

STATE OF CONNECTICUT
SITING COUNCIL

IN RE: SBA TOWERS II, LLC: DOCKET #396
APPLICATION FOR CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR A
TELECOMMUNICATIONS FACILITY
AT 49 BRAINERD ROAD, NIANTIC, CT.

March 9, 2010

STATEMENT OF POSITION

I live at 42 Brainard Road, Niantic, CT and am a founding member of the Friends of the Pattagansett Trust, a party in these proceedings. My family has lived in Niantic at this address for seven years. My property is located approximately 1000 feet northeast of the proposed telecommunications facility.

I request that the Connecticut Siting Council deny the proposed application. The application should be denied as it fails to prove a valid case when one considers the following factors:

- The proposed facility will cause significant visual impact to protected and valued scenic areas such as the Pattagansett Marsh, Long Island Sound and the Ravens Wood Nature Preserve.
- The applicant has submitted incorrect and misleading information. Of most significance is the visual impact analysis prepared by Vanasse Hangen Brustlin, Inc. (VHB). This document is incomplete as it omits an entire neighborhood from the study and ignores the significant visual impact that this facility will have on scenic areas such as the Pattagansett Marsh, Long Island Sound and Ravens Wood Nature Preserve.
- The proposed facility violates East Lyme's zoning laws that prohibit commercial construction within a residential zone.

Please consider the following:

1. This facility will cause significant negative visual impact to open waters and protected lands.

Major efforts have been made over the years to preserve what is left of the pristine land and open space in Niantic. Much of the Pattagansett Marsh, including Watts Island is protected by the Nature Conservancy. In addition, the Ravens Wood Nature Preserve which is owned by the East Lyme Land Trust protects a pristine woodland ecosystem.

The Town of East Lyme's *Plan of Conservation and Development* works to "preserve significant natural open space areas" and "expand and improve visual access to the coast" (141). Clearly a telecommunications tower in this area is not consistent with the Plan.

The proposed telecommunications facility at 49 Brainard Road is located in between the Ravens Wood Nature Preserve as well as the protected Pattagansett Marsh. The Ravens Wood preserve is used year-round by hikers, bicyclists and bird watchers. It is a place to get away from the pressures of modern-day life and technology. Likewise, the Pattagansett Marsh is also a haven for those wanting to escape the pressures of life, absorb the gorgeous scenery and just breathe. During the spring, summer and autumn seasons, the Pattagansett Marsh and connected waterways are enjoyed daily by all types of people young and old. Artists can often be seen in the tall grasses off Old Black Point Road, and at Giants Neck Beach painting the scenery. Kayaks are a very common sight amongst the Pattagansett Marsh each day. Families and friends paddle out to enjoy the osprey, herons, egrets, seagulls and other animals and fish that inhabit the marsh. Fishermen, lobstermen and crabbers on small skiffs also join the ranks of those who utilize the marsh daily. This area is not only enjoyed by local residents, it is also a destination for summer visitors and tourists, an important part of the area's economy. People from urban areas in central Connecticut as well as from places such as New Jersey, New York and Virginia come to Niantic for their summer vacations. Families from as far away as Germany and France also come each year to vacation in Niantic. They come to enjoy the beautiful marshes, the waters of Long Island Sound and the vistas of the undisturbed salt marsh and the woodland terrain. Old Black Point Beach, which protects the Pattagansett Marsh from Long Island Sound, is one of Connecticut's only naturally occurring barrier dune beaches. This area is a natural treasure for the state of Connecticut. In addition to being a retreat for people, it provides shelter, food and a breeding ground for various fish, migratory birds and osprey. The Pattagansett Marsh is a refuge; a place to get away from it all.

In the mid 1800's the railroad was built. Unfortunately, the railroad was given much of the pristine shoreline of Connecticut as its right-of-way. As a result, generations later, we still have to live with the decisions made hundreds of years ago. The railroad is still here, and with it a new line of catenary wires and structures. We had no control over the installation of these structures. Though unsightly, the structures are relatively low to the ground and do not distort the vistas or tree line of the shoreline. Now, we are faced with the construction of a series of cell towers along the shoreline, looming above the rail corridor. Putting a cell tower on Brainard Road in addition to the other proposed towers extending down the Connecticut shoreline will have a cumulative negative impact on our pristine shoreline. Let's not make the same mistake as was made with the railroad corridor. We need to be stewards of the land, and preserve what is left for future generations to appreciate and enjoy.

2. The visual Impact Analysis completed by VHB is incomplete.

In Michael Libertine's pre-filed testimony, he states that the tower will be visible from "portions of Old Black Point Road". The fact is that this tower will be visible from a majority of Old Black Point Road extending from the intersection of Old Black Point Road and Indian Rock Road all the way to #243 Old Black Point Road, a distance of one and one-half miles. This portion of road contains 59 properties that will have direct views of the proposed tower. Photo #5 from VHB's report, taken from #74 Old Black Point Road highlights the egregious view of the proposed tower that will be seen by all who travel and live on that mile and a half stretch of Old Black Point Road.

VHB acknowledges that "2,219 acres, or 97% of the acreage of visibility occurs over open waters of Long Island Sound," and Mr. Libertine acknowledged that not one picture in the VHB report represented this impact, which the Office of Long Island Sound Programs has characterized as "significant." The "open waters" referred to in the report are actually undisturbed vistas of the protected Pattagansett Marsh, Long Island Sound and the undisturbed ridgeline of Brainard Road and Giants Neck. This area is a natural treasure for the state of Connecticut and should remain undisturbed by looming towers and structures that will degrade the sense of peace and beauty that currently exists.

VHB also neglected to mention other areas that would be visually impacted by the proposed tower. Griswold Island has eight summer homes that will have direct views of the proposed tower. In addition the area of Giant's Neck Beach will be significantly impacted. The Visual Impact Analysis completed by VHB, makes no mention of the docks and marina at Giants Neck Beach as well as the eight homes on adjacent Ridgewood Road which will all have direct views of the tower across the undisturbed salt marsh.

Another area that is misrepresented in the visual impact study is the Ravens Wood Nature Preserve. The study done by VHB only shows one photo from the trails. There are multiple points on the trails in which the tower will be visibly looming. On the western side of the Nature Preserve is another neighborhood that was not included in the Visual Impact Study. It is the neighborhood of Marshfield Road in Giants Neck Heights. In addition to six houses that will have a direct view of the tower is the Giants Neck Heights Clubhouse. Clearly the visual impact study done by VHB is incomplete and misleading.

2. The proposed facility violates our town's planning and zoning laws.

~~The proposed facility is located at the very end of a narrow, dead-end, rural road with 22 houses in a residential district. This is absolutely not the place to build a commercial facility that will create noise from generators and additional traffic from service vehicles. As it is, this street is rarely plowed in the winter due to the fact that the street is so narrow and does not have a turn-around at the end. Also, according to a recent letter from the DEP (February 17, 2010) for this docket, this facility does not comply with the "Connecticut Coastal Management Act (CCMA) 22a-93(15)(F) which defines an 'adverse impact on natural resources' as 'degrading visual quality through significant alteration of the natural features or vistas and viewpoints.'"~~

Please consider the important factors stated above when deciding the merits of this application. As a resident with very little ability to fight the influential interests of the telecommunications lobby, I look to the Siting Council to be proactive in protecting our pristine environment from the severe and long-lasting impact of cellular towers. Deny SBA's application to build a telecommunications facility at 49 Brainard Road.

Thank you for your time and consideration.

Sincerely,

Hilary S. Adams

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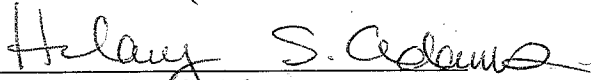
March 9, 2010

AFFIDAVIT OF HILARY ADAMS

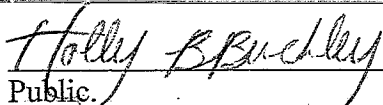
I, Hilary S. Adams, the undersigned, being duly sworn, do depose and say:

1. I am over the age of eighteen and believe in the obligations of an oath.
2. I reside at 42 Brainard Road, Niantic, Connecticut.
3. I am the author of the attached pre-filed written testimony. I believe the facts contained therein are true and accurate the best of my knowledge and belief.
4. Photographs A1-6 were taken on February 23, 2010 during the balloon flight for docket #396.
5. Photo A1 was taken using a Sony Cybershot Model DSC-Hp
6. Photos A2-A5 were taken using a Nikon Digital D40X camera.
7. Photo A6 was taken using an Olympus Digital Camera, model C-740.
8. All photos were taken as to reflect what would be seen by the unaided eye.
9. GPS coordinates were taken with a handheld Garmin GPSmap 76.
10. The weather conditions were as follows: Wind from the ENE at 15-25 knots, periods of moderate snow and rain, reduced visibility. The balloon was not always flying at full height.

FURTHER the deponent sayeth not.


Hilary S. Adams

Subscribed and sworn to before me this 10 th day of March, 2010.


Public. _____, Commissioner of the Superior Court Notary

HOLLY BENDER BUCKLEY
NOTARY PUBLIC

My commission expires: _____ **MY COMMISSION EXPIRES JUNE 30, 2014**

Docket #396
Photo Exhibit A1-A6
Submitted by Hilary Adams
March 9, 2010

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EXHIBITS A1-A6. Please admit as evidence the attached photographs that were taken on February 23, 2010 during the balloon flight for docket #396. The weather conditions were less than ideal when the balloon was flown. The wind was blowing from the ENE at 15-25 knots and there were periods of moderate snow and rain, causing reduced visibility.

Docket #396
Photo Exhibit A1-A6
Submitted by Hilary Adams
March 9, 2010



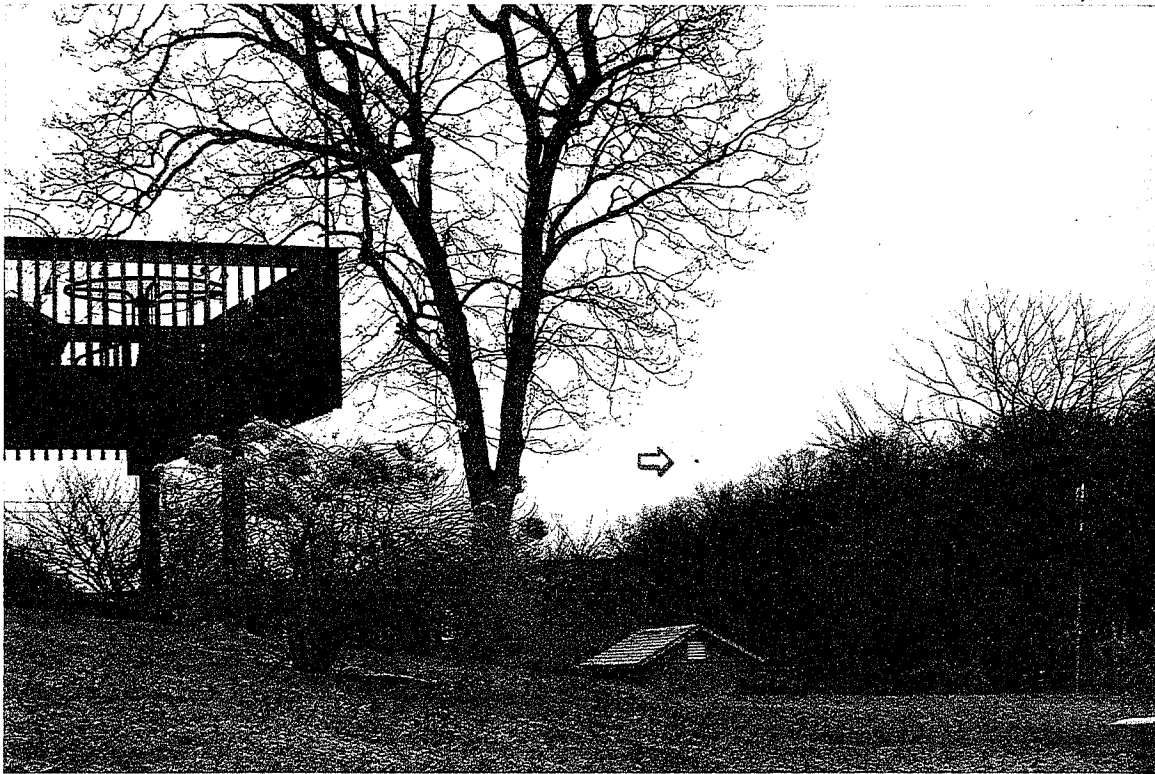
A1: This photo was taken from the Raven Wood Nature Preserve looking east over the Red Brook Marsh. GPS coordinates: 041-18-436N, 072-13-617W. Photo was taken during the 7-9am balloon flight. Weather conditions moderate sleet/snow, reduced visibility.

Docket #396
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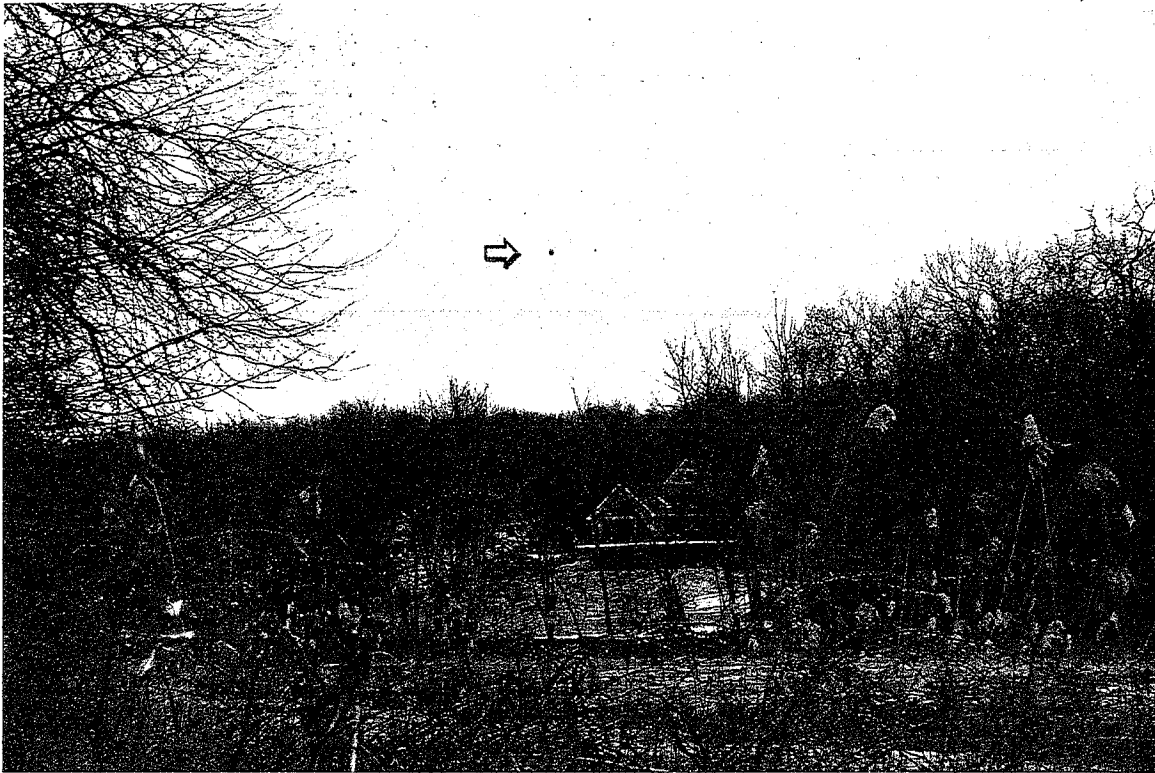
A2: Photo taken from 24 Marshfield Rd at the intersection of Marshfield Road and Creek Road in Giants Neck Heights looking northeast. GPS coordinates: 041-18-24N, 072-13-629W. Photo taken during 7-9am balloon flight. Weather conditions: moderate snow, reduced visibility.

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A3: Photo taken from Giants Neck Heights Clubhouse adjacent to #23 Marshfield Rd, looking northeast. GPS coordinates: 041-18-195N, 072-13-592W. This photo was taken during the 7-9am balloon flight. Weather conditions: light mist, reduced visibility.

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A4: Photo taken from 39 Marshfield Road in Giants Neck Heights, looking northeast over the Red Brook Marsh. GPS coordinates: 041-18-326N, 072-13-617W. This photo was taken during the 7-9am balloon flight. Weather conditions: light mist, reduced visibility.

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A5: Photo taken from 8A Gada Road, looking west over the Pattagansett River. GPS coordinates: 041-18-704N, 072-13-171W. This photo was taken during 7-9am balloon flight. Due to heavy snow and wind conditions, the balloon was not flying at full height and was tangled in the trees when this photo was taken. If it had been flying, it would have been visible midway between the seagull and the tree line.



A6: Photo taken from the dock at Giant's Neck Beach looking north over a house on Ridgewood Rd and the Pattagansett Marsh. GPS coordinates: 041-17-58N, 072-13-35W. This photo was taken during 1pm-5pm balloon flight. Weather conditions: light rain, wind: ENE 20-25 knots. **PLEASE NOTE:** The balloon was barely clearing the treetops due to strong winds. This photo does not accurately portray the true height or visual impact of the proposed tower. It is being submitted as evidence that the tower will be seen from Giant's Neck Beach.

Respectfully Submitted,

Friends of the Pattagansett Trust

By 

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was deposited in the United States mail, first-class, postage pre-paid this 15th day of March, 2010 and addressed to all parties and intervenors on the attached service list and as noted below.

Mr. S. Derek Phelps, Executive Director, Connecticut Siting Council, 10 Franklin Square, New Britain, CT 06051.

Mail- SBA Towers, LLC c/o Carrie Larson, Esq., Pullman & Comley, LLP, 90 Statehouse Square, Hartford, CT 06103-3702 (860) 424-4312(860) 424-4370 fax

E-mail -- Cellco d/b/a Verizon c/o Kenneth Baldwin, Esq., Robinson & Cole, 280 Trumbull Street Hartford, CT 06103-3597 (860) 275-8200/ (860) 275-8299 fax
kbaldwin@rc.com

E-mail- Russell Brown, 41 Brainerd Road, Niantic, CT 06357 (860) 739-5984/ (860) 691-1145 Fax rds@businessbookpress.com

Mail - Town of East Lyme c/o Edward O'Connell, Esq., Waller, Smith & Palmer, PC, 52 Eugene O'Neill Drive, P.O. Box 88, New London, CT 06320 (860) 442-0367/(860) 447-9915 eboconnell@wallersmithpalmer.com

Mail --New Cingular Wireless c/o Christopher Fischer, Esq., Cuddy & Feder, LLP, 90 Maple Avenue, White Plains, NY 10601 (914)761-1300/(914)761-5372fax

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Keith R. Ainsworth, Esq.