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**MURTHA**

March 11, 2009

VIA HAND DELIVERY

Mr. S. Derek Phelps  
Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

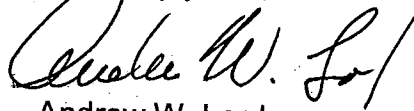
Re: Town of Avon Location Preferences and Siting Criteria For  
Docket No. 373, AT&T Proposed Telecommunications Tower, Avon

Dear Mr. Phelps:

I am writing on behalf of the Town of Avon ("Avon") to provide you with a letter from Avon's Town Manager, Philip Schenck setting forth Avon's Location Preferences and Siting Criteria for the Council's consideration pursuant to Conn. Gen. Stat. § 16-50gg. The original and 25 copies are enclosed for your convenience.

If you have any questions, please feel free to contact me.

Very truly yours,



Andrew W. Lord

Enclosures

cc: Mr. Philip K. Schenck, Jr.  
Loni S. Gardner, Esq.  
Service List

Murtha Cullina LLP | Attorneys at Law

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# TOWN OF AVON

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March 11, 2009

Mr. S. Derek Phelps  
Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 0605

Re: Town of Avon Location Preferences and Siting Criteria For  
Docket No. 373, AT&T Proposed Telecommunications Tower,  
Avon, CT

Dear Mr. Phelps:

Pursuant to Connecticut General Statutes § 16-50gg, the Town of Avon ("Town") hereby submits its preferences for location and other siting criteria (collectively "Town Criteria") for the above-referenced telecommunications tower, which is proposed to be located at St. Matthew Lutheran Church at 224 Lovely Street in Avon (the "Site").

By way of background, the Town Council asked the Town's Planning & Zoning Commission ("P&Z Commission") to adopt Town Criteria, which it did following its February 10, 2009 meeting. See Attachment A, Letter dated February 17, 2009 from Duane Starr, Chairman, Avon Planning and Zoning Commission to John Carlson, Chairman, Avon Town Council. These Town Criteria were subsequently endorsed by the Town Council on March 5, 2009. The Town Criteria set forth in Attachment A supersedes any prior written communication from Town Officials regarding the proposed telecommunications tower.

In addition to Town Criteria, pursuant to Conn. Gen. Stat. § 16-50x(a), the Town requests that the Council consider relevant criteria set forth in the Town of Avon's Zoning Regulations ("Regulations"). A memorandum for the Council's consideration identifying such criteria is attached hereto as Attachment B.

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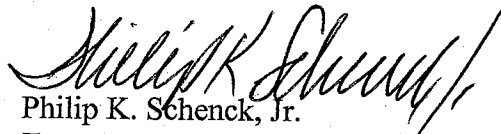
March 11, 2009

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Finally, the Town would like to note that AT&T's application to the Council appears to contain only a select portion of the P&Z Commission's meeting minutes from November 18, 2008. The Town requests that the Council consider the entirety of that discussion, as well as the one which took place on February 10, 2009. Complete Minutes from both the November 18, 2008 and February 10, 2009 P&Z Commission Meeting are attached hereto as Attachment C.

Given the impact of the proposed structure to the surrounding properties, the Town respectfully requests that the Council consider the aforementioned Town Criteria and applicable land use regulations.

Very truly yours,



Philip K. Schenck, Jr.  
Town Manager, Town of Avon

**A**



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Tel. (860) 409-4361

February 17, 2009

John Carlson, Chairman  
Avon Town Council  
Town of Avon  
60 West Main Street  
Avon, CT 06001

Dear John:

As requested by the Town Council, at their meeting of February 10, the Planning and Zoning Commission, once again, reviewed the request by AT&T to construct a cellular communications tower at 224 Lovely Street on property owned by St. Matthews Lutheran Church.

As you know, the Planning and Zoning Commission also reviewed this matter at their meeting on November 18, 2008. At this meeting representatives of AT&T were present to describe this application. AT&T had not yet sent written notice to adjoining property owners and, as a result, no residents of the neighborhood were present to provide input to the Commission. At our more recent meeting, the Commission did receive a significant amount of testimony from residents who live in the vicinity of the proposed site as a result of a December 23, 2008; notice AT&T had sent to abutting property owners. However, neither AT&T nor representatives of the church were present at our February 10 meeting, although both were invited to attend.

The Commission clearly appreciates the need for additional cell phone coverage in the vicinity of this location for reasons related to public safety. Improved signal strength in this area will be an aid to all emergency personnel in Avon, as well as the Staff at the Roaring Brook School. In addition, we understand that AT&T will be offering to the Town an opportunity to place emergency police and fire antennas at the top of the tower, which will also enhance emergency communications. However, having now had an opportunity to listen to testimony from residents and evaluating AT&T's proposal further, the Commission believes that the proposed location, along with the type of proposed construction, will result in adverse impacts to surrounding properties. This area is located in a single-family residential zoning district. The introduction of this tower in this location may result in diminished property values and quality of life for nearby property owners. AT&T's application to the Siting Council indicates consistency

with the Avon Plan of Conservation and Development. However, it should be noted that this Plan does not encourage cell phone towers in any single-family residential zones.

Although AT&T's application indicates full compliance with electromagnetic radiation standards, there appears to be some dispute within the scientific community about the hazards relating to EMF's. One resident in attendance at the Commission's February 10 meeting presented two reports which describe this concern. These reports are entitled, "IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz" and "Advice on Limiting Exposure to Electromagnetic Fields (0-300 GHz)".

Because of these concerns the Commission recommends that AT&T explore other sites either located in a commercial area such as locations along Route 44 or possibly in larger undeveloped tracks which could include Town-owned properties such as the Found Land or the Huckleberry Hill Open Space. It is not clear whether these other properties will satisfy the deficiencies identified by AT&T; however, these properties are substantially larger in area and might make it possible to incorporate the tower in a way which minimizes the concerns discussed earlier. The Commission also recommends investigating the ridge known as "Pond Ledge", as well as other technologies such as a tower-to-tower relay system which might permit the use of a shorter tower. Finally, we recommend a thorough evaluation of all existing towers and structures in the area to determine if they might be feasible for solving the AT&T signal deficiency in this area

Should the CT Siting Council approve the St. Matthews Lutheran Church location for the installation of communication equipment, the Planning and Zoning Commission strongly encourages the Siting Council to require the installation of this equipment within a church steeple. We understand that the existing structure is not sufficiently sized to accommodate these antennas. The Commission recommends a detailed evaluation to see if an additional steeple can be added to the church or perhaps a freestanding steeple structure can be built to the rear. This would provide an opportunity to completely hide the proposed antennas within the structure. Although it would not address the concerns relating to EMF's, it would certainly go a long way towards addressing the neighborhood compatibility issues discussed at our February 10 meeting.

The Commission also recommends that the height of the structure, whether it be a steeple or freestanding structure, be reduced to approximately 80 feet in height. We understand that this will limit the possibilities of additional tenants being added in the future. We also understand the CT Siting Council has a policy of co-location to reduce the number of future towers which will be necessary. However, because of the compatibility concerns discussed earlier, the Commission believes that a lower structure is critical in this particular application.

Should the Siting Council conclude that the construction of a new steeple is simply not possible in this instance and, instead, approve a freestanding structure the Commission recommends the following techniques to help reduce neighborhood impacts:

1. The use of a flagpole without a flag. Our understanding is that this will permit the installation of all the antennas internal to the pole which will help with aesthetics.
2. If a flagpole is not technically feasible, utilize a monopole painted in an earth tone color to better blend with the surrounding environment. Utilize a structure which has the minimum diameter necessary to support the structure. In this instance, AT&T should

also utilize a more compact form of antenna mounting where the antennas are mounted flush with the pole. It is our understanding that this would also eliminate an "ice bridge", which is shown on the current application.

3. Reduce the size of the proposed compound. If the height of the pole is reduced and the number of future tenants is limited, the size of the compound could also be reduced.
4. Ensure that no fuel-powered electrical generators are utilized on this site for the current tenant or future tenants.
5. Applicant should utilize a high quality residential wood fence tall enough to screen the proposed utility cabinet in lieu of the proposed chain-link fence. The use of barbed wire should be prohibited on this site.
6. Applicant should hire a landscape architect to assess the views of the tower and fenced compound from nearby properties. Landscaping should be done on the outside of the fencing on all four sides and additional plants should be added to minimize views from adjoining properties. If necessary, applicant should install plants on adjacent properties to mitigate views. Applicant should refer to Avon Zoning Regulations for minimum buffer yards between commercial structures and adjoining residential uses.
7. Ensuring that should technology change in the future such that the tower is no longer necessary, that AT&T be responsible to demolish the tower and restore the site.

The Commission would like to note that in reviewing the application submitted by AT&T to the CT Siting Council, it appears that only a portion of the Planning and Zoning Commission's meeting minutes from November 18 were included. We would ask that the Siting Council consider the entirety of this discussion, as well as the one which took place on February 10.

Finally, it is our understanding that the Town Council will decide on March 5 whether to seek party status. The Commission supports this, as it is our understanding that doing so will afford the Town certain rights which may be helpful in addressing the above concerns.

If I can be of any assistance in helping to clarify any of the concerns stated in this letter, please let me know.

Sincerely,



Duane Starr, Chairman  
Avon Planning and Zoning Commission

Copy: Planning and Zoning Commission  
Philip K. Schenck, Jr., Town Manager

**B**



## MEMORANDUM

TO: File

FROM: Steven M. Kushner, Director of Planning *SK*

DATE: March 11, 2009

RE: Town of Avon's Zoning Regulations Criteria for the Connecticut Siting Council's Consideration Pursuant to Conn. Gen. Stat. § 16-50x(a)  
Docket No. 373, AT&T Proposed Telecommunications Tower, Avon, CT

### Relevant Land Use Regulations

Certain sections of the Town of Avon's Zoning Regulations ("Regulations") provide relevant guidance for the Council's consideration for the siting of the proposed telecommunications facility. I have attached these sections hereto.

The proposed site located at 224 Lovely Street on property owned by St. Mathew's Lutheran Church (the "Site") is located in the R-30 single family residential district. As such, it is critical that the protective criteria set forth in Section 1.B. Purposes and other provisions of the Regulations are considered, as the placement of the facility in this residential area will result in an adverse impact to surrounding properties. Therefore, appropriate measures should be taken to reduce the facility's visual impacts.

Section IV provides general height and area standards for the R-30 district applicable to all development, which are set forth in the Section IV, Table Inset. Avon's Regulations do not permit commercial uses in residential zones. Additionally, Section IV of the Regulations addresses the accessory use of noncommercial radio broadcast tower or pole antenna in a residential district. While the proposed telecommunications tower and associated compound (the "Facility") do not fit squarely into this category, it provides useful guidance regarding the appropriate height and bulk of the proposed Facility in a residential district. These Regulations would normally limit the height of a noncommercial radio broadcast tower or pole antenna to not 70 feet or less in height. These Regulations also impose other conditions on such structures, including the requirement that the tower or pole is not located in any required yard area, and not located closer to any property line than a distance equal to the height of the antenna. Additionally, these provisions also require that the total of all accessory buildings and structures not exceed 1,000 square feet. AT&T's proposed commercial facility is 100 feet in height and with a proposed compound area exceeding 2400 sq. ft.

Secondly, by special exception, an *already existing* communications station or tower located in a residential or rural zone may be modified or replaced if certain minimum conditions are met and the special exception criteria are met. See Regulations, Section IV(A)(4). Among other conditions, such facilities must be set back from all street and property lines a minimum distance equal to the height of the tower and under no conditions placed in required yard areas. Significantly, visual intrusion of these structures must be minimized *to the maximum extent possible*. This includes berming and/or visual year-round screen planting to screen the view from any public road or residences. New communication stations and towers are expressly prohibited in a residential district. See Regulations, Section IV(A)(4).

Additionally, such towers would also have to meet the special exception criteria set forth in Section VIII of the Regulations. Notably, this includes the following criteria, which are particularly relevant in the Council's consideration of AT&T's proposed facility:

- A. Suitable location for use. That the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.
- B. Suitable structures for use. That the kind, size, location and height of structure and the nature and extent of landscaping on the lot are appropriate for the use and will not hinder or discourage the appropriate use of adjoining property or diminish the value thereof.
- C. Neighborhood compatibility. That the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property value in the neighborhood.
  - I. Consistent with purposes. That the proposed use will not have any detrimental effects upon the public health, safety, welfare, or property values, and that the proposed use will not conflict with the purposes of the regulations.

Finally, it should be noted that AT&T's application to the Siting Council indicates "consistency" with the Avon Plan of Conservation and Development. However, this Plan is silent with respect to the placement of cell phone towers. Therefore, AT&T's proposed placement of a cell phone tower in a single-family residential zone is neither consistent with nor inconsistent with the Plan.

**Section I. Introduction.**

A. *Authority.* These regulations are adopted under the authority of Chapter 124 of the General Statutes of the State of Connecticut, as amended [G.S. § 8-1 et seq.].

B. *Purposes.* These regulations are adopted for the purposes of:

- Promoting public health, safety, and general welfare;
- Providing adequate light, air, and privacy;
- Preventing overcrowding of the land and avoiding undue concentration of population;
- Lessening congestion in the streets;
- Facilitating adequate transportation, sewage, schools, parks, and other public requirements;
- Securing safety from fire, panic, flood, and other dangers;
- Conserving the value of buildings and property;
- Encouraging the most appropriate use of land throughout the Town of Avon with reasonable consideration for the existing or planned character of the area;
- Protecting historic factors within the Town of Avon;
- Protecting existing and potential public surface and ground drinking water supplies;
- Controlling erosion caused by wind or water and providing for sedimentation control;
- Encouraging energy conservation, the use of solar and other renewable forms of energy, and energy-efficient patterns of development; and
- Guiding the growth of the Town of Avon in accordance with the Comprehensive Plan of Development.

C. *Zone types.* For achieving these purposes, the Town of Avon is divided into the following zones:

TABLE INSET:

Residential	R-15
Residential	R-30
Residential	R-40
Residential	RU-2A
Agricultural	A
Educational Land	EL
Recreation/Open Space	ROS
Office Park	OP
Neighborhood Business	NB
Commercial Specialized	CS
Commercial Retail	CR
Commercial Park A	CPA
Commercial Park B	CPB
Industrial	I
Industrial Park	IP

D. *Zone boundaries.* Zone boundaries are established by the Planning and Zoning Commission and are shown on a map entitled "Zoning Map; Town of Avon, Connecticut."

E. *Zone boundary interpretation.* Unless otherwise clearly designated on the Zoning Map, zone boundaries shall be interpreted as:

Following the center line of a street, highway, road, river, brook, or stream;

Following property lines;

Following the lines of a particular geophysical feature including flood plains and steep slopes; or

Running parallel to any of the before-mentioned lines, at distances measured, where zone boundaries appear to be set back from such lines.

The Planning and Zoning Commission shall determine the location of zone boundaries in case of an uncertainty.

## Section IV. Residential and rural zones.

### A. Residential.

#### 1. Permitted uses.

a. Single-family dwelling.

b. Farming on a tract containing more than ten acres.

2. *Accessory buildings and accessory structures.* The following accessory buildings and structures are permitted, provided; that they are used for garage and storage only; and that the total of all such buildings shall not exceed 1,000 square feet; however, the average height of any accessory structure shall be less than the average height of the principal structure:

a. A private garage, conforming to all required yards in applicable zone. The total number of garage spaces on the lot shall not exceed a capacity of one more motor vehicle than the number of bedrooms in the principal building.

b. Storage sheds, and similar out buildings, including gazebos, conforming to all required yards in the applicable zone.

c. Buildings for the purpose of housing horses, livestock, and fowl, provided that they are located at least 100 feet from any lot lines. (See Section IV.A.3.)

d. Swimming pool, tennis court, or other similar recreational structure, provided such structure shall not be located in the required front yard setback, is at least 30 feet from any rear lot lines and at least 25 feet from any side lot lines, (in any zone which has a more restrictive side yard requirement, it shall be applied to the structures); these structures shall be buffered or fenced, where necessary, as determined by the Zoning Enforcement Officer, to protect adjacent property values, and lights (if any) are shielded to protect adjacent property values. Accessory structures such as pumps, filters, heaters, or a bathhouse shall also be located at least 30 feet from any rear lot lines and at least 25 feet from any side lot lines (in any zone which has a more restrictive side yard requirement, it shall be applied to structures).

e. Above-ground oil tanks, propane tanks, and/or generators shall conform to all required yards in the applicable zone, and shall be buffered or fenced where necessary, as determined by the Zoning Enforcement Officer.

f. Other structures customarily incidental to a single-family dwelling shall be located at least ten feet from side or rear lot lines in the rear yard, or if not in the rear yard, conforming to front and side yards in the applicable zone.

g. Tower and pole type antennas not exceeding 70 feet in height for radio broadcast and reception for the personal, not-for-profit, noncommercial use by residents of the dwelling are permitted as accessory if they comply with applicable regulations of the district, are not located in any required yard area, and are not located closer to any property line than a distance equal to the height of the antenna.

h. Satellite dish antennas subject to the following requirements:

TABLE INSET:

<i>Size of Satellite Dish</i>	<i>Requirements</i>
Less than or equal to 24 inches in diameter	1. May be ground mounted or mounted to a structure situated on the lot in a manner which conforms to all required yard setbacks and height restrictions.
	2. May be attached directly to the structure or attached to a mast or pole providing the mast or pole is less than 12 feet in height.
	3. Shall utilize colors that blend with the surroundings.
Greater than 24 inches in diameter	1. Shall be ground mounted and shall not exceed a height of ten feet to be measured from ground level to the highest point of the antenna. The Commission may permit an installation not to exceed 13 feet in height for those uses receiving special exception approval under this section.
	2. Shall observe all yard setbacks.
	3. Shall not be permitted within the front yard.
	4. Shall be screened from adjoining lots, drives, and streets by the installation and maintenance of a visual barrier. Shall utilize colors that blend with the surroundings.

3. *Accessory uses.*

- a. Home occupation, minor.
- b. A day care home conducted in the resident's dwelling unit for less than five people conducted by the resident with a valid State license.
- c. Recreational vehicle storage, provided that the vehicle is owned by the owner or occupant of the premises, is stored at least ten feet from the side and rear lot lines, observes the front yard setback, is not used as living quarters, and is buffered, or fenced where necessary, as determined by the Zoning Enforcement Officer, to protect property values in the neighborhood. Temporary storage (less than 48 hours in one month) is exempt from these regulations.
- d. Limited farming on a tract of land containing 80,000 square feet or more which is clearly accessory to a residential use subject to the following standards:
  - (1) On a lot containing 80,000 square feet, a maximum of one large animal, two medium animals, or 15 small animals may be kept.
  - (2) For each additional 43,560 square feet, one additional large animal may be kept; or for each additional 21,780 square feet, one additional medium animal or 15 small animals may be kept.
  - (3) No more than 100 small animals may be kept on any lot.
  - (4) The keeping of pigs is not permitted.
  - (5) Buildings for the purpose of housing horses, livestock, and fowl shall be located at least 100 feet from any lot line. Manure must be stored at least 100 feet from any lot line and visually screened from adjoining properties.
  - (6) Dogs, cats, and other pets which are kept as companions and housed together with human occupants are permitted in any residential zone on any size lot in conjunction with a residence.
  - (7) The keeping of up to ten rabbits shall be permitted on a lot of any size.

(8) The boarding of horses or other farm animals or any other commercial activities undertaken for compensation is not permitted.

e. Any other use customarily incidental and subordinate to the principal use.

4. *Special exceptions.* The following uses, and accessory uses thereto, may be authorized by the Commission as a special exception under the applicable criteria of Section VIII:

a. Modification to, or replacement at the same site, of any existing communications transmission stations and towers, both conforming and nonconforming, including changes to any accessory building, facilities or equipment, subject to the following:

The application presented to the Commission shall be accompanied by:

(1) A site plan conforming to Section X.A.1.a. including detailed elevations of all existing towers, antennas, dishes and other transmitting and receiving devices.

(2) A report showing field measurements of ambient nonionizing electromagnetic radiation (NIER) levels in the frequency range of those sources existing and proposed on the site. Such readings shall be submitted by a qualified engineer and shall be taken at the nearest point of the main NIER source to the property boundary and at any other point deemed necessary by the Commission. The report shall include calculations of estimated total NIER levels following the proposed modifications and shall compare these to the standards noted in Section IV.A.4.a.(7).

The following are minimum conditions of any permit granted under this section:

(3) Except as provided for in Section IV.A.4.a., no additional communications transmission stations and towers shall be permitted after the effective date of this amendment.

(4) No strobe or white aviation lights shall be permitted. Only standard red aviation lights shall be allowed. If after the approval any applicable authority requires the refitting of a tower to white or strobe lights, the tower must be lowered in height to a point where red lights are acceptable or the tower shall be removed.

(5) Any tower shall be set back from all street lines and property lines a distance at least equal to the tower height, however, the Commission may modify this setback along certain property lines where, in the opinion of the Commission, the abutting property is not likely to be used for residential purposes. In no instance shall the tower or guy wire anchors be placed within the required yard areas.

(6) No employees shall be employed on a regular basis at the site and no office or broadcast studios shall be permitted.

(7) NIER emissions from this site as measured at the property lines and combined with ambient levels in similar frequency ranges shall not exceed levels adopted or established by either the American National Standards Committee C95.1 (ANSI), the Environmental Protection Agency of the United States, the State of Massachusetts Department of Public Health, or the State of Connecticut Department of Health Services, whichever is more stringent.

(8) Any approval shall include the requirement that the applicant submit annual records of NIER measurements and annual reports to the Commission by a qualified engineer verifying compliance to NIER levels.

The Commission shall review the following items as part of each application process:

(9) The visual intrusion of these structures shall be minimized to the maximum extent possible. Berming and/or year-round screen planting may be required by the Commission to screen view from any public road or any residences.

(10) Any increase in tower height shall be discouraged as not in keeping with the policy of the Town to preserve the beauty of the Talcott Mountain ridge line. Any increase in height shall only be permitted when in the judgment of the Commission the following is provided:

(a) The radiation level at the nearest property line is reduced; and

(b) The resulting impact on the ridge line is materially improved by other site, equipment, or tower modifications.

b. Public and private schools and colleges with a valid State license.

- c. Educational and training facilities of public and private schools, colleges, and all other types of organizations.
- d. Community center buildings and clubs provided no liquor is sold.
- e. Nursing homes with a valid State license.
- f. Churches, religious buildings, and cemeteries.
- g. Nurseries.
- h. Golf courses, playgrounds, recreational areas, and parks.
- i. Day care centers for five or more people in public and institutional buildings with a valid State license.
- j. Multiple Dwelling Developments subject to the provisions of Section IX.A.
- k. Cluster Developments subject to the provisions of Section IX.B.
- l. Planned Residential Developments subject to the provisions of Section IX.C.
- m. Planned Elderly Residential Developments subject to the provisions of Section IX.D.
- n. Conversion of existing buildings to residential use for not more than two dwelling units, provided that:
  - (1) The lot contains the minimum frontage and lot area required in the applicable zone.
  - (2) The gross ground floor area after conversion does not exceed the maximum lot coverage regulation of the zone.
  - (3) The dwelling units comply with the multifamily floor area requirements.
  - (4) All applicable sanitary requirements for the additional families are met.
  - (5) The external appearance and general character of the building as a single-family dwelling shall be preserved.
  - (6) In the instance when an application is submitted in an area of predominantly single-family homes, the applicant must demonstrate that the area's present character and housing values will not be adversely impacted. The Commission will be guided by the following:
    - (a) External design and appearance, including entrances,
    - (b) Exterior materials,
    - (c) Size of the home before and after conversion,
    - (d) Parking,
    - (e) Landscaping and buffering,
    - (f) Building and lot coverage before and after conversion,
    - (g) Undeveloped property in the area and relevant recommendations contained in the plan of development.
  - (7) Conversions or construction may be appropriate in areas which adjoin higher density residential housing, commercial or industrial development where the Commission determines they may provide an effective transitional land use.
- o. Conversion and expansion of existing buildings to office use, provided that:
  - (1) The lot contains at least 60,000 square feet or the minimum lot area required in the applicable zone (whichever is greater), the minimum frontage required, and fronts on a State highway. Front yard shall be a minimum of 60' in depth. Side and rear yards shall be a minimum of 50' in depth where abutting a residential zone.
  - (2) The maximum lot coverage after conversion and additions does not exceed 5%. The Commission may grant an increase in lot coverage up to 10% owing to the quality of architectural and landscape design and a determination of no adverse impact on surrounding properties.
  - (3) All parking requirements for office use in accordance with Section VII.B. No parking shall be permitted in any required yard.
  - (4) At least 65 percent of the lot shall be a landscaped area including a 25-foot front yard landscaped area and side/rear yard buffers in accordance with Section VII.A.
  - (5) The external appearance, details, scale, materials and general character of the building shall be in harmony with the surrounding neighborhood.



p. Rear lots, for residential purposes only, provided that:

(1) The Commission determines that the development of rear lots will provide the most suitable use of the land considering such factors as drainage, configuration, accessibility, and topography.

(2) The rear lots conform to all requirements prescribed for the zone in which they are located except that the front yard setback and the lot area, shall be at least twice the minimum such requirements for the zone. In computing lot area, the access strip, whether owned in fee or over an easement area, extending from the front lot line to the public roadway shall not be counted towards satisfying this requirement.

(3) Rear lots shall be provided with an access strip at least 30 feet wide to a public street. This 30-foot strip of land shall be owned in fee by the owner of the rear lot, except where:

i. The Commission approves more than one (1) rear lot and where such lots will utilize a common driveway. In this instance, one of the approved rear lots shall own the access strip in fee while the others shall be granted easement rights for access and the installation and maintenance of utilities; or

ii. The Commission determines that ownership of the access strip by the rear lot is not necessary and that the rear lot is best served by an easement over the front lot.

Driveways serving rear lots shall not exceed 1,000 feet in length and shall have an adequate all-weather surface for their entire length and for a 10-foot width. The Commission may require the entire driveways to be paved. Common driveways may serve up to a maximum of two (2) rear lots and, where appropriate, the two (2) adjacent front lots, and shall adhere to the following:

(a) the common portion must be paved;

(b) pavement width shall be a minimum of 12 feet;

(c) pavement specifications shall comply to Town standards;

(d) if part of a subdivision, the common portion of the driveway shall be installed as part of the street system;

(e) a maintenance agreement shall be approved by the Commission and shall be filed in the land records of both lots prior to the issuance of any building permits authorized under the Special Exception approval.

(4) A landscape buffer is provided where necessary within the lot and along the access way to ensure that the development of rear lots will be in harmony with surrounding areas and protect existing homes.

(5) Where a proposed rear lot abuts a front lot which is under the control of the applicant then such front lot shall observe a rear yard setback of 50 feet. (See also Section IV.A. 6., Height and Area Regulations.)

(6) The Commission may modify the above requirements when it determines that the rear lots and the access thereto will be in harmony with the surrounding area and preserve the public health, safety, welfare and property values.

q. Incorporation of one accessory apartment, which is subordinate and incidental to a principal single-family dwelling.

In addition to standards set forth in Section VIII of these regulations, the following standards/criteria must be met:

(1) The lot conforms to the various requirements for the zone in which it is located.

(2) The accessory apartment must be contained within the principal single-family dwelling after modification(s) as may be permitted under (3)(c) (below).

(3) The following area requirements must be met:

(a) The accessory apartment may not exceed 25% of the dwelling after modification(s) as may be permitted under (c) (below).

(b) The accessory apartment must contain at least 400 square feet, but not exceed 600 square feet in area.

(c) Any additions may not increase the square footage of the original house by more than 10%. For the purpose of this regulation the "original house" shall be measured at a point in time five years prior to the submission of an application under this section. If the house is less than five years old, it shall be measured from the date a certificate of occupancy was issued.

The Commission may modify the above area requirements when, in the opinion of the Commission, such modification will preserve the public health, safety and welfare, and provide a more practical layout of the principal or accessory living unit.

(4) The gross ground floor area after modification(s) shall not exceed the maximum lot coverage regulation of the zone.

(5) The living area in the principal dwelling unit after modification(s) conforms to the living area requirements of these regulations.

(6) At least one of the dwelling units is occupied by an owner of the property.

(7) All applicable sanitary requirements for the additional dwelling unit, as enumerated in the Connecticut Public Health Code are met.

(8) Adequate parking facilities are provided on site for both dwellings.

(9) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a one-family residence. In general, any new entrances shall be located on the side or in the rear of the building.

(10) The Commission may require that the design of the home, both interior and exterior, be such that conversion back to a single-family dwelling may be readily accomplished.

(11) Approvals shall be valid for a period of two years from the issuance of a certificate of occupancy. Prior to the expiration of this two-year period, or any subsequent approval, an application for renewal may be submitted for an additional period not to exceed two years.

r. *Sale of farm products and construction of farm buildings.* Farms on parcels of land in excess of ten acres (unless the acreage requirement is modified by the Commission upon a finding that all criteria in Section VIII of these regulations have been met) may be allowed retail sales of farm-grown or farm-related products and the construction of farm buildings for the purpose of farming operations or retail sales in excess of the size specified in Section IV.A.2.b., provided that the following criteria can be met:

(1) The farm store must be located on an active farm site.

(2) The retail sales of farm products must be of a scale such that it is compatible with nearby residential uses.

(3) The following items may be sold: Produce grown on the farm and farm-related products produced on the farm excluding meat products. Farm products grown elsewhere and other products related to agriculture may also be sold such that the total sales of these other products do not exceed 20% of the total amount of gross revenue generated from all retail sales at the farm stand. Items such as agricultural fertilizers, bark mulch, top soil, peat moss, plants pots, statuary items, prepackaged convenience food items, and soft drinks shall not be permitted for sale.

(4) The farm store may be located in a free-standing building or may be situated in a portion of a larger structure which may be used in part to support other farming operations such as a dairy barn, hay loft, or farm equipment storage area. In all cases, the farm store shall not exceed 3,000 square feet in area.

(5) The farm store must have a primary means of access and egress from a through street capable of safely accommodating anticipated volumes of traffic. Preference shall be given to arterial roadways.

(6) All structures shall meet the minimum requirements established for the residential zoning district in which the farm is located. All parking shall meet the setback requirements for structures for the residential zoning district in which the farm stand is located. Parking shall be provided at a rate to be approved by the Commission. In addition, a B Bufferyard shall be

observed between any farm buildings and farm store parking areas and adjoining residentially zoned properties.

s. *Home occupation, major.*

t. Roof-mounted satellite dish antennas may be permitted for those uses receiving special exception approval under this section. Applicant shall demonstrate that due to the unusual shape of a parcel of land, building design, or site layout, a ground-mounted installation is not feasible. The Commission may require screening utilizing building materials and a design which will complement and enhance the architecture of the building and not detract from it. No installation shall exceed 35 feet in height.

5. *Density regulations.* Any parcel developed for residential use shall observe the following density regulations: First, apply the developable land calculation to the parcel being developed. Density of the parcel shall be calculated by multiplying the density fact of the applicable zone by the developable land of the parcel (not the parent parcel). See example in Section III.D.

TABLE INSET:

<i>Zone</i>	<i>Maximum Density (Families/Acre)</i>
RU-2A	0.3
R-40	0.8
R-30	1.2
R-15	2.2

In residential subdivisions of four lots or less, the Planning and Zoning Commission, by special exception, may modify the density requirements. An applicant must demonstrate compliance with Section VIII of these regulations. This provision shall not apply to resubdivisions.

In residential resubdivisions of four lots or less, the Planning and Zoning Commission, by special exception, may also modify the calculated number of allowable lots, after application of the density regulations, to be rounded up to the next integer value when said calculation is within 0.10 of this next integer value. An applicant must demonstrate compliance with Section VIII of these regulations.

6. Height and area regulations.

TABLE INSET:

	RU-2A	R-40	R-30	R-15
Min. Lot Area	2 ac.	40,000 s. f.	30,000 s. f.	15,000 s. f.
Min. Lot Width	200 ft.	170 ft.	170 ft.	100 ft.
Max. Lot Coverage	10%	15%*	15%*	15%
Minimum Front Yard				
-Local Streets	40 ft.	40 ft.	40 ft.	40 ft.
-Collector and Arterial Streets	60 ft.	60 ft.	60 ft.	60 ft.
Min. Side Yard	35 ft.**	35 ft.**	30 ft.***	15 ft.
Min. Rear Yard	30 ft.****	30 ft.****	30 ft.****	30 ft.****
Maximum Building Height	35 ft.	35 ft.	35 ft.	35 ft.
Minimum Landscaped Area for all special exception uses enumerated in Section IV.A.4. No more than 50 percent of the required landscaped area shall be comprised of steep slopes, floodplain, or wetland soils.	65%****	65%****	65%****	65%****

\*\* Any lot which was in existence as of June 27, 2006, shall observe a 25-foot side yard.

\*\*\* Any lot which was in existence as of June 27, 2006, shall observe a 20-foot side yard.

\*\*\*\* Where less than 25 percent of the minimum landscaped area requirement is met utilizing steep slopes, floodplain, or wetland soils the Commission may by a 2/3 vote of all of its members permit a reduction in the minimum landscaped area to 55 percent. The Commission shall make a determination of no adverse impact on any other property and a finding that all special exception criteria in Section VIII are met.

\*Maximum Lot Coverage for all special exception uses shall be ten percent except that by a two-thirds vote of all its members, the Commission may allow an increase in lot coverage up to 15% upon a determination of no adverse impact on any other property and a finding that all special exception criteria in Section VIII are met and by further consideration of the following criteria:

1. The hours of operation of the proposed facility.
2. The amount of daily and peak hourly traffic to be generated by the proposed facility.
3. The location of the minimum landscaped area (65% of the site) such that a buffer to adjoining properties is provided which surpasses the minimum required.
4. The natural topography to be preserved and that to be created which offers a visual and noise barrier to adjoining properties.
5. The size and quality of existing vegetation to be preserved and that to be added.
6. The intensity of necessary lighting.
7. The frequency of deliveries.

8. The amount of outdoor activity associated with the use.
  9. The height, scale, and architectural style as it relates to surrounding properties.
  10. The history of substantiated complaints.
7. *Living area requirements.*
- a. Each single-family dwelling hereafter erected shall contain at least 1,000 square feet of living area for a one- or two-bedroom house, plus at least an additional 200 square feet of living area in the unit as a whole for each additional bedroom.
  - b. Dwellings more than one story in height, shall contain at least 800 square feet of living area on the ground floor.
  - c. Split-level and bi-level dwellings shall be computed with the entire living area requirement contained on the upper-most levels.

TABLE INSET:

COLLECTOR/ ARTERIAL STREETS (requiring 60' front yard setback)
Arch Road
Burnham Road
Carriage Drive
Chevas Road
Climax Road
Country Club Road
Deercliff Road
Harris Road
Hollister Drive
Huckleberry Hill Road
Juniper Drive
Lofgren Road
Lovely Street
New Road
Nod Road
Northington Drive
Old Farms Road
Rt. 10 (Simsbury Road, Waterville Road)
Rt. 44 (E. Main Street, W. Main Street, Avon Mountain Road)
Scoville Road
Stagecoach Road
Talcott Notch Road

Thompson Road
Tillotson Road
West Avon Road
Woodmont Road
Reference: Section IV.A.6.
This is an interpretive aid only and is not part of the regulations.

**B. Agricultural.**

**1. Permitted uses.**

- a. Planting and cultivation of any crop including tobacco, flowers, fruit, vegetables, forestry, nurseries, and field crops whether for personal or commercial purposes.
- b. Dairy farming, and livestock and poultry raising (excluding the commercial raising of pigs and at no time shall more than three pigs over six months old be kept).

**2. Accessory buildings, structures and uses.**

- a. Buildings and structures customarily housing the principal use.
- b. Dwellings; in accordance with the height and area requirements for an R-40 Zone (as specified in Section IV.A.6) occupied by the owner, members of the owner's family employed on the farm, or by permanent salaried employees.
- c. Buildings, structures, and uses for processing the products of farming, including cider mills.
- d. Other accessory uses customarily incidental to a permitted use except that the commercial slaughtering of animals (as distinguished from fowl), fertilizer manufacture, and commercial reduction of inedible animal matter are prohibited.

**3. Special exceptions.**

- a. Golf courses may be permitted as a special exception in the Agricultural Zone when authorized by the Commission under the applicable criteria of Section VIII.
- b. Kennels, animal hospitals, or veterinary offices provided that:
  - (1) No outside kennels or runs for animals shall be allowed.
  - (2) Buildings used for overnight boarding of animals shall be fully enclosed and shall be designed as to keep noises from emanating from the buildings, except that in times of emergency, such as electrical failure, natural ventilation may be used.
  - (3) No structure housing animals shall be located closer than 150 feet to any residential zone boundary.
  - (4) Minimum lot area coverage, height and yard requirements shall be those of the R-40 Zone.

**C. Educational land.**

1. *Permitted uses.* Public and private schools, colleges and universities.
2. *Accessory buildings, structures and uses.*
  - a. Residential structures accessory to the principal use.
  - b. Any other use customarily incidental and subordinate to the principal use.
3. *Area and height requirements.*

TABLE INSET:

Minimum lot size	25 acres
Minimum front yard	60 feet
Minimum side yard	25 feet
Minimum rear yard	30 feet
Maximum building height	55 feet

4. *Land use and site development requirements.* Site plan approval under Section X.A.1. is required. The Commission may require compliance with Section VII of these regulations in regard to landscaping, parking, signage, and other requirements; and with Section V of these regulations in regard to other requirements.

D. *Recreation/open space.*

1. *Permitted uses.* Golf courses, playgrounds, recreation areas, parks and open space.

2. *Accessory buildings, structures and uses.* Any building or structure not exceeding 600 square feet in area, or use customarily incidental and subordinate to the principal use.

3. *Special exceptions.* Accessory buildings or structures in excess of 600 square feet in area. The building or structure, due to its location in a residential or recreation area, shall have residential design, scale, architecture and exterior materials compatible with the residential, recreational or rural character of the area. Accessory buildings or structures approved under this section shall be set back, as a minimum, from side and rear property lines in accordance with the requirements for a "B" Bufferyard, as outlined in Section VII.A. Landscape Regulations.

4. *Area and height requirements.*

TABLE INSET:

Minimum lot size	40,000 square feet
Minimum lot width	150 feet
Minimum front yard	60 feet
Minimum side yard	25 feet
Minimum rear yard	30 feet
Maximum building height	35 feet

5. *Land use and site development requirements.* Site plan approval under Section X.A.1. is required. The Commission may require compliance with Section VII of these regulations in regard to landscaping, parking, signage, and other requirements; and with Section V of these regulations in regard to other requirements.

(Amend. of 12-11-07, eff. 1-10-08; Amend. of 6-3-08(1), eff. 7-3-08; Amend of 6-3-08(2), eff. 7-3-08)

### **Section VIII. Special exception criteria.**

In considering an application for special exception (except for signs), the Commission shall determine that the following specific conditions are met:

- A. *Suitable location for use.* That the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.
- B. *Suitable structures for use.* That the kind, size, location and height of structure and the nature and extent of landscaping on the lot are appropriate for the use and will not hinder or discourage the appropriate use of adjoining property or diminish the value thereof.
- C. *Neighborhood compatibility.* That the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property value in the neighborhood.
- D. *Adequate parking and access.* That the parking and loading facilities are adequate and properly located and the entrance and exit driveways are laid out to achieve maximum safety.
- E. *Adequate streets for use.* That streets providing access to the proposed use are adequate in width, grade, alignment and visibility, and have adequate capacity for the additional traffic generated by the proposed use, and the proposed use will not impede the implementation of the Traffic Circulation Plan.
- F. *Adequate emergency access.* That the proposed use shall have easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
- G. *Adequate public utilities.* That the water supply, the sewage disposal, and the storm water drainage shall conform with accepted engineering criteria; comply with all standards of the appropriate regulatory authority; and not unduly burden the capacity of such facilities.
- H. *Environmental protection and conservation.* That the proposed plans have provided for the conservation of natural features, drainage basins, the protection of the environment of the area, and sustained maintenance of the development.
- I. *Consistent with purposes.* That the proposed use will not have any detrimental effects upon the public health, safety, welfare, or property values, and that the proposed use will not conflict with the purposes of the regulations.



C

The Planning and Zoning Commission of the Town of Avon held a meeting at the Avon Town Hall on Tuesday, February 10, 2009. Present were Duane Starr, Chairman, Henry Frey, Vice-Chairman, Douglas Thompson, Carol Griffin, Linda Keith, Edward Whalen and Alternates Marianne Clark and Elaine Primeau. Mrs. Clark sat for the meeting. David Cappello arrived at 7:35 pm but did not sit for the meeting. Absent was Alternate David Freese. Also present was Steven Kushner, Director of Planning and Community Development

Mr. Starr called the meeting to order at 7:30 p.m.

### **APPROVAL OF MINUTES**

Mrs. Griffin motioned for approval of the January 27, 2009, meeting minutes, as submitted. The motion, seconded by Mrs. Clark, received approval from Mesdames Griffin and Clark and Messrs. Starr, Frey, and Thompson. Ms. Keith and Mr. Whalen abstained, as they were not present at the January 27 meeting but noted that they have read the minutes.

### **INFORMAL DISCUSSION**

#### Proposed Cell Tower - St. Matthews Church - 224 Lovely Street

Present was Town Attorney Lana Glovach, Murtha Cullina LLP

Ms. Glovach provided an overview of the process and explained that the Connecticut Siting Council, in accordance with the State Statutes, has exclusive jurisdiction over the construction of new cell towers but before an application is filed the applicant is required to consult with the Town to share technical data. The Town has the ability to hold a public hearing before the application is filed. When the public hearing is concluded, the Town is requested to issue recommendations to the applicant. Once an application is filed, a copy of the application is served on a number of people and/or entities (i.e., the Town, the abutters). In addition, there is a public notice requirement that is to be published in the newspaper. Ms. Glovach noted that within the last couple of years the legislature enacted a public act which provides the Town another opportunity to have early feedback on the application. Within 30 days of the application filing, the Town has the ability to provide to the Siting Council its recommendations with respect to location preferences or other siting criteria. Ms. Glovach noted that she believes that the 30-day window deadline is currently February 17 but after a request by Murtha Cullina to the Siting Council for an extension that deadline has been extended to several days after the Town Council's March 5 meeting. Ms. Glovach commented that the applicant has no objection to this extension. The Siting Council has already determined that the application is complete and complies with the Statutes and Regulations. The next step is for the Siting Council to issue a proposed schedule but this has not yet occurred for this application. Ms. Glovach explained that the schedule will have timelines and deadlines for a variety of items such as the filing of pre-hearing questions and a timeline for responses to those questions. The Siting Council generally holds a pre-hearing conference which allows the Siting Council to explain the entire process to the public. Ms. Glovach commented that the Siting Council prefers to receive all pre-hearing testimony in writing. Anyone who has filed pre-hearing testimony will be sworn in at the hearing and asked, in a summary fashion, to adopt their testimony. Ms. Glovach noted that there will also be a cross examination process; everyone will have access to the pre-hearing testimony before the actual public hearing commences. A deadline will also be issued in connection with

persons who wish to become parties or interveners to allow participation in the process (i.e., file petitions with the Siting Council). Ms. Glovach explained that the date set for the public hearing will be setup such that at approximately 2 pm to 3 pm a site visit will occur and, possibly, other sites will also be visited. The public hearing will begin after the site visit (i.e., at 3 pm after the site visit). At the hearing, the applicant's witnesses will give their testimony first (adopt their written testimony) and then the parties/interveners will be allowed to cross examine. A dinner break will occur for a couple of hours and the hearing will resume in the evening, generally around 7 pm. At this time, statements/comments from public officials, as well as the general public, will be heard. Ms. Glovach clarified that at this point, the "general public" refers to anyone who hasn't already filed a party or intervener status. The Siting Council generally tries to conclude the public hearing in one day and often times this is accomplished but not always. Ms. Glovach noted that the evening session of the public hearing may last from 7 pm to 10 pm but if a continuation is needed, a date will be set and, generally, that public hearing continuation takes place at the Siting Council's offices in New Britain.

Ms. Glovach explained that after the public hearing is concluded, further comments can be submitted for up to 30 days. After this 30-day period, the Siting Council will deliberate and ultimately reach a decision, which will be in the form of proposed findings and facts to the extent of applicable conclusions of the law. Under the Administrative Procedures Act, parties and interveners will have an opportunity to respond to the proposed findings and facts. The Siting Council will make a final decision and it will be published. Ms. Glovach concluded by noting that any appeal to this decision is made to the Superior Court.

Mr. Starr commented that the Planning and Zoning Commission has been asked to give their written recommendations to the Town Council. The Town Council will speak, on behalf of the Town, and provide recommendations to the Siting Council. Tonight's meeting provides a forum for resident input, as well. Mr. Starr noted that the intent is to incorporate all the input and comments into the recommendations to the Town Council.

Mr. Kushner noted that he attended a meeting today at St. Matthews Church with Richard Hines (member of St. Matthews Church/also serves on church Building Committee), an assistant pastor, and two representatives from AT&T (one representative is the site selector for AT&T and one representative is a consultant/RF engineer). Mr. Kushner reported that the Town has received several letters from homeowners and the Commission is aware of many of the concerns. Mr. Kushner noted that AT&T has decided not to attend tonight's meeting. Mr. Kushner reported on the discussion at today's meeting. AT&T has indicated that they are willing to substitute a more appropriate fence for the proposed chain-link fence (i.e., a quality, high-end wood fence). AT&T also indicated that a generator is not proposed and won't be used; a battery backup will be used. There are different materials that can be used for the tower construction including wood laminate beam and steel monopole. Mr. Kushner noted that AT&T has used towers constructed of wood laminate beam and would consider using this material for the subject site. AT&T pointed out that a steel monopole design allows all the cables to be fed down through the center of the tower. A wood beam structure requires the cables to be run down the side of the pole; there are 8 to 12 large cables that need to be tied to the pole with a series of steel bands. Mr. Kushner noted that there was discussion about a steel pole and the color; AT&T prefers a galvanized steel pole and, currently, the church is agreed to that. A steel pole will eventually turn grayish in color and blend in with the environment. AT&T's engineer noted that it could take a couple of years for the pole to turn color but spraying it with vinegar could speed

up the process. Another alternative would be to use a painted steel pole; AT&T is willing to paint it any color that is agreed upon. Mr. Kushner explained that a flagpole design was also discussed but the church has indicated their preference to not have a flag, as they don't want to have to light it. Mr. Kushner noted that a flagpole design could be utilized where there is no flag. The Town has shown an interest in utilizing the very top of the tower for two emergency communication antennas. Mr. Kushner noted that it is his understanding that these types of emergency antennas cannot be accommodated atop a flagpole design. The proposed tower is 100 feet high and two additional tenants are proposed; AT&T would like their antennas at the top (99 feet) and a future carrier could be added at 89 feet and a third carrier could potentially be located at 79 feet. Mr. Kushner noted that he questioned whether AT&T could consider accommodating just their needs and construct a tower at 79 feet, as that appears to be the minimum elevation needed. AT&T indicated that they have studied this issue and they believe that 100 feet may be necessary to cover the area that they're after but they also acknowledged that they don't always get everything they want and they may be able to accept 80 or 90 feet with a lesser signal strength. Mr. Kushner noted that AT&T indicated that the Siting Council always promotes "co-location", as the Siting Council is trying to minimize the number of new installations and therefore would most likely request a 100-foot tower to allow multiple users. Mr. Kushner commented that he doesn't know whether the Siting Council would make an exception to their normal protocol given the concerns of the neighborhood.

Mr. Kushner continued and noted that enclosing the antennas inside the existing church steeple was also discussed (stealth installation). The RF engineer reviewed the construction of the existing steeple and determined that it could not be retrofitted to accommodate the proposed antennas, as the steeple is only 60 feet high and the top is very narrow. An area 24 inches wide (found at 38 feet in elevation) is needed to house the antennas. Reconstructing the steeple was also discussed and Mr. Kushner noted that the church members are not in favor of that scenario. Mr. Kushner further explained that the steeple is constructed such that the base extends through the sanctuary and is located next to the pipe organ; it would be very complicated to remove and reconstruct this structure. The idea of a second steeple was discussed and there are a number of reasons why this could not be accomplished. Mr. Kushner explained that AT&T's engineer will be studying this issue and most likely will present more information as part of the application to the Siting Council. If a separate steeple were to be constructed it would need to be 100 feet high, which would be very expensive; neither AT&T nor the church are in favor of pursuing this scenario. Mr. Kushner clarified that this option could be requested to be more thoroughly investigated.

Mr. Kushner summarized by noting that the fence and the addition of landscaping around the fence don't appear to be an issue. AT&T has indicated that they are willing to paint the pole any color, if an agreement can be reached, and they are also willing to construct a more compact antenna installation (an alternate design). The application calls for a bundle of antennas that are offset 5 feet around the radius of the pole (a span of 10 feet). This design also requires the installation of an ice shield that would be located lower on the tower; an ice shield connects the pole to the equipment shed. AT&T has indicated that, although it is not their first choice, they would be willing to construct this alternate design as they have utilized it in numerous locations. Mr. Kushner pointed out that the Sprint tower at the Avon Landfill utilizes this compact design; the antennas are mounted almost flush with the pole and the ice shield was eliminated. Mr. Kushner noted that AT&T indicated that they have, at other sites in the past, hired a landscape architect to study possible impacts of neighboring properties. Mr. Kushner

commented that possibly a request of this kind could be included in the Commission's recommendations to the Siting Council.

In response to Mr. Starr's question, Mr. Kushner noted that he believes that AT&T would consider moving the proposed tower to the rear of the site but the church is not interested mostly because they plan to someday expand the building to the rear of the site. In addition, there is a septic system located to the rear of the church.

In response to questions from an unidentified audience member, Mr. Kushner explained that the size of the fenced area remains unchanged; the application calls for 49 feet by 49 feet. Mr. Kushner noted that he doesn't know if the size of the fenced area would change if the design of the tower changed (i.e., flagpole design). Mr. Kushner noted that he believes that the fenced area needs to be large enough to accommodate AT&T's equipment cabinet, as well as cabinets for two possible additional users. Mr. Kushner commented that he had hoped that AT&T would be present tonight to answer questions and added that the information he has provided tonight is the full extent of his knowledge about this project.

Robert Polans, 63 Bridgewater Drive, noted that he and his neighbors have not been informed about this project. He commented that he does not want to see this tower from his house, which is located right behind the church. The photos that were shown to the Commission were taken in the summer. Mr. Polans noted that he moved to Avon so he would not have to look at cell towers. He noted that there is a large wildlife corridor behind his house that may be disturbed if a tower is constructed in the area. The proposed tower is revenue for the church; the tower should be placed on public property. The Superintendent supports the proposal, as coverage is needed in the area for the schools but there are a lot of other carriers available. Many properties in the area will be devalued by the proposed tower installation. Mr. Polans noted that if the tower is installed, he will fight the Town to lower property taxes in Bridgewater by 10% to 30% based on the view. He noted that he can see the church steeple at night from his house and a tower would obstruct the view. AT&T should find an alternate site, a commercial site, as no one wants a tower near their home.

Mr. Starr stated that homeowners have the option to write letters directly to the CT Siting Council as part of the public hearing process.

Mark McMahon noted that his parents live on Greenwood Drive. Mr. McMahon submitted "google" pictures of the church site and noted that there is a park nearby that is 660 feet in elevation. He noted that the higher an antenna is the better the reception. He also submitted reports concerning electromagnetic fields, as well as various other documents, and suggested that more testing is needed to see how radiation from towers will affect the human body; the affects may not be the same for everyone. In response to Mr. Starr's question, Mr. McMahon noted that the reports he submitted are published documents and are not classified. He commented that towers are constantly emitting EMF's and RF's and noted that they should not be located near the general population. He suggested that very high areas be considered for tower installations, as that would offer coverage to larger areas. He noted that while driving in the vicinity of the intersection of Country Club Road and West Avon Road some signal is available. He suggested that individuals use landline phones in their yards. If people are driving down Lovely Street or thereabouts, they should not be talking on a cell phone anyway.

Mark Toomey, 9 Greenwood Drive, commented that he received public notification of the proposed tower two days before Christmas and added that he doesn't feel this was the best way to notify the neighbors. He informed his neighbors of the proposal and noted his concern for the lack of public knowledge on this subject. Mr. Toomey questioned why more people were not notified if there is such a big demand for coverage in this area. The subject neighborhood is nice and the church is very close. The church does not appear to be concerned with the neighbors and the fact that many neighborhood children play on the church grounds. Mr. Toomey noted that the proposed tower will be 100 yards from his front door; he is very upset and disappointed with the church's position and noted that he would have moved if he had known. He reiterated his displeasure with the notification process and he is upset with the Town. He explained that he notified as many people as he could through the use of flyers. He commented that he feels the proposal is all about greed on the church's part; it's all about money. Mr. Toomey noted that his house is connected to public sewer and the church could do the same. The septic system in the rear could be removed and consideration could be given to installing the tower to the rear of the church. He reiterated his dissatisfaction about the church's lack of concern for the surrounding neighbors.

Peter Wiese, 240 Lovely Street, submitted several pages of correspondence, which are portions of the application that AT&T filed with the CT Siting Council. Also included was a letter he received from Cuddy & Feder LLP dated December 23, 2008, which was the first notification received about the proposed tower. Mr. Wiese noted that he was not included in the planning process for the tower and that he has tried to reason with the church with regard to alternatives (i.e., flagpole design, tower location). The church is not willing to change the proposed tower location. He noted that he has had conversations with the church pastor, Richard Hines (church member), and Kevin Dey, of AT&T. Mr. Wiese noted that he met with Kevin Day who also indicated that the tower location would not be changed, as AT&T has spent a lot of money on engineering costs for this site. Mr. Wiese commented that the meeting minutes that were submitted with the application to AT&T were not a complete set of the Commission's meeting minutes from their November 18 meeting. He noted that he attended the Town Council's meeting last week and the church and AT&T were not present but they should have been. He commented that he feels they should be present tonight to answer questions. Mr. Wiese noted that it is his understanding from reading the application that AT&T has identified a public need in this area which covers approximately 1 square mile along Lovely Street. The church is located in an R30 residential area and the parcel is largely developed; the church parcel is used by children in the area. Many people in the area use the church for different functions and if there was a tower failure it would pose a safety threat to the residents in the vicinity. The proposal is for a tower 100 feet in height with 6 panel antennas; the Town proposes to install 2 or 3 antennas of their own. He noted that he believes that the existing steeple is approximately 70 feet high; the proposed tower with antennas will be 40 to 60 feet higher than the trees in the area. Mr. Wiese noted that the church property used to belong to his family and there are many old trees in the area (possibly 75 years old) that may die and new trees couldn't grow fast enough to hide the proposed tower. The size of the proposed tower, in relation to the existing church steeple, is immense. The on-ground design proposes a 50-foot by 50-foot area with an 8-foot fence and a 12-foot by 20-foot equipment shelter. A 30-foot gravel road off the south side of the property is also proposed and will be used by maintenance vehicles. Heating, air conditioning, and ventilation equipment will be used and generators may be used by additional carriers added in the future. This kind of equipment poses a danger to children and there would be an increase in noise and vehicle traffic resulting in an overall negative impact to the neighborhood.

Mr. Wiese pointed out that the tower will be visible for miles from many different areas of Town and will have a significant visual impact that will affect the scenic environment and may create public health and safety issues. He noted that the proposed tower and related equipment will have a significant negative impact on his property value and the neighborhood; there are no other towers in Town that have such an overwhelming presence in a residential area. The proposed tower is more appropriate for an industrial or commercial zone and does not conform to the intent of the R30 zone. Mr. Wiese commented that he doesn't feel the Visibility Study (i.e., leaf-on conditions and leaf-off conditions) is accurate, as he has walked the area and he knows where the tower will be visible and where it won't be visible; it will be visible from a significant number of different locations. Mr. Wiese commented that the cumulative significant adverse effects presented by this proposal warrant recommendations by the Planning and Zoning Commission to the Town Council that the application is not appropriate and alternatives should be considered. Mr. Wiese addressed alternatives for consideration. He suggested that a steeple could be constructed that could hold this equipment and also be aesthetically pleasing. The tower could be located to the rear of the church, as the septic system has been removed and the church utilizes public sewer. Mr. Wiese commented that he feels that the Planning and Zoning Commission should tell the Town Council to urge both AT&T and the church to come up with a steeple design that is acceptable to the neighborhood. The current proposal is unacceptable; the tower does not need to be 100 feet high. The tower could be 75 feet high with two carriers. Mr. Wiese noted that he has talked with the church and AT&T about a steeple design and/or a flagpole design and they say no to both. He questioned why both AT&T and the church would be resistant to accommodating the obvious needs of the neighborhood. He further noted that money appears to be the main objective for the tower placement, as the church would engage in a long-term lease with AT&T. Mr. Wiese pointed out several towers in the surrounding area that are referenced in the subject application: 1) a 125-foot flagpole design located at Simsbury Commons - the compound and pole are smaller than the subject proposal; it is located in a commercial area; and it is more aesthetically pleasing; 2) a 102-foot painted monopole tower located at 82 Lovely Street (telephone company in Farmington) - all the on-ground equipment is located within the building and the antennas are surface mounted; it is much less visible than the subject proposal. 3) a 100-foot wood tower located at 277 Huckleberry Hill Road (Avon Town Landfill); 4) a 156-foot flagpole design tower located at the Farmington Sewer Plant - it's not a residential area; 5) two steeple design towers located at 2 School Street and 61 Main Street in Farmington (both churches) - nothing is visible to the neighborhood; 6) an 80-foot tower with surface mounted antennas located at the Simsbury firehouse at 345 Bushy Hill Road - much less visible than the subject proposal. Mr. Wiese noted that the subject tower, if constructed as proposed, will look like the tower located at 14 Canton Springs Road (fire department); the site is a mess and the tower can be seen for miles. Mr. Wiese concluded by urging the Commission to visit the site and reiterated that the proposal is inappropriate for the church site and the neighborhood. He asked that his remarks be considered and that the appropriate remarks be made to the Town Council. Mr. Wiese commented that he understands that the Siting Council's public hearing is scheduled for March 31 and the Town Council would like to have the Commission's comments for their March 5 meeting. Mr. Wiese commented that if the Town wishes to protect its citizens, the Town must become a party to the proceedings and participate fully in the Siting Council's public hearing.

Juan Fernandez, 246 Lovely Street, commented that he will see the top of the proposed tower from his property. He questioned whether the proposed tower is really necessary to increase reception. If it is merely assumed that increased reception is needed, then some proof should be provided. He

suggested that temporary tower sites be installed in various locations to see where coverage is really needed. It is possible that there is another location that would be less intrusive. If the technology changes and the tower is installed as proposed and becomes useless in time, there are no provisions to eliminate the tower; this issue should be addressed. If the Roaring Brook School was not considered an appropriate location because of the children, the church also has children. If the Town intends to install antennas on the top of the proposed tower for emergency communications, the Town, as a courtesy, should consult with the residents in the area and recognize that this will make a bad situation worse, as it will increase the height by another 20 feet.

Lori Kachmar, 99 Bridgewater Drive, noted that she found out about the proposed tower 2 weeks ago. She commented that she has read the Siting Council's application online and added that the Bridgewater residents were not notified of this proposal, as represented in the November 18 meeting minutes. The November 18 minutes state that the residents were notified and no one voiced any concerns to Mr. Hines. Ms. Kachmar noted that there is a picture of the proposed tower in the application that was taken from her front yard. She noted that she received three pages of covenants when she moved in to her house; the covenants are quite restrictive. She noted her anger at having to look at the tower from her deck; she also reiterated her anger that she wasn't notified about it. Ms. Kachmar noted her concern that one tower may bring more in the future. She noted the revenue potential for the church but added that many of the church members are not Avon residents. She noted that there are health concerns that have not been addressed. The neighbors will have to worry about decreased property values while at the same time will have to pay higher property taxes. She noted that the neighbors deserve the Town's protection which is the responsibility of both the Town Manager and Planning and Zoning. Ms. Kachmar questioned what gives the church the right to this special exception in a residential area. She questioned why the church gets to tell the Town what they want to do but no one is allowed to fight the cell tower. The proposed tower will set a precedent and currently there is no policy in Town for wireless service. The Town Manager and the Superintendent of Schools sent letters giving their blessing in July. Ms. Kachmar noted that the neighbors were not given an opportunity to make comments until 2 weeks ago.

Mr. Starr explained that the Siting Council has the authority with regard to new towers proposals; the power lies with the State, not the Town.

In response to Ms. Kachmar's comments, Mr. Kushner explained that the church has no special powers, no more than any other private property owner in Town. Both the church and the residents of Avon are governed by the law, which says that the CT Siting Council has complete jurisdiction over the siting of new telecommunications towers. This law was not a well established fact until approximately 8 years ago; the Telecommunications Act was passed in 1996. Mr. Kushner noted that many towns in Connecticut, as well as towns in other states, did not want to turn this control over to the State. The Town of Avon has many rules and regulations in place which make it a desirable place to live. Mr. Kushner further explained that towns still have control over telecommunications facilities that are installed on existing structures/towers. If the proposed telecommunication facility were placed inside the church steeple, it would be under the jurisdiction of the Planning and Zoning Commission. This Commission issued a special permit for the flagpole/tower that is located on the roof of Avon Marketplace. In addition, the Commission has granted approval for numerous antenna carriers that have been installed on existing towers owned by the Avon Water Company. Mr. Kushner noted that the Town does have the ability to submit comments to the Siting Council and, according to



information from the Town Attorney, the Siting Council does pay attention to comments from both Planning and Zoning and the Town Council. Mr. Kushner clarified that the public hearing process and the notice requirements are under the control of the Siting Council.

Mr. McMahon submitted to the Commission titles of documents that he wasn't able to download from the internet; the documents contain information relative to electromagnetic fields. He noted that the proposed tower will be a lot higher than the existing trees in the area. He noted that he is bound by an Engineering Code of Ethics to inform his employer and the Council of ASME as to the potential dangers of certain proposals (i.e., health hazards from EMF exposure); the general public should also be notified.

Mr. Starr commented that a response will be submitted to the Town Council. He added that it would not be the Commission's preference to have a tower located in a residential zone. A commercial zone would be preferred, although that may not be an alternative in this instance. Mr. Starr questioned whether alternate sites on the ridgeline (west of Lovely Street) were investigated and whether the Found Land would provide adequate coverage. There are concerns relative to EMF frequencies in residential zones and this issue should be addressed. He noted that there is more than likely a difference of opinion between the professionals and the public in connection with health issues. Mr. Starr commented that if a tower is to be constructed on the church site it should be moved to the north, which would allow some of the existing trees to remain and also push the tower away from the nearby houses. He noted that stealth techniques should be considered (i.e., steeple or flagpole design, mono pole in earth tone). Ideally, the tower should be no more than 80 feet in height and house only AT&T antennas with a close mount.

Mrs. Griffin commented that she feels that the existing church steeple is the most appropriate design and would fit in the best with the neighborhood.

Mr. Starr agreed that if the tower has to be located on the church site, the first choice should be some type of steeple design.

Mrs. Clark noted her agreement with Mrs. Griffin and added that she doesn't feel that there should be a tower in this area, as there are too many homes nearby.

Ms. Keith commented that she believes that there are options for towers. The size of towers could be reduced and the towers could be made more compatible by installing more; the antennas could be installed on angles. Ms. Keith noted that this scenario has been done in Litchfield CT and in Vermont. A 100-foot tower is more visible and impacts everybody. Ms. Keith pointed out that she understands that there is a lack of coverage in the area, which is necessary for emergency vehicles. Possibly a modified two-tower angle could be considered, which would be more appropriate to cover the area. Possibly a shorter tower could be installed at The Found Land as well as a steeple at the church and another tower nearby; this would cover the area. She noted that she doesn't like the way the proposed tower looks.

Mr. Frey commented that he feels the proposed tower does not belong where it is being proposed; it is not appropriate for the area. Eventually generators will be added as carriers are added to the tower. Mr. Frey commented that he feels the Town should tell AT&T what the tower should look like, if they find an appropriate site. If the proposed tower is too harmful to be

located near the Roaring Brook School it is also too harmful to be located on the church site. If the tower is for public need, it should be located on either commercial or public property. Mr. Frey noted that he agrees with all the comments from the public. He added that the Commission did not find out about the proposed tower until their November 18 meeting. He commented that he doesn't think it is right that the Town's Officials had input about this tower without the Commission's knowledge. Mr. Frey noted that it is his opinion that the proposed tower belongs either on the Roaring School property or on the Found Land. Mr. Frey noted that if the proposed 100-foot tower fell it would land on the church or the house next door.

Mr. Starr noted that the application did not contain a complete version of the Commission's meeting minutes from the November 18, 2008, meeting.

Ms. Keith noted that she doesn't feel it is the Commission's charge to inform the public about these kinds of issues.

Mrs. Clark noted her concerns about EMF's, as not enough information is available; a tower should not be located anywhere near a church or a school where there are children. There are homes very close by and, aesthetically, the tower doesn't belong there.

Mr. Kushner explained that there are government standards (also referenced in Avon's Zoning Regulations) in place with regard to electromagnetic fields (EMF). AT&T's application states that, in a worst case scenario, standing at the bottom of the tower with 3 carriers in place there would be about 13% of the allowable standard. There has been public debate over whether the standards are correct or not and whether the science is advanced enough to know the true impacts. Mr. Kushner noted that there are some who would argue that the amount of time that some individuals spend holding a cell phone next to their brain could be more damaging than living 300 feet away from a tower that is generating 13% of the standard. Mr. Kushner noted that it is his understanding that the government's standards are widely recognized and accepted by most health experts. The standards would not be exceeded whether the tower is located at the church or at Roaring Brook School. The issue relates to public perception; the church is privately owned and not a public facility. Mr. Kushner reiterated that the Zoning Regulations contain standards and routine monitoring is performed on other radio installations in Town. For example, the Town still receives reports showing compliance with the Town's Regulations in connection with the Astroline tower located on Deercliff Road.

Mr. Starr commented that if it is felt that the tower should not be located in a residential or school zone, open space on the ridgeline (either Town-owned or Avon Land Trust areas) should be investigated to provide more separating distance.

Mrs. Griffin commented that, in general, commercial land should also be investigated for this type of use.

Mr. Kushner commented that the Commission can make recommendations but noted that it is his understanding that Kevin Dey, of AT&T, received a map from his radio engineer that outlined a specific geographic area. In order to alleviate the coverage problems in the subject area (the valley), a tower would have to be placed somewhere within the limits of this geographic area.

Ms. Keith commented that she remembers the map being displayed at the Commission's November 18 meeting and the ridgeline was not included in the mapped area. She noted her agreement with Mr. Frey that the proposed tower is inappropriate for the subject area. There are alternative methods for tower height that would be less offensive to everyone. Ms. Keith noted that she doesn't get reception at her house; the area in question is 1 square mile.

Mr. Polans commented that 85% coverage from the ridgeline would be better than no coverage at all.

Mr. Kushner noted his agreement that some coverage is better than none but also noted that no one present at this meeting is a radio expert and, unfortunately, AT&T is also not present. Mr. Kushner explained that from the Siting Council's perspective this process has just begun, as the public hearing is just starting. The Town has been told that they have the ability to influence the process with comments/recommendations but there is no way to predict what the outcome will be.

Ms. Keith noted that coverage for emergency vehicles must be considered.

Mr. Starr noted that if the Siting Council moves forward with this proposal the Town will need a fallback position to request further consideration of possibilities such as shorter towers, smaller scale stealth techniques, no barbed wire fencing, and additional landscaping.

Mr. Thompson agreed that multiple shorter towers would be a good initial fallback option.

In response to Ms. Kachmar's comments, Mr. Starr explained that the letters of support sent to the Siting Council from the Town Manager and the Superintendent of Schools addressed the need for coverage in the area for emergency vehicle communications (i.e., schools, private homes, etc.).

Mr. Starr continued by noting that fencing should be of an adequate height to conceal any structures associated with the facility. A landscape architect should be consulted to determine if additional trees would provide a visual barrier. Mr. Starr clarified that the Commission will send a letter of recommendation to the Town Council who are the official spokespersons for communications from the Town to the Siting Council. Mr. Starr explained that this is the first time the Town has been through this process.

In response to comments from the audience about public participation, Mr. Starr announced that the next Town Council meeting is March 5 and the Siting Council's public hearing is scheduled for March 31.

In response to questions from the audience, Ms. Keith commented that in order to save time, neighborhoods could prepare one well written letter summarizing the neighborhood's concerns and have multiple residents sign it.

Mr. Kushner commented that another location could be recommended to the Siting Council but in the event that the subject location is ultimately chosen, he suggested that it may be a good idea to request that the Siting Council setup a meeting/mediation that would include all interested parties to reach a greater consensus.

In response to Mr. Kushner's comment, Ms. Glovach commented that she doesn't know if the Siting Council has ever engaged in mediation or a settlement conference but she could inquire.

In response to Mr. Wiese's question, Mr. Kushner noted that he is willing to organize a meeting between all the parties to discuss a negotiation. Mr. Kushner noted that the church has indicated that if AT&T was willing to participate in a mediation that they would also be willing to participate. Mr. Kushner noted that the application before the Siting Council belongs to AT&T.

Mr. Wiese questioned whether the Siting Council's hearing scheduled for March 31 could be postponed.

Mr. Starr commented that a hearing postponement could possibly be accomplished by the Commission recommending that site surveys be done on the ridgeline to determine what type of coverage could be provided.

Mrs. Griffin commented that she feels it is unfair that the Planning and Zoning Commission is being asked to provide recommendations to the Siting Council when no representatives from either AT&T or the church are present to provide information and or answer questions the Commission may have on this subject. Mrs. Griffin added that she feels the presentation at the Commission's November 18 meeting was incomplete and that some of the information was misrepresented.

Mr. Starr commented that he feels that both AT&T and the church take the position that they were present at the Commission's November 18 meeting. Unfortunately, the November 18 meeting was the first time the Commission knew anything about the application and the process.

Mrs. Primeau noted her agreement with Mrs. Griffin. She commented that at the November 18 meeting she questioned the consideration of different sites because she didn't like the proposed site. The report only listed 5 sites but 8 sites were actually considered. Mrs. Primeau commented that she doesn't feel AT&T was forthcoming when she asked questions at the November 18 meeting. She noted, for the record, that she feels that it is the ethical responsibility of all Town Officials to notify the Planning and Zoning Commission before they write letters of support for issues that will end up in front of the Commission.

Mr. Frey commented that reasons will have to be given to the Town Council as to why the tower is not appropriate for the subject site and noted the following reasons: 1) the size of the site; 2) residential zone; and 3) adverse affect on real estate.

Mr. Whalen noted that the proposed tower is unsightly.

Mr. Starr pointed out that he would like to include in the Commission's recommendations the possible health hazards associated with electromagnetic frequencies (EMF) because this issue is still controversial. Mr. Starr noted that the reports submitted could be referenced by date and title. He reiterated that other sites should be studied.

Mrs. Clark reiterated that AT&T did not notify the neighbors and present all the facts.

Mr. Starr noted that AT&T followed the letter of the law but it would be better if the notice provisions required the abutters to be notified before any presentation is made to the Town.

Mr. McMahon noted that after some research on new tower proposals across the country, it appears that, in general, there is very little notice provided anywhere.

Mr. Starr commented that every state probably has different requirements.

Mr. Kushner explained that the notice that is provided is in advance of the Siting Council's public hearing process; they are following a process and the State requires a public hearing and written notice. He agreed that it would have been advantageous if their notice process was better coordinated. Mr. Starr added that better notice practices would allow for a smoother application process for the Siting Council as well. Mr. Kushner added that the Commission's recommendations will be forwarded to the Town Council for their review.

In response to Mr. Toomey's question, Mr. Starr reiterated that the Commission has never dealt with the Siting Council before and added that he doesn't know whether it would be more advantageous to file a party status or send individual letters of opposition.

In response to Ms. Kachmar's question about alternate sites listed in the application, Mr. Starr explained that almost all the alternative sites listed in the application have many characteristics in common with the church site; most of the alternative sites are located along Lovely Street and are all surrounded by residential properties. Mr. Starr explained that that is why the Commission is suggesting that the ridgeline be investigated. Mr. Kushner further explained that he was questioned by the applicant in connection with possible alternative sites. Mr. Kushner noted that he informed the applicant that, in his informal opinion, the Vibert property (335 Lovely Street) was probably not a feasible site, as it is located next to Northgate which is a single-family residential community and has all the same issues just discussed.

Mrs. Griffin questioned whether the church would have to file a modified site plan in order to construct the tower on their property, as the church is a special exception use in a residential zone. Mr. Kushner commented that he believes that the Siting Council controls the entire project but if it turns out that the steeple is an option then the Commission would have some control. Mr. Thompson pointed out that if a separate steeple was constructed to house the tower the Commission, most likely, would not have any control. Mr. Kushner concurred.

In response to Mr. Wiese's question, Mr. Starr commented that, for example, if a shorter tower was constructed on this site which would permit only one user, it would seem reasonable that the buildings associated with the facility could be smaller. Mr. Starr added that he believes AT&T is looking for multiple users on one tower. Mr. Wiese requested that the Commission recommend that the Town obtain a party status to the Siting Council proceedings.

In response to Mr. Starr's question, Mr. Kushner explained that it is his understanding that the Town Council is going to review the Commission's recommendations and make a decision at their next meeting as to whether the Town will pursue a party status. Mr. Starr noted that the Commission can make a recommendation to the Town Council that they believe the Town should pursue a party status.

Mr. Cappello noted that it is his understanding that the fire and police communication radios work fine in this area and questioned whether the issue is just cell phone coverage.

Mr. Schenck explained that cell phone coverage is needed in the area for emergency purposes for ambulance, police, and fire as well as for the Roaring Brook School, as they have a desire for cell phone coverage for emergency purposes.

In response to comments from the audience, Mr. Starr noted that he believes that this is the first freestanding tower/pole application that has come before the Town. There may be existing towers (radio towers) in Town but they have existed for many years. There have also been many new antennas added to existing towers.

In response to Mr. Cappello's question, Mr. Starr referenced the Plan of Conservation and Development and noted that there is a site on Lovely Street that the Town covets but does not own. Mr. Cappello commented that he feels that the Commission's position should be that anything related to the tower installation that could fit inside the existing steeple (or a new steeple) at the St. Matthews Church would be permitted.

Mrs. Griffin noted that a tower being installed inside a steeple does not relieve the concern of the electromagnetic field radiation.

Mr. Starr concluded by stating that a letter of recommendation will be forwarded to the Town Council.

## **OTHER BUSINESS**

### Ensign Bickford Easement Conveyance

- Two easements located on Parcel 2210016  
(West Main Street, Ensign Drive, and Woodford Avenue)
- Conveyance of .400 acres (17,433 sq ft) on Ensign Drive

Mr. Kushner reported that the Town has hired a landscape architect, BL Companies, to design a streetscape improvement project; a \$300,000 STEAP Grant will be utilized. The design will include 1,000 feet on either side of the intersection of Route 10 and Route 44. Construction is expected to start sometime this spring/summer and will begin at the Town Green area; the existing sidewalks will be replaced and decorative street lamps will be added. Mr. Kushner noted that Ensign Bickford will convey to the Town two easement areas for the purposes of sidewalk construction. In addition, Ensign Bickford will deed to the Town a .4 acre parcel located on the Marriott Hotel site for the construction of a small public park. The public hearing for these conveyances is expected to take place at the Town Council's April meeting.

### Request for Conveyance to Town - 22 Foxcroft Run

Mr. Kushner reported that the Town Attorney is in the process of preparing the conveyance documents, as the owners of 22 Foxcroft Run are willing to turn it over to the Town. This item will be listed for public hearing on an upcoming Town Council agenda.

Ongoing Litigation

- Jackson, Inc. (99 Lovely Street)
- Mary Markow (70 Talcott Notch Road)

Mr. Kushner reported that these items will be discussed at the Commission's next meeting scheduled for March 10.

Connecticut Federation of Planning and Zoning Agencies - Length of Service Awards

No commissioners currently qualify for either a 25-year lifetime award or a 12-year service award but several members indicated their interest to attend this annual conference scheduled for March 19.

Wind Turbine Regulations - Public Hearing scheduled for March 10

Mr. Kushner reported that a draft of the proposed wind turbine regulations has been forwarded to CRCOG and the public hearing will be scheduled for March 10.

Adopt Codified Version of Zoning, Subdivision, and Aquifer Protection Regulations  
- Public hearing scheduled for March 10

Mr. Kushner reported that the Town contracted with Municipal Code Corporation (Municode) and adopted a codified version of all the Town's Ordinances and Regulations. Upon the recommendation of the Town Attorney, a public hearing will be scheduled for the March 10 meeting so the Commission can formally adopt Municode's codified version of the Zoning, Subdivision, and Aquifer Protection Regulations.

There being no further business, the meeting adjourned at 10:20 p.m.

Respectfully submitted,

Linda Sadlon, Clerk

LEGAL NOTICE  
TOWN OF AVON

The Planning and Zoning Commission of the Town of Avon will hold a Public Hearing on Tuesday, March 10, 2009, at 7:30 P. M. at the Avon Town Hall, on the following:

- App. #4411 - Forty Four Associates, owner, Russell Speeders Car Wash applicant, request for Special Exception under Section VII.C.4.b.(2) of Avon Zoning Regulations to permit low-profile detached sign, 265 West Main Street, Parcel 4540265, in a CR Zone
- App. #4414 - West Avon LLC, owner, Pizzeria Signore dba Pizzeria DaVinci, applicant, request for Special Exception under Section VI.B.3.a. of Avon Zoning Regulations to permit Class I restaurant, 427 West Avon Road, Parcel 4520427, in an NB Zone
- App. #4415 - Twenty Four East Main Street LLC, owner, Drumm & Gagliardi, LLC, applicant, request for Special Exception under Section VII.C.4.a. of Avon Zoning Regulations to permit 2 wall signs for tenant in multitenant building, 24 East Main Street, Parcel 2190024, in a CS Zone
- App. #4416 - Proposed Amendment of Avon Zoning Regulations pertaining to Wind Regulations.

All interested persons may appear and be heard and written communications will be received. Applications are available for inspection in the department of Planning and Community Development at the Avon Town Hall. Dated at Avon this 23<sup>rd</sup> day of February, 2009

PLANNING AND ZONING COMMISSION  
Duane Starr, Chairman  
Henry Frey, Vice-Chairman and Secretary

LEGAL NOTICE  
TOWN OF AVON

The Planning and Zoning Commission of the Town of Avon will hold a public hearing on Tuesday, March 10, 2009, at 7:30 p.m. at the Avon Town Hall, 60 West Main Street, on the following:

Apps. #4417, #4418, #4419 - Adoption of the Municipal Code Corporation's version of the Town of Avon's Zoning, Subdivision, and Aquifer Protection Regulations, as codified and updated through February 9, 2009. This action would not be expected or intended to make any substantive changes in the regulations. Rather, it would be intended only to reconcile any differences that may exist between the Town's Regulations as currently available in hard-copy form and the Municipal Code Corporation's version, which would be adopted solely to facilitate public access to the regulations.

At this hearing, interested persons may be heard and written communications received. Copies of the Municipal Code Corporation's version of the regulations are available in the Department of Planning and Community Development and the Town Clerk's office. Dated at Avon this 23<sup>rd</sup> day of February, 2009.

PLANNING AND ZONING COMMISSION  
Duane Starr, Chairman  
Henry Frey, Vice-Chairman and Secretary



The Planning and Zoning Commission of the Town of Avon held a meeting at the Avon Town Hall on Tuesday, November 18, 2008. Present were Duane Starr, Chairman, Henry Frey, Vice-Chairman, Douglas Thompson, Edward Whalen, Linda Keith and Alternates Elaine Primeau, David Freese, and Marianne Clark. Mrs. Primeau and Mr. Freese sat for the meeting. Absent were Carol Griffin and David Cappello. Also present was Steven Kushner, Director of Planning and Community Development.

Mr. Starr called the meeting to order at 7:30 p.m.

### **APPROVAL OF MINUTES**

Mrs. Primeau motioned for approval of the October 28, 2008 minutes, as submitted. The motion, seconded by Mr. Thompson, received approval from Mrs. Primeau and Messrs. Starr, Frey, and Thompson. Ms. Keith and Messrs. Whalen and Freese abstained as they had not been present at the October 28 meeting but noted that they have read the minutes and are familiar with the contents of the agenda.

### **PUBLIC HEARING**

App. #4375 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for 2-lot Resubdivision, 16.91 acres, 55 Security Drive, Parcel 3900055, in an IP Zone.

App. #4376 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for Special Exception under Section VI.G.3.b. of Avon Zoning Regulations to permit a Planned Elderly Residential Development, 55 Security Drive, Parcel 3900055, in an IP Zone.

Also heard at this time but not part of the public hearing:

App. #4377 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for Site Plan Approval to permit 12,000-square-foot industrial building and 100-unit Planned Elderly Residential Development, 55 Security Drive, Parcel 3900055, in an IP Zone

Present to represent these applications were Robert M. Meyers, The Law Offices of Robert M. Meyers; Geoff Sager and Peter Dunn, The Metro Realty Group; David Whitney, PE, Consulting Engineers, LLC; and Mark Vertucci, PE, Fuss & O'Neill.

The public hearing was continued from the October 28 meeting.

Attorney Meyers referenced a list of proposed approval conditions and suggested revisions to Items #6 (stop signs), #7 (fee in lieu), #9 (construction documents), and #11 (maintenance of a detention basin located on Pro Line Printing property).

Mr. Starr suggested an additional condition relating to a construction entrance on Darling Drive. All construction traffic should utilize Darling Drive to Route 44.

Mr. Meyers noted his agreement with Mr. Starr's suggestion.

Mr. Kushner noted his agreement with the applicant's suggestions/modifications to the recommended approval conditions. A traffic control plan for the project needs to be prepared and approved by the Traffic Authority. The traffic study projects only modest increases to the existing traffic at this location. The Police Chief, acting as the Traffic Authority, has questioned whether this project may contribute more traffic, both vehicular and pedestrian, at the intersection of Security Drive and Darling Drive and reduce the functionality of this area to a point where a traffic signal should be investigated. Mr. Kushner noted that the applicant had a traffic study prepared. This study indicated that the existing conditions combined with the anticipated increases in traffic, which are projected to be modest, would not change the conditions enough to warrant a traffic signal. Mr. Kushner added that the State Traffic Commission would have to approve a traffic signal in this area. The applicant is agreeable to a condition of approval indicating that traffic in this area would have to be addressed to the satisfaction of the Traffic Authority.

There being no further input, the public hearing for Apps. #4375 and #4376 was closed.

App. #4382 - James Putnam and Elizabeth Enloe, owners, James Putnam, applicant, request for 2-lot Subdivision, 3.576 acres, 17 Berta Lane, Parcel 1270017 in R30 and R40 Zones.

App. #4383 - James Putnam and Elizabeth Enloe, owners, James Putnam, applicant, request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to create 1 rear lot, 17 Berta Lane, Parcel 1270017, in an R40 Zone.

The public hearing was continued from October 28.

Present to represent these applications were David Whitney, PE, Consulting Engineers, and James Putnam, owner.

Mr. Putnam noted that several designs have been prepared to provide a right-of-way connection between Berta Lane and Sylvan Street. Mr. Putnam noted that he considered the preservation of the property value for 96 Sylvan Street as well as the size of the right-of-way. He suggested that the right-of-way be 10 feet in width so as not to encourage cut-through traffic. Mr. Putnam noted that the Fire Chief visited the site and requested a 12-foot right-of-way with a chained gate. The plans have been changed to show a 12-foot-wide paved area. Mr. Putnam noted that he contacted the Police Chief who indicated that he is not opposed to the right-of-way but noted it would not be used much if it is chained. Mr. Putnam noted that he also contacted the Director of Public Works who indicated that his concern involves plowing and the right-of-way would need to have a snow shelf area. Mr. Putnam commented that he also showed the plan to the Town Engineering Department and they indicated that they would agree to whatever is agreed to by the Police, the Fire Marshal, and Public Works. Mr. Putnam added that he doesn't have any written comments from these departments. Mr. Putnam requested a continuance to the next meeting to work out the details for the right-of-way.

Mr. Starr noted that he, as one member of the Commission, would agree to a right-of-way that is an easement granted to the Town. The right-of-way area must be 20 feet wide with a

12-foot paved area. The area must be gated and maintained by Mr. Putnam forever (i.e., snow plowing). Mr. Starr noted that a bond may be required to ensure the maintenance. Mr. Starr explained that there is another private access/emergency road in that area that is maintained by the owner rather than the Town. Mr. Starr noted that there would probably be more physical requirements for this access if the Town were to maintain it. Mr. Starr explained to Mr. Putnam that this situation may work better for him if he assumes responsibility for maintaining this connection. Mr. Starr added that the Town Engineer wants assurances that improvements will be made to the end of Berta Lane to address the snow shelf area if this connection occurs.

Mr. Kushner commented that there have been many emails back and forth from the Town to Mr. Putnam and, in turn, some misunderstandings may have occurred. Mr. Kushner addressed what he believes to be the concerns of the Police Department and the Public Works Department. These applications have been discussed at the last four staff meetings and not all departments have been present at every meeting but input has been received from every department. Mr. Kushner noted that he received information today from both the Police Chief (verbally) and the Director of Public Works (in writing). Mr. Kushner noted that Mr. Putnam was copied on an email that he received today. Mr. Kushner noted that Mr. Putnam was also copied on an email he received a week ago from the Director of Public Works. Mr. Kushner noted that he agrees with Mr. Starr's earlier comments on how to make this situation work.

Mr. Kushner noted that the original goal was to connect the two streets with a public road which cannot happen now because of the way the deed was written when Mr. Putnam took title to the property. An emergency access is permitted but it cannot be used for public travel. The Police Department has indicated that if the connection looks like a driveway with a gate(s) it would not provide any advantage to them when responding to either routine or emergency calls. An officer is not likely to get out of the car and use a key to open a gate(s). Mr. Kushner commented that the Director of Public Works has indicated that the only way this connection would be reasonable to maintain and plow, if it is going to be a 12-foot wide driveway, would be if it had an automated gate. Mr. Kushner commented that the Director of Public Works indicated that his first choice was outlined in a memo with a sketch that showed the connection of both cul-de-sacs, which cannot happen.

Mr. Starr commented that if the cul-de-sacs were connected the recently created lot at 96 Sylvan Street would no longer be a legal-sized lot. Mr. Kushner concurred.

Mr. Kushner commented that a compromise could be to construct an access that looks like a public street that would not be owned by the Town but rather be subject to an easement in favor of the Town. The access could still be gated in some way and if it were subject to an easement, the land area under the road would not be owned by the Town and therefore would not diminish the 30,000-square-foot lot area that is needed to support Mr. Putnam's lot.

Mr. Starr commented that the connection that Mr. Putnam is proposing is narrower and more curved than what would normally be proposed. Mr. Kushner concurred.

Mr. Kushner summarized by noting that the more the connection looks like a public road with easier access the more likely it would be that police and emergency vehicles would use it on a routine basis. The more it looks like a private driveway with a gate the less the likelihood it will be used. Mr. Kushner commented that the Police Chief has not indicated that he absolutely

needs this connection to look like a public road but if it is built as proposed with gates it most likely won't be used. The preferred alternative for the Public Works Department would be for Mr. Putnam to assume maintenance responsibilities and post a bond with the Town but also convey an easement to the Town so the Town would have rights to perform maintenance of any kind if necessary. Mr. Kushner commented that much time has been spent discussing this issue and he has received significant input from various Town departments. Mr. Putnam has also received input from private meetings he has had with various department heads.

Mr. Starr commented that it was suggested by Mr. Thompson at the last meeting that the Town could allow an easement for the rear lot (as opposed to requiring fee simple access) in exchange for an emergency connection. Mr. Starr noted his agreement with this suggestion and encouraged input from the rest of the Commission. Mr. Starr noted that the Town gains with the proposed connection, as it would have emergency access in the event of a blockage on either Berta Lane or Sylvan Street. Mr. Starr added that it is unlikely that the Town would ever use this connection.

The Commission agreed that it is important to establish the connection for public safety even if it wouldn't be used that much. Ms. Keith commented that the roads should have been connected in the first place but this is the next best option. Mr. Frey commented that it doesn't matter if the police don't use the connection now, as things could change in the future. Mrs. Primeau commented that she feels this connection is important to establish now, as the Town's circulation patterns should be more accessible. Mr. Starr clarified that the connection would be a 20-foot right-of-way with a 12-foot paved area and gated on both ends.

Mr. Putnam commented that since he will be maintaining the connection he would like the right to use it. He noted that the connection has been designed to look like a driveway and not like a right-of-way for people to use. Mr. Putnam noted that he proposes one gate at the entrance near his driveway but doesn't see the need for a gate on the other end.

Mr. Starr noted that it doesn't matter to him whether there is one gate or two. The Commission agreed that the connection is a good idea and the number of gates is not an issue.

Mr. Kushner explained that there is a long history to the subject parcel and the original owner of this property proposed an application in the early 1980's which proposed a public road connection that was approved by the Commission. The neighbors, in turn, filed a lawsuit against the Town, as they were against the road connection.

Mr. Kushner noted that the Director of Public Works has requested that the design of the intersection of the driveway with the two cul-de-sacs be done in a way that allows for snow removal. The Public Works has requested that the applicant take a look at the existing driveway cuts on Berta Lane. Mr. Kushner suggested that a more specific plan could be prepared for the next meeting.

Mr. Starr noted that the driveway for 96 Sylvan Street should be planned so that it exits at the same location as the easement right-of-way, for snow removal purposes. Mr. Putnam agreed.

In response to Mr. Putnam's question, Mr. Starr explained that the establishment of a right-of-way connection does not negate the requirement of a fee in lieu payment (open space require-

ment); the applicant is still required to submit a fee in lieu payment as a requirement of a subdivision approval.

There being no further input at this time, the public hearing was continued to the next meeting.

Mr. Whalen motioned to continue the public hearing for Apps. #4382 and #4383 to the December 16 meeting. The motion, seconded by Mr. Freese, received unanimous approval.

App. #4388 - Estate of Gina Nascimbeni, owner, Peter Lee, applicant, request for Special Exception under Section VI.B.3.e. of Avon Zoning Regulations to permit a math and reading learning center, 29 Waterville Road, Parcel 4500029, in an NB Zone.

Also heard at this time but not part of the public hearing:

App. #4389 - Estate of Gina Nascimbeni, owner, Peter Lee, applicant, request for Site Plan Approval for a math and reading learning center, 29 Waterville Road, Parcel 4500029, in an NB Zone.

Present to represent these applications was David Whitney, PE, Consulting Engineers, LLC.

Mr. Whitney noted that the existing house is located in the NB zone and is currently vacant; the house was built in 1931. The applicant wishes to operate a Kumon math and reading learning center at the subject site. An addition to the rear of the building is proposed for handicapped access and requires approval from the Zoning Board of Appeals. The Site Plan shows the parking, the landscaping, and utilities.

In response to Mr. Starr's question, Mr. Whitney stated that the existing driveway is located within the easement area for the property to the north (owned by Apple Healthcare).

Mr. Starr noted that he has no problem with the proposed use. Mr. Whitney commented that he feels it is a good fit for the area.

There being no further input, the public hearing was continued due to a pending application with the ZBA.

Mr. Frey motioned to continue the public hearing for App. #4388 to the December 16 meeting. The motion, seconded by Mr. Whalen, received unanimous approval.

Mr. Frey motioned to table App. #4389 to the next meeting. The motion, seconded by Mr. Whalen, received unanimous approval.

App. #4390 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Youghiogheny Communications, NE, LLC applicant, request for Special Exception under Section III. F of Avon Zoning Regulations to permit installation of wireless telecommunication antennas (pocket smart wireless) and related equipment on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone.

Also heard at this time but not part of the public hearing:

App. #4391 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Youghioghny Communications, NE, LLC, applicant, request for Site Plan Approval to install wireless telecommunications facility (pocket smart wireless) on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone.

Present to represent these applications was Kim Pocock, real estate division, Force 3 Communications.

Mr. Pocock commented that over 250 new sites in Connecticut are being installed by Youghioghny Communications; the proposed antennas for wireless cell phone service will be placed on the existing water tank located at 105 Darling Drive. A small equipment cabinet and three antennas are proposed.

In response to Mr. Starr's questions, Mr. Kushner commented that the Staff has no issues with this proposal but added that electro-magnetic radiation reports will be required, in accordance with the Regulations. Mr. Kushner added that a report could be requested before the installation in order to predict any problems but the chances are small. After installation, a report should be prepared to verify that the standards have been met.

Mr. Pocock noted that the CT Siting Council has asked for an emissions report which is an engineer's calculations based on antenna heights. This information relative to FCC standards will also be provided. In response to Mr. Starr's question, Mr. Pocock explained that the emissions report will indicate cumulative emissions on the tower. Mr. Pocock noted that he would provide any reports requested by the Town.

There being no further input, the public hearing for App. #4390 was closed.

App. #4392 - Forty Four Associates Ltd, owner, Russell Speeders Car Wash, applicant request for Special Exception under Section VII.A.2.b.of Avon Zoning Regulations to permit a reduction in overall landscape requirements, 265 West Main Street, Parcel 4540265, in a CR Zone.

Present to represent this application was Michael Shullman, applicant.

Mr. Starr commented to Mr. Shullman that he made a very nice improvement to the property. Mr. Shullman conveyed his gratitude.

Mr. Shullman noted that the subject request is to permit a reduction in landscape requirements by 860 square feet, or 1.5%. Due to problems with vehicle traffic while the site was under construction, some curbing and radius were extended. Concrete was also added on both sides of the handicap areas located at the entrance and exit of the building.

Mr. Kushner noted that the former occupant of this site, The Pie Plate, was nonconforming to modern-day requirements. The Regulations require that 50% of a site in the CR Zone be green. A landscape reduction under the Regulations of up to 10%, by Special Exception, is permitted for redeveloped sites where the Commission makes a finding that excellence in building and landscape design exist. Mr. Kushner noted that the request is for a 1.5% landscape reduction.

There being no further input the public hearing for App. #4392 was closed.

App. #4393 - West Avon LLC, owner, Umang Bhatt and RK LLC, applicant request for Special Exception under Section VI.B.3.d. of Avon Zoning Regulations to permit wine and spirit shop, 427 West Avon Road, Parcel 4520427, in an NB Zone.

Present to represent this application were Umang Bhatt, applicant, and Mr. Noe, owner.

Mr. Bhatt stated that he owns a wine store in West Hartford and has experience in operating a business. This proposal is for a wine store to be open from 10 am to 8 pm. Mr. Bhatt added that he expects 85% of the business to be wine sales and the remainder to be split between beer and liquor.

Mr. Starr noted that this application is almost identical to the Commission's recent approval for a wine store at this location. Mr. Kushner agreed and noted that the Staff has no issues.

In response to Mr. Whalen's questions, Mr. Bhatt noted that he can adjust his hours of operation and stay open longer hours if need be. Mr. Bhatt commented that in his West Hartford store 80% of his sales are wine.

There being no further input, the public hearing for App. #4393 was closed.

App. #4394 - Fred & Bonnie LLC, owner/applicant request for Special Exception under Section VI.C.3.d. of Avon Zoning Regulations to permit oil-change and auto detailing center (rear building), 221 West Main Street, Parcel 4540221, in a CR Zone.

App. #4396 - Fred & Bonnie LLC, owner/applicant, request for Special Exception under Section VII.C.4.b.(1) of Avon Zoning Regulations to permit detached identification sign, 221 West Main Street, Parcel 4540221, in a CR Zone.

Also heard at this time but not part of the public hearing:

App. #4395 - Fred & Bonnie LLC, owner/applicant, request for Site Plan Approval to renovate existing buildings, 221 West Main Street, Parcel 4540221, in a CR Zone.

Present to represent these applications were Robert M. Meyers, The Law Offices of Robert M Meyers; David Whitney, PE, Consulting Engineers, LLC; and Fred Bauer, owner.

Mr. Starr reported that the applicant has requested a continuance to the December 16 meeting.

There being no input at this time, Mr. Thompson motioned to continue the public hearing for Apps. #4394 and #4396 to the next meeting. The motion, seconded by Mr. Freese, received unanimous approval.

Mr. Thompson motioned to table App. #4395 to the next meeting. The motion, seconded by Mr. Freese, received unanimous approval.

App. #4400 - Marion L. Barrak, owner/applicant request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to create one rear lot, 66 Eddy Street, Parcel 2170066, in an R15 Zone.

Present to represent this application were Robert M. Meyers, The Law Offices of Robert M. Meyers, and David Whitney, PE, Consulting Engineers, LLC.

Attorney Meyers submitted a narrative addressing the history of this parcel. A title search revealed that the subject parcel is not a lot of record and therefore a special exception application is required to create a rear lot. The subject site is a 4.9-acre land-locked parcel with a 50-foot right-of-way to Eddy Street.

Mr. Whitney noted that a 200-foot driveway from Eddy Street is proposed. A house is proposed on the southern portion of the lot where the land is flat; there are wetlands along the eastern property line but all proposed activities are outside the 100-foot regulated area. Public sewer and water are proposed. Land disturbance will be small with minimal cuts and fills.

Mr. Kushner noted that there are no Staff issues.

In response to Mrs. Primeau's question, Mr. Kushner explained that there is no connection between the subject parcel/application and two nearby lots owned by Edward Ferrigno. Mr. Kushner clarified that Mr. Ferrigno has constructed a house on one of those lots but one lot is still vacant.

There being no further input, the public hearing for App. #4400, as well as the entire public hearing, was closed.

## **PLANNING AND ZONING COMMISSION MEETING**

Mr. Freese motioned to waive Administrative Procedure #6 and consider Apps. #4375, #4376, #4377, #4390, #4391, #4392, #4393, and #4400. Mr. Frey seconded the motion that received unanimous approval.

App. #4375 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for 2-lot Resubdivision, 16.91 acres, 55 Security Drive, Parcel 3900055, in an IP Zone.

App. #4376 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for Special Exception under Section VI.G.3.b. of Avon Zoning Regulations to permit a Planned Elderly Residential Development, 55 Security Drive, Parcel 3900055, in an IP Zone.

App. #4377 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for Site Plan Approval to permit 12,000-square-foot industrial building and 100-unit Planned Elderly Residential Development, 55 Security Drive, Parcel 3900055, in an IP Zone



Mrs. Primeau noted her concerns with the language in Item #11 (of the recommended approval conditions) regarding the detention basin located on the Pro Line Printing site and the applicant's need to secure rights to make improvements. Mrs. Primeau noted her concern with the terms "good faith efforts" and "in a timely manner" as discussed earlier by the applicant and questioned what that means to the Town. She questioned the definition of "good faith efforts" and noted that "in a timely manner" could mean anywhere from 5 days to 6 months to 2 years.

Mr. Kushner noted that the applicant has proposed the following language (as a substitution for the original proposed language) for Item #11: "It is Hillstead's responsibility to make good faith efforts, as determined by the Town Engineer, to secure required rights. If rights cannot thereby be secured, Hillstead and the Town Engineer will attempt to work out an alternative arrangement and, if necessary, bring the issue back to the Commission."

Mr. Kushner questioned whether it should be required that this issue be addressed before a building permit is issued. Mrs. Primeau agreed that it should be resolved before a permit is issued.

Mr. Meyers explained that the requirement to secure rights should be conditioned upon the issuance of a Certificate of Occupancy rather than on the issuance of a building permit, as the applicant cannot enter the property to make the required improvements without a building permit.

Mrs. Primeau commented that she would like to ensure that no conflicts arise at the end when a Certificate of Occupancy is requested.

Mr. Frey motioned for approval of Apps. #4375, #4376, and #4377 subject to the following conditions:

1. A total of 103 units are approved.
2. The applicant has indicated that they would like to change the name of the project. The proposed name change shall be approved by the Town's public safety departments.
3. A detailed construction sequence shall be provided to the Town Engineering Department for review and approval prior to the initiation of any work.
4. No zoning or building permit may be issued until improvements have been completed consistent with Section 3.06 of the Subdivision Regulations. In addition, no Certificate of Zoning Compliance or Certificate of Occupancy may be issued until all improvements are completed, as defined by Section 3.07 of the Subdivision Regulations. A bond shall be posted with the Town to guarantee the completion of all remaining work prior to the issuance of the first Certificate of Occupancy. This work may include but not be limited to installation of remaining landscaping and site lighting.
5. Applicant shall provide more detail regarding sidewalk construction as well as the section of the Farmington Valley Greenway to be constructed on Security Drive. Details shall be approved by the Town Engineer. These improvements shall be completed prior to the issuance of the first Certificate of Occupancy.

6. A traffic control plan shall be prepared and reviewed and approved by the Town's Traffic Authority.
7. Traffic control at the intersection of Darling Drive and Security Drive shall meet with the approval of the Traffic Authority.
8. The site plan presented for Lot #2 (the flex building) is recognized by the Commission as being conceptual only. A separate site plan application must be filed at a future date, as more certainty relating to the final design of this building evolves.
9. The Commission recognizes the applicant's offer to make a payment in lieu of the dedication of open space. This payment may be made fractionally with each payment being made prior to the issuance of a building permit, or sale by the applicant, for each of the two lots. In addition to determining the predevelopment value of this parcel for purposes of establishing the total payment, the real estate appraiser shall also calculate the approximate post-approved value for these two parcels of land. The first payment to be made in connection with the development of the elderly housing project (Lot #1) shall be determined by taking the total post-approved value of this project as a percentage of the combined post-approved value of both Lot #1 and Lot #2. This resulting percentage then multiplied by the real estate appraiser's evaluation of the pre-developed value shall establish the first payment in connection with Lot #1.
10. The stockpile area to be placed on Lot #1 shall be completely stabilized and include all plant materials prior to the issuance of the first Certificate of Occupancy.
11. Construction documents shall be submitted for review and approval by the Town Engineer prior to issuance of any building permits. Of particular interest are plans showing utility and road profiles (if required by the Town Engineer), dumpster pad/enclosure details, construction phasing, and additional erosion and sediment control information.
12. It has been a stated goal that the site is to be "balanced" relative to cut and fill earthwork. Final grading plans shall be submitted to Engineering for review that reflect a balanced site.
13. It is believed that the detention basin that exists on 60 Security Drive (Proline Printing) requires maintenance and possibly additional improvements to function properly. The extent and design of this work is to be determined by Hillstead and a plan submitted to Engineering and Wetlands for review and approval prior to Hillstead commencing with the work. This work shall be completed prior to discharging storm water to this basin. It is Hillstead's responsibility to make good faith efforts, as determined by the Town Engineer, to secure required rights. If the rights cannot thereby be secured, Hillstead and the Town Engineer will attempt to work out an alternative arrangement and, if necessary, bring the issue back to the Commission.
14. All Town of Avon Water Pollution Control Authority (AWPCA) permitting, fees and requirements shall be met. An AWPCA Sewer Permit Agreement is required.

15. Town of Avon Engineering and Subdivision Regulations and standard details shall be followed.
16. Grading will be required on both proposed parcels during the construction of the Hillstead project. Sufficient rights shall be conveyed to Lot 2 for the proper stockpiling and other activities as required on Lot 1.
17. Plans showing final grading and stabilization/landscaping required on Lot 1 shall be provided to Engineering for review and approval. Approved work shall be completed prior to issuance of the final Certificate of Occupancy for the Hillstead project (Lot 2).
18. All construction traffic on the site shall utilize the Darling Drive entrance.

The motion, seconded by Mr. Thompson received approval from Messrs. Starr, Frey, Thompson, Whalen and Freese and Mrs. Primeau. Ms. Keith voted in opposition of approval.

App. #4390 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Youghioghny Communications, NE, LLC applicant, request for Special Exception under Section III. F of Avon Zoning Regulations to permit installation of wireless telecommunication antennas (pocket smart wireless) and related equipment on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone.

App. #4391 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Youghioghny Communications, NE, LLC, applicant, request for Site Plan Approval to install wireless telecommunications facility (pocket smart wireless) on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone.

Mrs. Primeau motioned for approval of Apps. #4390 and #4391 subject to the following condition:

1. An emissions report demonstrating compliance with both FCC standards and Avon's Zoning Regulations for the cumulative impact of all existing and proposed antennas shall be prepared by a licensed engineer and submitted to the Town.

The motion, seconded by Ms. Keith, received unanimous approval.

App. #4392 - Forty Four Associates Ltd, owner, Russell Speeders Car Wash, applicant request for Special Exception under Section VII.A.2.b. of Avon Zoning Regulations to permit a reduction in overall landscape requirements, 265 West Main Street, Parcel 4540265, in a CR Zone.

Mr. Thompson motioned for approval of App. #4392. The motion, seconded by Ms. Keith, received unanimous approval. The Commission made a finding that the new car wash is beautiful and many improvements have been made to the site with no disruption to the green space.

Mr. Kushner added that the applicant widened the radius of the driveway as you enter the tunnel to make it easier for large vehicles to maneuver through this area. In addition, a concrete apron was substituted for the bituminous surface that was shown on the plans.

App. #4393 - West Avon LLC, owner, Umang Bhatt and RK LLC, applicant request for Special Exception under Section VI.B.3.d. of Avon Zoning Regulations to permit wine and spirit shop, 427 West Avon Road, Parcel 4520427, in an NB Zone.

Mr. Frey motioned for approval of App. #4393. The motion, seconded by Mr. Thompson, received approval from Messrs. Starr, Frey, Thompson, Whalen, and Freese and Ms. Keith. Mrs. Primeau voted in opposition of the approval.

App. #4400 - Marion L. Barrak, owner/applicant request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to create one rear lot, 66 Eddy Street, Parcel 2170066, in an R15 Zone.

Mr. Whalen motioned for approval of App. #4400. The motion, seconded by Mr. Freese, received unanimous approval.

### **OUTSTANDING APPLICATION**

App. #4387 - Donald and Pamela Battiston, Trustees, owners/applicants, request for Site Plan Approval to expand parking and landscaped areas and add access drive to abutting property to the west, 369 West Main Street, Parcel 4540369, in a CR Zone.

Mr. Kushner reported that he received a call late in the day today from Mr. Jeffrey Battiston. Mr. Battiston asked Mr. Kushner, on his behalf, to request an extension to the Commission's next meeting.

Mr. Freese motioned to table App. #4387 to the next meeting. The motion, seconded by Ms. Keith, received unanimous approval.

### **OTHER BUSINESS**

Referral from CT Siting Council - Cell Tower at St. Matthews Church - Cuddy and Feder LLP

Present were Attorney Christopher Fisher, Cuddy and Feder, LLP; Kevin Dey, AT&T; and Richard Hines, Avon resident.

In response to Attorney Fisher's question, Mr. Starr noted that it is his understanding that the Siting Council has final approval authority but they will accept input, either for or against, from the Town. Mr. Fisher noted that Mr. Starr's understanding is correct and added that part of the statutory process in Connecticut is to provide the Town with technical information as to why the facility is needed (i.e., proposed location, site plan information and possible environmental issues). This process gives residents a chance to comment and provide input before the proposal is formally presented to the Siting Council.

Mr. Starr commented that the photo simulations in the handout were well done and questioned whether the immediate neighbors around the church were consulted. Mr. Fisher commented that all the immediate abutters to the subject property will receive notification via the U.S. mail once the process with the Siting Council begins; a legal notice will also be published.

Mr. Fisher noted that the Siting Council, at some point in the process, will conduct a public hearing in Avon.

Mr. Starr questioned whether it has been anticipated or is known what the view of the proposed tower will be for the abutters.

Mr. Fisher commented that some individual properties can be seen in some of the photos that were taken. The proposed tower will be located in the valley with ridgelines on either side. There are some substantial and mature evergreens on the subject site which will help to provide a visual buffer from the residences in the Greenwood Drive area. Mr. Fisher noted that the proposed tower will clearly be visible from some surrounding hill areas (i.e., Bridgewater Subdivision) as they will be looking down on it. Mr. Fisher commented that he feels an advantage of the subject site is that it is located against the backdrop of the land in the valley as opposed to being out in the open, up high on a ridge. The overall view shed, near and far, is quite contained due to the overall height of the facility and the fact that it would be located down in the valley.

Mrs. Primeau commented that there are houses all around the proposed tower and they will be viewing it. Mr. Fisher agreed that there are some areas of visibility as there are houses nearby but there are also many evergreen trees in the area that will provide screening. Mrs. Primeau commented that she feels the proposed location is not the best, as people will see it when they look up. She questioned why it couldn't be located at the top of a hill like the area across from St. Ann's Church.

In response to Mrs. Primeau's question, Mr. Dey noted that the Brighenti family owns the property across from St. Ann's Church and they have indicated that they are not interested in having a tower located there. Mr. Dey explained that towers must be placed in areas where there is no coverage; the towers can't be located just anywhere. The subject site is the largest parcel in the area that currently has no coverage. The topography of the area was also studied to keep the tower as short as possible. The proposed tower, in the subject location, would only have to be 100 feet in height. Mr. Dey explained that it is possible that if a tower were placed up on the hill across from St. Ann's Church that it would have to be 150 feet high to clear the ridge. Mr. Dey further explained that the proposed tower location is just about in the center of the area where the coverage is needed. The proposed location is also where the houses are located and the people who want the coverage.

In response to Mrs. Primeau's comments, Mr. Fisher explained that property owners cannot be forced to agree to locate a tower on their land; eminent domain does not exist in this regard. Mr. Fisher commented that sensitivity to the community environment is considered and research is done to find the right parcel. St. Matthews Church happens to be located right in the middle of an area that currently has no coverage. Mr. Fisher noted that Mr. Dey contacted many of the surrounding properties in search of the best location.

Mr. Starr noted that the report states that 8 properties were reviewed. Mr. Fisher agreed.

Mr. Frey questioned whether there is a day care or a nursery school operated at the church. In response Mr. Hines clarified that there is no longer a school operation at the church.

Mr. Hines stated that the church is very much in favor of the tower, as they feel it is a good community use. Mr. Hines commented that AT&T is required to meet all the regulations with regard to emissions.

In response to Mr. Frey's question, Mr. Fisher noted that tower emissions are regulated by the FCC. Mr. Fisher explained that the measurements from this tower are at less than 5% of the regulation standard; somewhere between 50 and 100 cell sites at this one location would be needed to exceed the standard.

Mr. Whalen questioned how far above the existing church steeple the tower would reach. Mr. Hines noted that the steeple is 60 feet high but the trees around it are approximately 70 to 80 feet high. Mr. Hines noted that the tower should be concealed by the trees but the antennas will be visible.

In response to Mrs. Primeau's question, Mr. Hines noted that the neighbors to the north have been contacted in writing but the neighbors on Greenwood Drive have not been contacted. Mr. Hines added that he never got a response from the neighbors that were contacted. Mr. Hines added that he did speak with Silvio Brighenti (property owner to the west) who indicated that while he is in favor of the tower he does not want it on his property.

Marianne Clark, Alternate Commission Member and resident of Westland Road, commented that she has a clear view of the steeple from her house and questioned if there was any way to camouflage it.

Mr. Starr commented that the steeple is lit at night but the tower will not be lit. Mr. Hines concurred.

Ms. Keith noted her concerns with the proposal including the height, the size of the proposed antennas, and the proposed crown on top. She suggested a modified tower which would provide some service to those individuals without any service right now.

In response to Ms. Keith's comments, Mr. Fisher commented that the evergreen trees in the area are 80 feet high and the antennas must be above that; it's a practical issue. Aesthetics can be considered but it is a balancing act with regard to the available physical space on the pole. Mr. Fisher noted that he would take into consideration any specific recommendations the Commission may have regarding views and aesthetics.

In response to Mr. Starr's questions, Mr. Fisher commented that there is a lease with the church and the process is currently in the statutory technical review stage with the Town. Data is being collected with other State agencies before a formal application/presentation is made to the Siting Council. Mr. Fisher noted that notice of a public hearing, to be held in Avon, will be made by the Siting Council within 2 to 3 months after the formal application process has begun. The Commission could submit recommendations, if any, in writing before the application is filed with the Siting Council.

In response to Ms. Clark's question, Mr. Fisher commented that property owners on Westland and Northington were not notified.

In response to Ms. Clark's comment, Mr. Starr explained that the legal notice announcing the public hearing will serve as notification to the residents. When the public hearing takes place sometime in early 2009 residents can attend the hearing and offer input at that time.

In response to a discussion regarding noticing, Mr. Fisher clarified that notices will be mailed to the abutters. The only other form of notice will be a newspaper legal notice.

In response to Mr. Kushner's question, Mr. Fisher explained that once the application is formally filed it will be posted online on the Siting Council's webpage.

Mrs. Primeau suggested that camouflage be used in any way possible.

In response to Ms. Keith's question, Mr. Fisher explained that locating a facility at the Shoppes at Farmington Valley in Canton would be redundant with what already exists along the Route 44 corridor. Mr. Fisher further explained that this type of technology is low power and functions on line of sight and really needs to be located in the area it will serve; it is utility in nature. Mr. Fisher noted his appreciation for the Commission's concerns relative to residential areas but this proposal is part of a needed utility infrastructure.

Mr. Frey noted his dislike with the aesthetics of the "tree-like" antennas. He commented that he feels a normal antenna, as small and as short as possible, is the best idea.

Mr. Starr commented that while there doesn't necessarily appear to be a consensus amongst the Commission, valuable input was received from many individual members.

Mr. Hines commented that the Town has received a letter from AT&T inquiring about any concerns they may have. Mr. Hines noted that Philip Schenck, the Town Manager, responded to AT&T requesting that space be reserved on the tower for Town use. Mr. Hines added that the church is in favor of the tower and wishes to be a good neighbor.

Mr. Fisher stated that written confirmation will be sent to the Town noting that if space is needed on the tower for Town purposes, that space would be rent free to the Town.

#### Section 8-24 Referrals:

- Roof replacement and associated HVAC units for Avon Middle School
- Expansion of Town Clerk's Vault

Mrs. Primeau stepped down.

Present to represent these proposals was Blythe Robinson, Assistant Town Manager

Ms. Robinson explained that the Town Council would like to plan a voter referendum for the end of February 2009. The middle school needs a new roof and the associated HVAC units. A privacy screen is also needed to meet the State's requirements. There will be no change to the size or footprint of the building but a small change to the roof to create a ½ inch and 1-foot slope

is needed to meet the State's requirements to receive State grant funding. In addition, the Town Clerk's vault needs to be expanded. The existing vault is 400 square feet and is well below the State's requirements for the size of a vault. An expansion of 400 square is proposed to bring the total size to 800 square feet, which is based on the population projection. A 25-foot addition to the rear of the building is proposed.

**Avon Middle School Roof Replacement and Related Improvements:**

On a motion made by Mr. Freese, seconded by Mr. Thompson, it was voted

RESOLVED, that the Planning and Zoning Commission of the Town of Avon approves the following project pursuant to the provisions of Section 8-24 of the General Statutes of Connecticut:

Replacement of the Avon Middle School roof and related improvements including but not limited to replacement of the rooftop HVAC units, installation of upgraded HVAC controls, installation of rooftop privacy screens, and related building improvements and appurtenances;

provided that, that this resolution is for approval of conceptual plans only. The project is subject to and shall comply with all applicable zoning, site plan, inland wetland and other laws, regulations and permit approvals, and this resolution shall not be a determination that any project is in compliance with any such applicable laws, regulations or permit approvals.

Messrs. Starr, Frey, Thompson, Whalen, and Freese and Ms. Keith voted in favor of the resolution. Mrs. Primeau abstained.

**Avon Town Hall Campus Buildings #1 and #2 Additions and Improvements:**

On a motion made by Mr. Freese, seconded by Mr. Thompson, it was voted:

RESOLVED, that the Planning and Zoning Commission of the Town of Avon approves the following project pursuant to the provisions of Section 8-24 of the General Statutes of Connecticut:

Renovations, additions and improvements to Buildings #1 and #2 at the Avon Town Hall campus. The project is contemplated to include an approximately 800 square foot addition to Building #2 to accommodate an expansion of the Town Clerk's vault, minor modifications to the office area outside of the existing vault, replacement of the entry way door and other minor repairs and upgrades, the refinishing of the roofs of Buildings #1 and #2, and related building improvements, site improvements and appurtenances;

provided that, that this resolution is for approval of conceptual plans only. The project is subject to and shall comply with all applicable zoning, site plan, inland wetland and other laws,



regulations and permit approvals, and this resolution shall not be a determination that any project is in compliance with any such applicable laws, regulations or permit approvals.

Messrs. Starr, Frey, Thompson, Whalen, and Freese and Ms. Keith voted in favor of the resolution. Mrs. Primeau abstained.

#### **NON-PRINTED ITEM ADDED TO THE AGENDA**

Mrs. Primeau returned to the meeting.

#### Appraisal for 144 New Road - Dan Morgan - PZC Apps. #4328/29

Mr. Whalen motioned to add to the agenda an appraisal for 144 New Road.

The motion, seconded by Mr. Thompson received unanimous approval.

In response to Mr. Starr's question, Mr. Kushner noted that the appraisal seems reasonable and is similar to reports accepted in the past.

Mr. Whalen motioned to accept the appraisal for 144 New Road. The motion, seconded by Mr. Freese, received unanimous approval.

#### **STAFF REPORT**

##### Foxcroft Run Subdivision

Mr. Starr noted that a letter has been sent to Mr. Brainard and Mr. Batterson, the owners of a strip of land at 22 Foxcroft Run.

Mr. Kushner reported that he attended a recent Town Council meeting where the Council agreed that it makes sense for the Town to accept title to this strip of land if the owners are willing to gift it to the Town for \$1. Mr. Kushner added that he has not yet received a response from the owners.

There being no further business, the meeting adjourned at 9:15 p.m.

Respectfully submitted,

Linda Sadlon, Clerk

LEGAL NOTICE  
TOWN OF AVON

At a meeting held on November 18, 2008, the Planning and Zoning Commission of the Town of Avon voted as follows:

- App. #4375 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for 2-lot Resubdivision, 16.91 acres, 55 Security Drive, Parcel 3900055, in an IP Zone. APPROVED WITH CONDITIONS
- App. #4376 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for Special Exception under Section VI.G.3.b. of Avon Zoning Regulations to permit a Planned Elderly Residential Development, 55 Security Drive, Parcel 3900055, in an IP Zone. APPROVED WITH CONDITIONS
- App. #4377 - Ensign-Bickford Realty Corporation, owner, The Metro Realty Group, Ltd., applicant, request for Site Plan Approval to permit 12,000-square-foot industrial building and 100-unit Planned Elderly Residential Development, 55 Security Drive, Parcel 3900055, in an IP Zone. APPROVED WITH CONDITIONS
- App. #4390 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Youghioghney Communications, NE, LLC applicant, request for Special Exception under Section III. F of Avon Zoning Regulations to permit installation of wireless telecommunication antennas (pocket smart wireless) and related equipment on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone. APPROVED WITH CONDITION
- App. #4391 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Youghioghney Communications, NE, LLC, applicant, request for Site Plan Approval to install wireless telecommunications facility (pocket smart wireless) on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone. APPROVED WITH CONDITION
- App. #4392 - Forty Four Associates Ltd, owner, Russell Speeders Car Wash, applicant request for Special Exception under Section VII.A.2.b. of Avon Zoning Regulations to permit a reduction in overall landscape requirements, 265 West Main Street, Parcel 4540265, in a CR Zone. APPROVED
- App. #4393 - West Avon LLC, owner, Umang Bhatt and UK LLC, applicant request for Special Exception under Section VI.B.3.d. of Avon Zoning Regulations to permit wine and spirit shop, 427 West Avon Road, Parcel 4520427, in an NB Zone. APPROVED
- App. #4400 - Marion L. Barrak, owner/applicant request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to create one rear lot, 66 Eddy Street, Parcel 2170066, in an R15 Zone. APPROVED

Dated at Avon this 19<sup>th</sup> day of November, 2008. Copy of this notice is on file in the Office of the Town Clerk, Avon Town Hall.

PLANNING AND ZONING COMMISSION  
Duane Starr, Chairman  
Henry Frey, Vice-Chairman and Secretary

LEGAL NOTICE  
TOWN OF AVON

The Planning and Zoning Commission of the Town of Avon will hold a Public Hearing on Tuesday, December 16, 2008, at 7:30 P. M. at the Avon Town Hall, on the following:

- App. #4397 - Connecticut Online Computer Center, Inc. and Avon Water Company, owners, Omnipoint Communications, Inc. applicant, request for Special Exception under Section III. F of Avon Zoning Regulations to permit installation of wireless telecommunication antennas (T-Mobile) and related equipment on existing water tank, 105 Darling Drive, Parcel 2030105, in an IP Zone.
- App. #4399 - M. Jean and Thomas E. Parker, owners, M. Jean Parker, applicant, request for Zone Change from I to R40, 23.82 acres, 107 and 133 Thompson Road, Parcels 4320107 and 4320133.
- App. #4401 - West Avon LLC, owner, David Gugliotti, applicant, request for Special Exception under Section VI.B.3.a. of Avon Zoning Regulations to permit Class I restaurant "Caffeine's Cafe", 427 West Avon Road, Parcel 4520427, in an NB Zone.

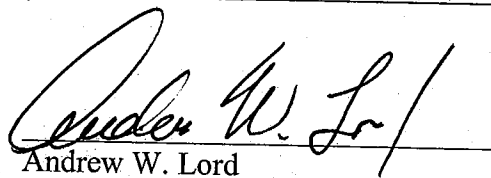
All interested persons may appear and be heard and written communications will be received. Applications are available for inspection in the department of Planning and Community Development at the Avon Town Hall. Dated at Avon this 2<sup>nd</sup> day of December, 2008.

PLANNING AND ZONING COMMISSION  
Duane Starr, Chairman  
Henry Frey, Vice-Chairman and Secretary

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been mailed, postage prepaid, on this  
11<sup>th</sup> day of March, 2009 to:

Christopher B. Fisher, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 <sup>th</sup> Floor White Plains, New York 10601	Patricia McMahon 21 Greenwood Drive Avon, Connecticut 06001
Sheridan Toomey 9 Greenwood Drive Avon, Connecticut 06001	Thomas McMahon 21 Greenwood Drive Avon, Connecticut 06001
Mark Toomey 9 Greenwood Drive Avon, Connecticut 06001	Jane Garrett 15 Greenwood Drive Avon, Connecticut 06001
Peter Emmett Wiese 240 Lovely Street Avon, Connecticut 06001	

  
Andrew W. Lord