2008.

The application was dated February 1, 2008. Applicant gave notice dated January 29, 2008, to Mrs. Edelson, a copy of which is attached hereto as Exhibit A. However, the notice does not apprise the property owner of the timetable or the date of the hearing, and the notice gives the property owner no real

understanding as to the time constraints that will otherwise be imposed by the filing of the application.

The notice of public hearing issued by the Connecticut Siting Council ("CSC") is dated March 7, 2008, in which the property owner is then apprised of the timetable. However, CSC does not require that the applicant provide a copy of that hearing notice to the property owners abutting the subject site, and it is the position of Mrs. Edelson that same represents a serious procedural due process deficit, in that all interested parties should be provided with timely notice of the opportunity to appear be heard and present evidence.

Mrs. Edelson required some period of time to find counsel willing to appear in opposition to the application, let alone have an opportunity to digest all of the materials submitted, the various exhibits and marshal evidence which is germane to the consideration by the Siting Council. Therefore, the undersigned on behalf of Mrs. Edelson respectfully requests that there be at least a thirty (30) day delay in considering the merits of the application.

While C.G.S. § 16-50l(b) requires that notice be sent to an abutting property owner by certified or registered mail of the notice of application, the undersigned maintains that a fair reading of that statute must also require the notice of hearing in regard to said application be provided in order adequately advise affected parties of their rights. The letter from counsel (Exhibit A) for

the applicant provides little information as to the course of the proceedings or the rights of an abutter. In fact, Exhibit A states “the location and other features of the proposed facility are subject to change under the provisions of Connecticut General Statutes § 16-50g *et seq.*” Procedural due process requirements, whether under the state or federal constitutions, require meaningful notice at a meaningful time. It is the contention of Mrs. Edelson that what has occurred does not afford meaningful notice. Either § 16-50l(b) must be read to include notice of hearing to be sent to the affected parties as well as the application, or there is a statutory deficit.

#### **THE EFFICACY OF THE TOWN LEASE**

The proposed tower is predicated on a lease with the Town of Farmington which was approved at a Town Planning and Zoning Commission (“PZC”) hearing on July 23, 2007. No written notice was provided to Mrs. Edelson of said hearing, albeit that she was clearly an abutting property owner. Under Farmington Planning and Zoning Regulations, as amended to October 31, 2004, Mrs. Edelson was entitled to notice under Section 12.C. Copies of the pertinent sections of the Planning and Zoning Regulations referenced herein are attached as Exhibit B. Mrs. Edelson is providing an affidavit indicating that she received no notice, a copy of which Affidavit is attached hereto as Exhibit C.

The construction of a communications tower requires a special permit under Section 12 of the Planning and Zoning Regulations. The standards are laid out in 12.B. Under subsection 12.B, considerations include, *inter alia*: (1) the existing and future character of the neighborhood; in (5), the overall appearance and the general harmony with the character of the surrounding neighborhood so as not to serve to blight or detract from abutting residences or other property. It is Mrs. Edelson's position that the P&Z Commission failed to properly take into consideration those standards in approving the lease for the construction of the cell tower.

In addition to the concerns under 12.B, and the lack of notice in accordance with 12.C, the undersigned draws the Council's attention to Section 23 of the Planning and Zoning Regulations which are designated as applicable to commercial wireless telecommunication sites. In 23.B, there is an order of preference in regard to approval of such sites; the order of preference obviously being no. 1. most preferable with no. 10 being least preferable. The undersigned maintains that the subject property falls into B.10, the least preferable location for a telecommunications tower. Clearly, the erection of the tower would not fall under permitted uses under 23.C. The communication tower requires a special permit with hearing and notice requirements, as set forth in 23.D.

Under 23.D.2, there are a number of items that are to be considered in regard to a tower. Because of the insufficient time afforded to Mrs. Edelson, we are unable to verify to what extent 23.D.2 a through d was provided to the Commission. However, Mrs. Edelson contends that 23.E.2.e was not complied with, in that there were no site assessments or photos taken from the Edelson neighborhood. That is a glaring omission, both from the submission to the PZC but also to the Siting Council.

Under 23.G, General Requirements, two subsections are of concern: “(3) no tower be located within 1,000 feet of the boundary of a local historic district.” No map of a local historic district appears to have been submitted. Mrs. Edelson believes that the old Farmington Canal is in close proximity to proposed location of the tower. The Canal certainly has historic importance. See portion of map showing the Canal, Exhibit D. The irony of course is that the subject farm itself, even if not formally designated as a historic district, certainly has local historic nature. 23.G.6 states “no tower shall be located on municipally owned land designated as open space or for recreation use unless approved by the Farmington Conservation Commission.” It is Mrs. Edelson’s position that when the Town purchased the subject property, it was in fact purchased for open space. See Exhibit E, Minutes of Town Council, April 10, 2001, Hartford Courant article dated 4/24/01, Exhibit E, and the DEP definition

of open space, Exhibit G. Certainly there has been no approval obtained from the Farmington Conservation Commission approving the proposed tower. It is Mrs. Edelson's contention that same should have been a prerequisite before the PZC considered same.

Still further, it is uncertain of the relationship between the subject property and flood protection zones within the Town of Farmington. Same has not been investigated due to the insufficiency of time. There is a reference to the need to comply with such standards under 23.G.15.

#### **AS TO THE APPLICATION**

Mrs. Edelson challenges various claims within the application. In some instances, it is the lack of information within the application that should be brought to the Council's attention. There does not appear to be a site search map of reasonable alternatives. While there is an exhibit of the site search area, it merely identifies written alternatives without a map. Mrs. Edelson has reason to believe that other alternatives exist, such as the Polo Club, that may well serve as an alternate site. Without a map showing the area in which a new tower would be effective, there is insufficient evidence in the application to demonstrate that there are not reasonable alternatives to the proposed site.

As to the site search summary, it is minimal at best. While it indicates sites investigated, number 1 being the subject property; number 2, the Avon Old Farms field house; number 3, the Avon Old Farms water tank; and number 4, the Avon Old Farms playing field; in all three instances, it references efforts, phone calls and e-mails, but no specifics in regard to those efforts, including the dates of any actual efforts, the manner in which the contacts were made. It seems surprising that Avon Old Farms would not at least respond, albeit to say no. It suggests that the Town's willingness to provide the subject site may have made the investigation of alternative sites minimal at best. To the extent that 5, 6 and 7 are listed, and there is a reference in each to significant redundant coverage, there is no information as to what is meant by the word significant. The amount of redundant coverage may be such as to otherwise warrant one of those sites, which may not have the same negative impact on residential properties as the subject site. Without a full understanding of what other sites potentially qualify, there is an insufficient basis on the record for the Council to find this necessary element satisfied.

Further, Mrs. Edelson challenges the lack of detail in the site selection report, particularly in regard to the visual report of VHB. There is no reference within the report of the topography, namely that the Edelson property is at such a height that the tower would be visible year round from her residence,

notwithstanding the status of vegetation. Further, Exhibit 10, the visual report fails to include views from the Edelsons' residential neighborhood, which of course is most affected by the erection of the tower. It is either a glaring oversight or recognition of the visibility from Mrs. Edelson's home. The failure to disclose to the Council the impact of the tower on the Edelsons' residential neighborhood makes the application incomplete at best, or misleading at worst.

On page 16 of the report, the comment about the Town of Farmington's conservation plan being silent on telecommunications towers is inconsistent with the Planning and Zoning Regulations under 23.G.6 previously discussed. There appears to have been no effort made to secure any comment or approval from the Conservation Commission.

As suggested earlier, there does not appear to be a historic map or a flood map submitted with the application, but to the extent that both are referenced in the Town Planning and Zoning Regulations concerning communication towers, same should be of concern to the Siting Council, particularly in light 23.G.3 in regard to historic districts, or 23.G.15 in regard to flood protection..

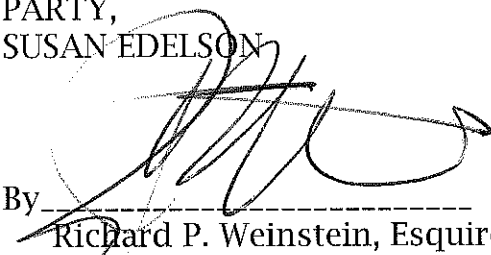
For the reasons aforesaid, Mrs. Edelson opposes the approval of the application, suggests that it needs considerably more investigation; that it be referred back to the Town PZC for a properly noticed hearing; that to the extent



deemed to be part of the open space, that it be referred to the Town Conservation Commission; that full visuals from all angles be submitted to the Siting Council; that historic and flood maps be taken into consideration; that alternative search area maps be provided; and that reasonable efforts be demonstrated as to locations of alternate sites. Mrs. Edelson strongly opposes approval based on the submission to date, and otherwise would request a continuance of the April 15, 2008 hearing, so that she can make further investigation and provide more information germane to the application as set forth herein.

PARTY,  
SUSAN EDELSON

By \_\_\_\_\_

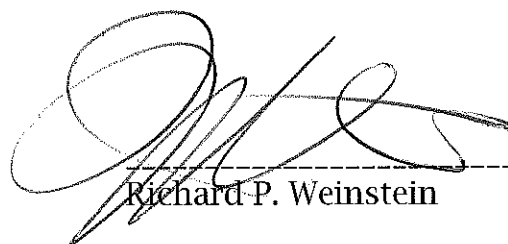


Richard P. Weinstein, Esquire  
Weinstein & Wissner, P.C.  
29 South Main Street, Suite 207  
West Hartford, CT 06107  
Tel. No. (860) 561-2628  
Fax No. (860) 521-6150

**CERTIFICATION**

This is to certify that on the 8th day of April, 2008, a copy of the foregoing was served upon:

Joey Lee Miranda, Esquire  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103



Richard P. Weinstein

# EXHIBIT A

280 Trumbull Street  
Hartford, CT 06103-3597  
Main (860) 275-8200  
Fax (860) 275-8299  
jmiranda@rc.com  
Direct (860) 275-8227

January 29, 2008

**Via Certified Mail Return Receipt Requested**

Susan R. Edelson  
11 Belgravia Terrace  
Farmington, CT 06032

Re: **Cellco Partnership d/b/a Verizon Wireless  
Proposed Telecommunications Facility  
Farmington, Connecticut**

Dear Ms. Edelson:

Cellco Partnership d/b/a Verizon Wireless ("Cellco") will be submitting an application to the Connecticut Siting Council ("Council") on or about February 1, 2008, for approval of the construction of a telecommunications facility in the Town of Farmington, Connecticut.

The facility would consist of a new 117-foot self-supporting monopole tower, disguised as a pine tree, and a 12' x 30' equipment shelter located on a 9.9 acre parcel at 199 Town Farm Road. The parcel is owned by the Town of Farmington. An on-site backup generator would also be installed inside Cellco's shelter. A 1000 gallon propane tank will be installed within the fenced compound. The tower would be designed to accommodate multiple carriers. Access to this site will extend from Town Farm Road.

The location and other features of the proposed facility are subject to change under the provisions of Connecticut General Statutes § 16-50g et seq.

State law provides that owners of record of property which abuts a parcel on which the proposed facility may be located must receive notice of the submission of this application. This notice is directed to you either because you may be an abutting land owner or as a courtesy notice.



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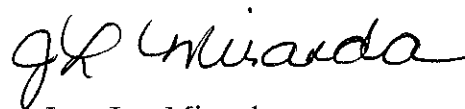
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# ROBINSON & COLE<sub>LLP</sub>

January 29, 2008  
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If you have any questions concerning the application, please direct them to either the Connecticut Siting Council or me. My address and telephone number are listed above. The Siting Council may be reached at its New Britain, Connecticut office at (860) 827-2935.

Very truly yours,



Joey Lee Miranda



# EXHIBIT B

**TOWN OF FARMINGTON  
REGULATIONS  
FOR  
ZONING**



**FARMINGTON TOWN HALL**

One Monteith Drive

Farmington, Connecticut 06032-1053

# FARMINGTON, CONNECTICUT

ZONING REGULATIONS  
(Amended to October 31, 2004)



To guide development which minimizes impacts to wetlands, watercourses, flood prone areas, hillsides, surface water and groundwater resources and other sensitive and significant features of the natural landscape; and

To encourage the preservation of historic structures.

## Section 2. BASIC REQUIREMENTS

No land, building, structure or portion thereof shall hereafter be used, and no building, structure or portion thereof shall be constructed, reconstructed, located, extended, enlarged or substantially altered, except in conformity with these regulations.

These regulations are intended to state the uses of land and/or buildings and structures which are permitted within the Town. Uses not stated are not permitted.

## Section 3. APPLICATION OF REGULATIONS

No conveyance of land shall be made that reduces the remaining land of the grantor below the applicable minimum area, frontage, bulk and yard requirements. No building permit, zoning permit, certificate of occupancy or certificate of zoning compliance shall be issued for the erection or occupancy of a building or structure on land conveyed in violation of this section.

## Section 4. INTERPRETATION

In interpreting and applying these regulations, the regulations shall be considered as the minimum requirements for the promotion of the public health, safety and general welfare.

When these regulations impose a greater restriction on the use of buildings or require larger yards, courts or other open spaces, or require a greater percentage of lots to remain unbuilt, or impose other standards higher than those imposed by any law, ordinance, regulation or private agreement, these regulations shall control. When restrictions are imposed by any law, ordinance, regulation or private agreement which are greater than those required by these regulations, such greater restrictions shall not be affected by these regulations.

When one section of these regulations imposes standards greater than those of another section, the standards of the more restrictive section shall control, however, it should be recognized that a use of property as set forth under Article II Sections 19 – 26 and Article IV shall be permitted in the respective underlying zone as established by right or by special permit.

The Zoning Enforcement Officer may require the installation and maintenance of any erosion and sediment control measures contained in the "Connecticut Guidelines for Soil Erosion and Sediment Control" January, 1985 as amended.

Section 12. SPECIAL PERMITS, SITE PLANS, INTENT AND APPLICATION REQUIREMENTS

A. INTENT

These Zoning Regulations are based upon the division of the Town into districts, within each of which the use of land and structures and the size and location of structures in relation to the land are substantially uniform. However, it is recognized that there are certain other uses and features that would be appropriate in such districts if controlled as to number, area, location or relation to the neighborhood so as to promote the public health, safety and welfare. Change of zone and special permit uses shall be subject to the satisfaction of the requirements and standards set forth herein. Zone changes and special permit uses are declared to possess such particular characteristics that each shall be considered as an individual case.

B. Standards for Granting of a Change of Zone or Special Permit

In considering applications the Commission shall require compliance with the following:

1. That the existing and future character of the neighborhood in which the zone and/or use is to be located will be protected;
2. That adequate safeguards have been taken to protect adjacent property and the neighborhood in general from detriment;
3. That traffic circulation within the site and the amount, location and access to parking is adequate, and adequate sight distance is provided for all proposed and existing driveways;
4. That the road network, to include intersections, impacted by the proposed development will be capable of satisfactorily handling the increase traffic generated by such use;
5. That the i) basic design of the proposed use(s) or buildings; ii) relationship between the buildings and the land; and iii) overall physical appearance of the proposed use(s) or buildings will be in general harmony with the character of the surrounding neighborhood and will not serve to blight or detract from abutting residences or other property;
6. That in the case where an application proposes increased building density over that permitted under the existing zone, the topography and other natural features of the property are capable of accommodating such increased development without detrimental impact; and that adequate safeguards have been taken to protect the natural

environment; and

7. That all required public services will be reasonably available to serve the proposed development.

The Commission may attach conditions to an approval of a special permit or site plan in conjunction with a special permit or zone change to ensure compliance with the above standards.

### C. Procedures

1. Every application for change of zone and special permit shall require a public hearing.
2. Notice of the public hearing by certified mail shall be mailed by the applicant no later than ten (10) days before such hearing to all owners of property, as recorded in the office of the Town Assessor on the date the application is filed, located within 200 feet of the property which is the subject of the application. In the case where any property within 200 feet of the property which is the subject of the application has been submitted to common interest ownership, such as a condominium, the required notice need only be sent to the homeowners' association and to those owners of buildings or dwelling units located within such 200 feet. Evidence of such mailing shall be presented to the Planning Department at or before the public hearing. In addition, the applicant shall post a notification sign provided by the Planning Department on the property at least seven (7) days prior to the date of the public hearing.
3. All applications for a zone change or special permit shall be accompanied by an application for site plan approval unless otherwise waived by the Commission. In addition, an application for site plan approval shall be submitted to the Commission for the development of any varied use and for any site or building modifications to any existing special permit use. Applications for site plan approval shall be accompanied by 8 sets of plans, 24" x 36" in size, at a scale of no less than 1" = 100', and contain all information as listed on the Application Checklist which is included as part of these regulations as Appendix B. The Commission may waive any and all of the information required on a site plan provided enough information is submitted to the Commission to sufficiently determine compliance with these regulations.
4. From time to time requests are received for revisions of or additions to approved site plans and/or special permits, zone changes or stated uses. Such revisions or additions may have minor or major consequences. Such requests will be first screened by the Zoning Enforcement Officer and if he determines such a request to be of minor consequence, he will conditionally approve the request and advise the Commission of his action. Unless the Commission acts to modify his conditional approval, the conditional approval shall become final approval. If the Zoning Enforcement Officer determines such request to have a significant consequence, the request shall be submitted to the Commission for its consideration and action. Following a finding by the Commission that the request has a significant consequence the Commission shall conduct a public hearing prior to its action.

11. No accessory apartment may be established until a Zoning Permit and Certificate of Zoning Compliance is issued by the Zoning Enforcement Officer. Such Certificate of Zoning Compliance must be renewed every two years from the date of issuance. The property owner shall submit information to indicate compliance with the provisions of this regulation on forms provided by the Zoning Enforcement Officer.

## Section 22. AFFORDABLE HOUSING

An application for affordable housing submitted to the Commission pursuant to the provisions of Section 8-30g. of the Connecticut General Statutes, and not submitted under Article II. Section 25. of these regulations, shall conform with subsections F.1. through F.4. and F.8. of Article II. Section 25. of these regulations with the following exceptions:

- A. An affordable housing unit shall be defined as in Section 8-39a. of the Connecticut General Statutes for persons and families whose income is less than or equal to eighty percent of the area median income.
- B. Restrictions or covenants requiring that dwelling units be sold or rented at or below prices which will preserve the units as affordable housing shall only apply for a period of twenty years from the initial occupation of such dwelling units.

In addition the approval of such an application for affordable housing as defined above shall not legally take effect until the housing developer has entered into a contract with the Town of Farmington as specified in Article II. Section 25.D. of these regulations.

## Section 23. COMMERCIAL WIRELESS TELECOMMUNICATION SITES

- A. DEFINITIONS. For the purpose of applying the provisions of this section the terms below shall be defined as follows:

**ANTENNA** means a device used to receive or transmit electromagnetic waves. Examples include, but are not limited to whip antennas, panel antennas and dish antennas.

**CAMOUFLAGED** means a commercial wireless telecommunication site that may be disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

**CARRIER** means a company that provides wireless telecommunication services.

**CO-LOCATION** means locating wireless communication facilities from more than one provider on a single structure or tower. Co-location can also refer to the provision of more than one service on a single structure or tower by one or more carriers.

**COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES** means licensed commercial wireless telecommunication services including cellular, personal

communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

**COMMERCIAL WIRELESS TELECOMMUNICATION SITE** means a facility operated by a licensed commercial wireless telecommunication service provider which consists of the equipment and structures involved in receiving or transmitting electromagnetic waves associated with wireless telecommunication services.

**HEIGHT OF TOWER** means a distance from the ground elevation of such tower to the topmost point of the tower including any antenna or other appurtenances. The total elevation of the tower is the height of the tower plus the ground elevation expressed as above mean sea level.

**RADIOFREQUENCY (RF) ENGINEER** means an engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**TOWER** means a structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples of towers include a) self supporting lattice, b) guyed and c) monopole.

B. Location Preferences. The locations for siting commercial wireless telecommunication sites are listed in lines 1 through 10 below, in order of preference.

1. Camouflaged within an existing building, flagpole, tower or similar structure.
2. Mounted and camouflaged on an existing building or structure.
3. Mounted on existing buildings and structures in commercial and industrial zones.
4. Mounted on an existing or previously approved tower without increasing the height of the tower.
5. Mounted on existing buildings and structures in residential zones.
6. Mounted on an existing or previously approved tower resulting in an increase in tower height.
7. Mounted on new towers at or less than 75 feet in height located in commercial or industrial zones.
8. Mounted on new towers more than 75 feet in height located in commercial or industrial zones.
9. Mounted on new towers at or less than 75 feet in height located in residential zones.
10. Mounted on new towers more than 75 feet in height located in residential zones.

C. Permitted Uses. The following uses which generally pose minimum adverse visual effects subject to the standards in Subsection G.

1. Commercial wireless telecommunication sites which are camouflaged and located inside nonresidential buildings or structures. No changes shall be made to the exterior of such structure.
2. Commercial wireless telecommunications sites where the antenna is mounted to existing towers, utility poles, water towers, light standards, bridges or other similar structures which are not classified as buildings provided the following standards are met:
  - a. No changes are made to the height of the structure. However the antenna may extend up to 15 feet above the original height of the structure.
  - b. No panel antenna shall exceed 60 inches in height and 24 inches in width.
  - c. No dish antenna shall exceed 3 feet in diameter.
  - d. All related equipment buildings and boxes shall be screened and fenced as required by the Zoning Enforcement Officer.
  - e. Such towers, poles, light standards, bridges or similar structures shall be located within non-residential zones.

D. Uses Allowed Only by Special Permit. In addition to specific requirements listed in Subsections G. and H., the Commission must find that the application complies with the standards found in Article IV. Section 12. See Article IV. Section 12. also for application procedures, hearing and notice requirements. A licensed carrier shall be either the applicant or co-applicant.

1. In all zoning districts, commercial wireless telecommunication sites not otherwise permitted in Subsection C.

E. Site Plan Requirements. All proposals to develop a commercial wireless communication site as a permitted use or special permit use shall be subject to the site plan requirements listed in Article IV. Section 12. of these regulations. In addition the following information shall be submitted in accordance with each particular application where applicable.

1. Permitted Use:

- a. A plan showing where and how the proposed antenna will be affixed to a particular building or structure.
- b. Details of all proposed antenna and mounting equipment including size and color.
- c. Elevations of all proposed shielding and details of materials including color.

- d. An elevation of all proposed equipment buildings or boxes. Details of all proposed fencing including color.
- e. A report from a licensed RF engineer indicating that the proposed wireless telecommunication site will comply with the emission standards found in Subsection G. of this regulation. The report shall include ambient RFR measurements and the maximum estimate of RFR from the proposed wireless telecommunication site(s) plus the existing RFR environment. Such report shall also certify that the installation of such site will not interfere with public safety.

2. Special Permit Use:

- a. A map depicting the extent of the carrier's current and planned coverage within the Town of Farmington and the service area of the proposed wireless telecommunication site. A map indicating the search radius for the proposed wireless telecommunication site.
- b. A design drawing including cross section and elevation of all proposed towers. A description of the tower's capacity including the number and type of antennas it can accommodate as well as the proposed location of all mounting positions for co-located antennas and the minimum separation distances between antennas.
- c. Upon request of the Commission, the applicant shall provide complete and accurate propagation plots in relation to scaled elevation drawings addressing all facilities to be installed on the tower.
- d. Upon request of the Commission, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of a ground mounted tower. This demonstration shall remain in place for a minimum of 36 hours.
- e. Upon request of the Commission, the applicant shall provide a sight line study indicating how the facility would appear from various directions and distances prescribed by the Commission. This could include photographs depicting sight lines before and after installation.
- f. All of the plans and information required for Permitted Uses in the previous section.

F. Height and Area Requirements.

- 1. Lot Size. Commercial wireless telecommunication sites containing a freestanding tower shall not be located on any lot less than 20,000 square feet in area. Where it is proposed that such a wireless telecommunication site occupy a lot as a principal use, the minimum lot size shall be equal to that required for the underlying zone or 20,000 square feet, whichever is greater.
- 2. Height. The maximum height of a tower proposed under this regulation shall be 200 feet including the antenna and all other appurtenances. The height of a tower mounted on a building shall be measured from the average level of the ground along all walls of

## G. General Requirements.

1. No commercial wireless telecommunication site shall be located within 500 feet of a parcel containing a playground or school which is primarily attended by persons under 18 years of age. The Commission may, in its discretion and by a vote of 5 of 6 of its members, waive this requirement for an area designated as the playground, when the limits of the playground area within the parcel are located more than 500 feet from the commercial wireless telecommunications site. When considering such waiver requests, the Commission may consider future playground development proposals for any portion of the parcel if a formal development plan is on file with or pending before, or was previously approved by the Commission or the Director of Parks and Recreation.
2. No commercial wireless telecommunication site shall be located within 200 feet of a residential dwelling.
3. No tower shall be located within 1,000 feet of the boundary of a local historic district.
4. No lights shall be mounted on proposed towers unless otherwise required by the FAA. All strobe lighting shall be avoided if possible.
5. Towers not requiring special FAA painting or markings shall be painted a non-contrasting blue, gray or other neutral color as determined by the Commission.
6. No tower shall be located on municipally owned land designated as open space or for recreation use unless approved by the Farmington Conservation Commission.
7. All towers shall be either a monopole or lattice design at the discretion of the Commission. A monopole tower shall be designed to collapse upon itself.
8. The Commission may require that monopoles be of such design and treated with an architectural material so that it is made to resemble a man-made or natural object such as but not limited to a flagpole or tree.
9. The Commission may require that any proposed tower be designed in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is 100 feet or greater in height or for at least one additional comparable antenna if the tower is between 50 and 99.9 feet in height. The Commission may require the tower to be of such height and structural design as to allow for future rearrangement of antennas upon the tower and to accommodate antennas mounted at varying heights.
10. Each tower site must be served by a driveway with parking for at least one vehicle. All provisions of these regulations concerning the design and location of driveways shall apply.
11. Antennas or unshielded equipment buildings/boxes mounted to or on buildings or structures shall to the greatest degree possible blend with the color and design of such building. The Commission may require that building mounted facilities be camouflaged or shielded.



12. All dish antennas shall be of mesh construction unless otherwise approved by the Commission.
13. Dish antennas shall not exceed 6 feet in diameter. Panel antennas shall not exceed 5 feet in height.
14. No proposed commercial wireless telecommunication site shall be designed, located or operated as to interfere with existing or proposed public safety communications.
15. All applications for commercial wireless telecommunication sites within the Flood Protection Zone shall comply with the standards found in Article II Section 16 of these regulations.
16. The design of all commercial wireless telecommunication sites shall comply with the standards promulgated by the FCC for non-ionizing electromagnetic emissions. When there is more than one existing or proposed source of electromagnetic emissions at a site or adjacent thereto the design shall consider the cumulative emissions from all sources.
17. All utilities proposed to serve a commercial wireless telecommunication site shall be installed underground unless otherwise approved by the Commission.
18. All generators installed in conjunction with any commercial wireless telecommunication site shall comply with all state and local noise ordinances. In addition the Commission may require that generators be screened including the use of panels lined with sound deadening material.
19. All applications for commercial wireless telecommunication towers 50 feet or greater in height shall be accompanied by a letter of intent committing the tower owner and its successors to allow the shared use of the tower if an additional user agrees to meet reasonable terms and conditions for shared use.
20. The Commission under Chapter 98 of the Town of Farmington Code may engage outside consultation to assist in the review of engineering plans and specifications relating to commercial wireless telecommunication sites.

H. Factors Upon Which Special Permit Decisions of the Commission Shall be Based.

In passing upon applications for commercial wireless telecommunication sites, the Commission, in addition to the standards found in Article IV. Section 12., shall also find:

1. In the case where a commercial wireless telecommunication site is proposed to be located on a property designated on the State or National Historic Register or within an approved historic district, that such proposal will preserve the historic and/or architectural character of the landscape or any structure.
2. In the case where an application for the proposed location of a commercial wireless telecommunication site is not a preference 1 through 6 location, the applicant has adequately described the efforts and measures taken to pursue those preferences and why a higher preference location was not feasible. In the case where the higher

## ARTICLE V. ADMINISTRATION AND ENFORCEMENT

### Section 1. INTERPRETATION

In their interpretation and application these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare. Where these regulations impose a greater restriction on the use of land, buildings or require larger yards, or other open spaces or impose other higher standards than are imposed by the provisions of any law, ordinance, regulations or private agreement, these regulations shall control. When greater restrictions are imposed by any law, ordinance, regulation or private agreement than are required by these regulations, such greater restrictions shall not be affected by these regulations.

### Section 2. ZONING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

- A. No land shall be used or activity conducted thereupon and no building or structure shall be used, erected, moved, enlarged or structurally altered and no Building Permit shall be issued until the Zoning Enforcement Officer either issues a Zoning Permit for such use or work or certifies in writing that such use or work is in conformity with the Zoning Regulations. A Zoning Permit is a document issued and certified by the Zoning Enforcement Officer that the proposed use and constructions is in conformance with the Zoning Regulations. A Zoning Permit is not required for repairs or alterations to existing buildings or structures, provided that such work does not alter the facade of such building, change the floor area or height of such building or structure and does not change the use thereof. A Zoning Permit shall also be required for signs (See Article IV. Section 7.).

An application for a permit shall be filed with the Zoning Enforcement Officer on a form to be provided by the Planning Department. For new buildings or structures or changes increasing the floor area of an existing building or structure, an applicant shall present a site plan which is adequate to demonstrate compliance with the Zoning Regulations.

- B. From time to time requests are received for revisions of or additions to approved site plans and/or special permits, zone changes or stated uses. Such revisions or additions may have minor or major consequences. Such requests will be first screened by the Zoning Enforcement Officer and if he determines such a request to be of minor consequence, he will conditionally approve the request and advise the Commission of his action. Unless the Commission acts to modify his conditional approval, the conditional approval shall become final approval. If the Zoning Enforcement Officer determines such request to have a significant consequence, the request shall be submitted to the Commission for its consideration and action. Following a finding by the Commission that the request has a significant consequence the Commission shall conduct a public hearing prior to its action.

Small additions to nonresidential structures or buildings not previously approved by the Commission and changes in use shall be brought to the attention of the Zoning Enforcement Officer. When determined by the Zoning Enforcement Officer that such proposal does not require a special permit or site plan approval, a Zoning Permit may be issued.

# EXHIBIT C

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL


IN RE: :  
 :  
APPLICATION OF CELLCO PARTNERSHIP : Docket No. 356  
D/B/A VERIZON WIRELESS FOR A :  
CERTIFICATE OF ENVIRONMENTAL :  
COMPATIBILITY AND PUBLIC NEED FOR :  
THE CONSTRUCTION, MAINTENANCE :  
AND OPERATION OF A WIRELESS :  
TELECOMMUNICATIONS FACILITY AT :  
199 TOWN FARM ROAD, FARMINGTON, :  
CONNECTICUT : APRIL , 2008

AFFIDAVIT

STATE OF CONNECTICUT )  
 ) ss. West Hartford  
COUNTY OF HARTFORD )

The undersigned, Susan Edelson, being duly sworn, hereby deposes and says:

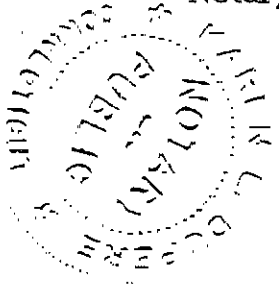
1. I am over eighteen (18) years of age and believe in the obligation of an oath.
2. I received no notice of a Town of Farmington Planning and Zoning Commission hearing scheduled for July 23, 2007.

  
-----  
Susan Edelson

Subscribed and sworn to before me on this  
the 8<sup>th</sup> day of April, 2008.

*Karen Capere*

Notary Public/Commissioner of the Superior Court



KAREN CAPERE  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES 09/30/2008

9-30-2008

# EXHIBIT D

Located here was one of the outstanding engineering achievements of the canal, a 280 foot aqueduct comprised of seven 40 spans, carrying it 30 feet above the Farmington River. 3 of the 6 piers lasted until 1955, when they were removed by the Army Corps of Engineers. Now only the end abutments remain.

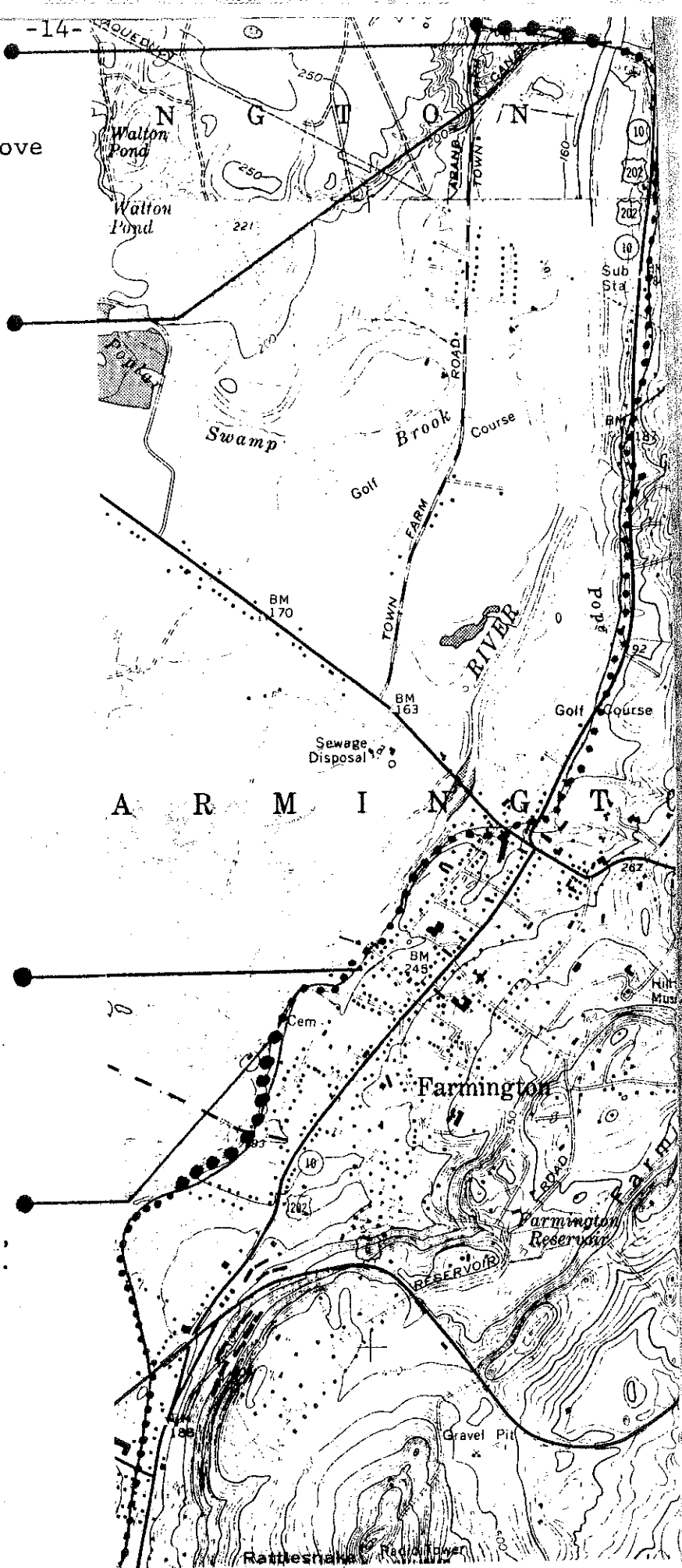
A feeder canal was built from Unionville to Farmington to supply water for maintaining an adequate flow in the canal. A crib dam was constructed across the Farmington River in Unionville to divert water to the canal. Portions of this feeder canal remain, completely masked by vegetation.

Except for scattered traces along Route 10, the canal route is again lost to the east of the river.

③  
Farmington

The Union Hotel, now part of the Miss Porter's School, was typical of the hostleries which sprung up along the canal to accommodate travelers.

Traces of the canal appear in the southern part of Farmington, overlooking the Pequabuck River. A very short segment is visible in the cemetery, and further south, a 1000 foot segment remains.



# EXHIBIT E



**MINUTES OF THE REGULAR MEETING OF THE  
FARMINGTON TOWN COUNCIL HELD  
APRIL 10, 2001**

**Present:**

Arline B. Whitaker, Chair  
Bruce A. Chudwick (arrived 7:05 PM)  
Robert DiPietro  
Bernard B. Erickson  
Michael M. Meade  
Nicholas S. Scata (arrived 6:35 PM)  
William A. Wadsworth  
Kathleen Eagen, Acting Town Manager  
Paula B. Ray, Clerk

**A. Call to Order**

The Chair called the meeting to order 6:30 PM.

**B. Pledge of Allegiance**

The Pledge of Allegiance was recited.

**C. Presentations and Recognitions**

NONE

**D. Public Hearing**

1. Proposal to Acquire the Following Parcel of Land as Open Space/  
Agricultural Use:  
Town Farm Road 108 acres for \$2,500,000

The Chair called the hearing to order at 6:35 PM under the Legal Notice recorded with these minutes marked Agenda Item D-1. Mr. Wadsworth reviewed the proposal to buy 108 acres on Town Farm Rd for open space. He explained the intent of the Town of Farmington is to allow the dairy farm to continue operations by reserving 29 acres for its use and setting aside 79 acres of the purchase for open space. Peter Van Beckum, President of the Farmington Land Trust read into the record the letter recorded with these minutes marked Agenda Item D-1a in support of the proposal. John Hickey, Chair of the Conservation Commission read into the record the letter recorded with these minutes marked Agenda Item D-1b in support of the proposal. Mr. Wadsworth read into the record the letter recorded with these minutes marked Agenda Item D-1c from the Farmington Historical Society in favor of the proposal. Helen Caia of 29 Bonnie Drive spoke in favor of the proposal. Peter Van Beckum of 116 West Avon Rd. spoke in favor of the project and distributed an article in favor of Open Space purchases by Lauren Brown. The Chair declared the hearing closed at 7:02 PM.

5. To Approve the Highway Bounds for Judson Lane From its Existing Terminus to its Intersection with Meadow Road.

Motion was made and seconded (Scata/Wadsworth) to accept the motion recorded with these minutes marked Agenda Item N-5.

Adopted unanimously.

6. That the Town Council recommend the purchase of 184, 189 Town Farm Road to the TPZ for a report under Section 8-24 of the Connecticut State Statutes.

Motion was made and seconded (Wadsworth/DiPietro) to refer to the Town Plan and Zoning Commission for review pursuant to Section 8-24 of the Connecticut General Statutes, a proposal to purchase 108.03 acres of property known as 184 and 199 Town Farm Road for open space and agricultural use.

Adopted unanimously.

7. To Approve a Recommended Budget for Fiscal Year 2001-2002.

Motion was made and seconded (Chudwick/DiPietro) to approve a recommended 2001-2002 budget of \$62,547,884.00.

Adopted unanimously.

8. To Request Assistance for Legislation Regarding the Possible Purchase of the Unionville Water Company

The Chair stepped down and Mr. Chudwick assumed the Chair.

Motion was made and seconded (Scata/DiPietro) to accept the motion recorded with these minutes marked Agenda Item N-8.

Motion failed.

Voting yes were Chudwick and Scata.

Voting no were DiPietro, Erickson and Meade.

Mr. Wadsworth and Mrs. Whitaker abstained.

Mr. Chudwick stepped down and Mrs. Whitaker assumed the Chair.

# EXHIBIT F

1000 of Avon  
FISHER  
1000 of Avon

11/24-01  
4-24-01

# Land Plan Draws Cheers

By STEPHANIE REITZ  
COURANT STAFF WRITER

AVON — Open-space advocates have watched the picturesque Fisher family farm for decades, worried that a developer might try to snatch it up.

On Tuesday, those conservationists reacted with joy over word that the town of Avon has signed a deal to buy 318 acres of the land, con-

---

## AVON

---

tingent upon voter approval.

The property, on Tillotson Road in the southeast part of town, would be the town's largest open-space land purchase in decades.

"Had that property not been preserved, it would have been a crime," said Thomas Morganti, president of the Avon Land Trust, a nonprofit organization that has acquired and preserved more than 330 acres in town.

"It's such a boon to the community. It's really an incredible thing," Morganti said of the proposed purchase.

The town council voted unanimously Tuesday to send the \$2.23 million proposal to voters on June 6. Details will be presented at the annual town budget meeting May 6 and also will be explained in a townwide mailing before the referendum.

Some preservation-minded resi-

PLEASE SEE LAND, PAGE B6

# Land

CONTINUED FROM PAGE B3

denits say they believe that if the town does buy the property, few other groups would have the resources to preserve the Fisher land.

The acreage is one of five parcels that town leaders identified two years ago as crucial to preserving what remains of Avon's rural character.

Overall, the Fisher farm con-

## AVON

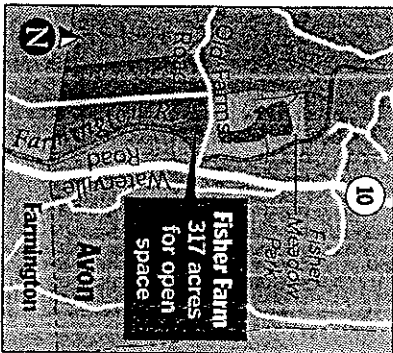
sists of 424 acres in Farmington and Avon. The town of Farmington has purchased the property within its borders.

The area that Avon wants to purchase is bounded by Old Farms Road on the north, the Farmington River on the east and the Farmington town line on the south.

The western border is west of Tilloison Road, which runs vertically through the land.

Town officials say the land in Avon has many attractive features, including level fields for farming, well-preserved remains of the 1850s-era Farmington Canal, and frontage on the Farmington River.

"The shore is particularly important because it's the first line of defense for protecting the riv-



THE HARTFORD COURANT

er," said Kevin Case, director of the Farmington River Watershed Association.

Some of the specifics of the proposed purchase:

- The town would pay \$2.128 million to Fisher Family Properties to buy the 318 acres. However, the town intends to raise \$2.235 million — which includes about \$107,000 in administrative costs, such as legal work and surveying — if voters give permission to issue bonds.

The state already has offered a \$938,000 grant to reduce the cost.

- About 275 of the 318 acres are classified as wetlands or floodplain, but the western end of the property could support 24 to 63 housing lots.

That worries town officials because residential development, while important, eliminates open space without substantially boosting the tax base.

Unless the homeowner has no children in school, taxes on a

home often do not cover the costs of schooling or other town services.

For instance, a family in a house assessed at \$200,000 would be charged about \$5,180 in annual property taxes under the current tax rate — but it costs the town about \$8,500 per year to educate just one child in that family.

- For the owner of a house assessed at \$200,000 — which assumes a market value of almost \$286,000 — the cost of the 15-year bond package to pay for the Fisher land purchase would be \$186 in extra taxes.

- The Fishers can keep farming on the property until the end of 2003, but the town hopes afterward to lease out the farming rights. The buildings and barns are on the Farmington portion of

the property, but much of the fields are in Avon.

It is not yet known who might lease those farming rights from the two towns.

"Our intent is to work with the town of Farmington to try to keep an active farm going there," Avon Town Manager Philip K. Schenck Jr. said.

- The town could convert 11 acres on Old Farms Road into athletic fields, but only if it notifies the farmers at least five growing seasons in advance. The town also would offer them equal space elsewhere on the acreage to keep farming.

Those athletic fields, if created, would be grassy, rectangular lay-

puts suitable for soccer or lacrosse practice — not the kind of fields that require backstops, sprinklers, paving or other permanent changes.

**BEST VACUUMS**  
SALES SERVICE PARTS

# EXHIBIT G



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## Open Space

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Connecticut's natural diversity and scenic beauty add immeasurably to the quality of life of its residents. The state's prosperity has always depended upon its natural resources. Forests and farms contribute to a healthy and diverse economy. Parks and open lands improve the quality of life and help attract businesses. Natural areas and waterways provide critical wildlife habitat, clean drinking water, and scenic natural beauty, which is the foundation of the tourism industry. However, not all undeveloped land is protected open space; some of it will eventually be developed. For Connecticut to remain an attractive state in which to live, work and conduct business, it is critical that development be balanced with land conservation.

[The Green Plan: Guiding Land Acquisition and Protection in Connecticut 2007-2012 \(PDF\)](#)

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**WORKING DEFINITION OF OPEN SPACE**

“An area of land that is valued for natural processes and wildlife, for agricultural and sylvan production, for active and passive recreation, and/or for providing other public benefits.”



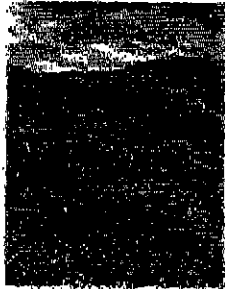
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## Open Space Trust Fund

### Definition of Open Space and Evaluation Criteria

#### Open Space

As defined by the Salt Lake County Open Land Trust Fund Advisory Committee, is a parcel of land in a predominantly open and undeveloped condition that is suitable for any of the following:



- natural areas;
- wildlife and native plant habitat;
- important wetlands or watershed lands;
- stream corridors;
- passive, low-impact activities;
- little or no land disturbance; and/or
- trails for non-motorized activities.

Open space lands may be preserved, enhanced and restored in order to maintain or improve the natural, scenic, ecological, cultural, hydrological, or geological values of the property. The location of Open Space lands, as supported by the functions of the Open Land Trust Fund Advisory Committee, shall be located in Salt Lake County. Only a small portion therein may extend into another contiguous county. As characterized above, the term "undeveloped" does not include manmade structures of historical significance.

#### Threshold Criteria

Each project must meet the following criteria in order to be considered:

1. The majority of the project in Salt Lake County
2. The landowner is willing to enter into good faith negotiations with the County
3. The project has open space conservation values
4. Project funds are for a fee title purchase or conservation easement only
5. The appropriate title and ownership appear to be free of obvious problems.

#### Project Selection Criteria

The Trust Fund committee considers a wide range of values, public benefits, and location when making recommendations. The Committee is striving to develop a diverse portfolio of critical lands for the public and future generations. The committee considers:

**Cost:** the terms of the acquisition will allow the County to maximize its

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assets and leverage the Trust Fund through landowner donations, discounts, funding partnerships, and donations

**Community benefit:** the project will be beneficial to local communities and the County at large

**Conservation:** the project protects wildlife and their habitats, and protects the ecological health and function of County lands

**Human renewal:** projects have scenic and aesthetic values and provide respite, renewal, and solitude

**Connectivity:** the project will add to the existing or planned open space system and enhance ecological, hydrological, and recreational vitality

**Stewardship:** the project will be protected in perpetuity and its open space conservation values will be preserved through good management and enforcement

**Feasibility:** the project is for land that is largely or entirely in an undisturbed and natural state and will be maintained as such

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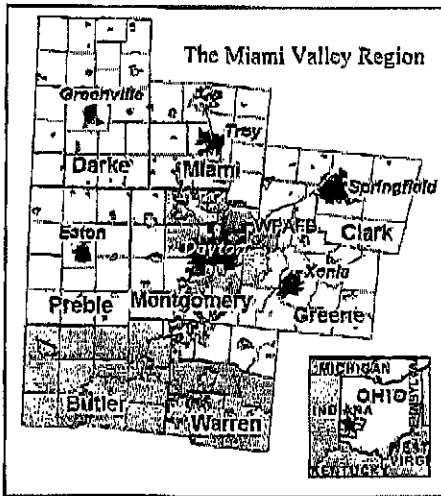
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Miami Valley Regional Planning Commission • One Dayton Centre, One South Main Street, Suite 260, Dayton, OH 45402 • Tel: 937.223.6923 • Fax: 937.223.9750 • Website: www.mvrpc.org

## INTRODUCTION

The Miami Valley Regional Planning Commission (MVRPC) conducted the Miami Valley Open Space Assessment study in order to develop a 2005 Open Space GIS database and examine the status of open space in the Region. The study is an update to the 1993 Miami Valley Open Space Inventory database prepared for the Miami Valley Open Space Council and to the State of the Region 2005 report that examined broad social, political, economic, and environmental issues of the Region, and recounted the progress the Region has made over the years.



While the State of the Region 2005 report defined the Region to include eight (8) counties in the Dayton Metropolitan area as illustrated in the map, the 2005 Miami Valley Open Space Assessment study is based on the six (6) counties surveyed in the 1993 Open Space Inventory (Clark, Darke, Greene, Miami, Montgomery, Preble), as well as the addition of the northern part of Warren County.

This report provides information on how the data was collected, the limitations that exist within the study, and summarizes the findings from the study, providing information on regional as well as county level statistics. Further, the 2005 statistics are compared to the 1993 statistics in order to assess how the Region has changed over the last 12 years.

## OPEN SPACE DEFINITION

The definition of open space used in this study was adapted from the 1993 Open Space Inventory. The main categories of land uses in the 2005 Open Space database, as seen in the table below, include: General Outdoor Recreation Area, Outstanding Regional Amenity, Natural Environment Protection Area, Utilities, Open Space Link, Natural Environment Recreation Area, School, Landfill/Mineral Extraction, Cemeteries, Historical Site/Museum, and Airfields. It is important to note that the definition of open space in the study is very broad and ranges from areas that are active in nature, such as parks and ball fields, to areas that are passive in nature such as wetlands preserves and flood control properties. Also, it should be noted that the Open Space classification in this study does not include agricultural land use, which is prevalent in some part of the Region.

Open Space Classification

General Outdoor Recreation Areas		Utility		Landfills / Mineral Extraction	
Swimming Pool	Picnic Grounds	Well Field	Wastewater Plant	Landfill	Quarry
Active Recreation	Stadium	Open Space Link		Sand & Gravel Extraction Site	
Plaza/Commons	Horse Racing	Hiking Trail	Large Institution	Cemeteries	
Fairground	Auto Racing	Bikeway	Flood Control	Cemetery	
Ball Field	Golf Course	Pedestrian Walkway		Historical Sites / Museums	
Outstanding Regional Amenity		Natural Environment Recreation Area		Historic Site	Museum
Scenic River	Waterfall	Campground	Fishing Lake	Covered Bridge	
Natural Environment Protection Area		Fish & Game Club	Scout Camp	Airfield	
Wildlife Preserve	Natural Area	School		Airport	Sky Diving
Park Preserve	Wetland Preserve	Public School	College		
Storm Basin	Hunting Area	Private School	University		

Source: MVRPC 2005 Open Space Database

For the purposes of this study, General Outdoor Recreation Area, Outstanding Regional Amenity, Natural Environment Protection Area, Natural Environment Recreation Area, and Historical Sites/Museums have been grouped together as "Open Space/Recreational Facilities."



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The State of Connecticut envisions a mixed landscape providing outdoor recreation to Connecticut's citizens, protecting water supplies, preserving fragile natural communities and homes for plants and animals, offering green spaces for city residents, and providing an operational, natural landscape for the harvest of farm and forest products.

The State's overall goal is to preserve 21% of Connecticut's land as open space by the year 2023, a total of 673,210 acres. The initiative includes 10% of open space to be state owned as additions to the State's system of parks, forests, wildlife, fisheries and natural resource management areas, with the remaining 11% owned by municipalities, private nonprofit land conservation organizations, water companies and the federal government. As of January 2006, 70% of this goal has been achieved through the direct purchase of open space by the state and through state support for local acquisitions.

To succeed in protecting a total of 21% of Connecticut's land by the first quarter of the 21<sup>st</sup> Century, the state must remain committed to acquiring open space for the next two decades. The DEP has two programs available to assist in realizing the vision and achieving the goals:

1. **Recreation and Natural Heritage Trust Program** - DEP's primary program for acquiring land to expand the state's system of parks, forests, wildlife, and other natural open spaces and
2. **Open Space and Watershed Land Acquisition Grant Program** - provides financial assistance to municipalities and nonprofit land conservation organizations to acquire land that will add to a community's open space, enhance recreational opportunities, protect unique geographical features or conserve habitat for living creatures.

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