ZONING BOARD OF ADJUSTMENT
APPLICATION FOR
SPECIAL EXCEPTIONS FOR
WIRELESS COMMUNICATIONS FACILITY

EIP Communications II, LLC
156 Lowell Street, Rochester, New Hampshire
(Parcel ID 0244-0002-0001)
Rochester, NH 03867

Respectfully submitted,

Brian S. Grossman, Esq.
Bowditch & Dewey, LLP
200 Crossing Boulevard, Suite 300
Framingham, MA 01702
(508) 416-2410
bgrossman@bowditch.com

BOWDITCH
ATTORNEYS

October 19, 2020

ZONING BOARD OF ADJUSTMENT
APPLICATION FOR
SPECIAL EXCEPTIONS FOR
WIRELESS COMMUNICATIONS FACILITY

EIP Communications II, LLC
156 Lowell Street, Rochester, New Hampshire
(Parcel ID 0244-0002-0001)
Rochester, NH 03867

TABLE OF CONTENTS

1

City of Rochester, New Hampshire

Zoning Board of Adjustment

Special Exception Application

DO NOT WRITE IN THIS SPACE

CASE NO._____

DATE FILED_____

_____

ZONING BOARD CLERK

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

Applicant: EIP Communications II, LLC

E-mail: bgrossman@bowditch.com Phone: 508.416.2410

Applicant Address: c/o Brian S. Grossman, Bowditch & Dewey LLP, 200 Crossing Blvd, Suite 300, Framingham, MA 01702

Property Owner: Joseph P. Casavant & Darin Paige

Property Owner Address: 214 West High Street, Somersworth NH 03878-1527

Variance Address: 156 Lowell Street

Map Lot and Block No: Parcel ID 0244-0002-0001

Description of Property (give length of lot lines): Front: 200'; Sides: 1037' / 1439'; Rear: 312' (Approx: 9.63 acres)

Proposed use or existing use affected: Proposed Wireless Communications Facility

The undersigned hereby requests a special exception as provided in section 275-4.1(C), 275-18.5, 275-18-D, and 275-22.2 of the Zoning Ordinance to permit construction, operation and maintenance of wireless communications facility including without limitation 150' tower, associated radio communications equipment and fenced compound.

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance.

Signed: _____ _____ Date: 10/19/2020

City of Rochester, New Hampshire

Zoning Board of Adjustment

275.22 Special Exception Sheet

(a) General Provisions

(1) Certain uses, structures, or conditions are designed as Special Exceptions (E) in this ordinance. Upon application, the Board of Adjustment may, subject to the appropriate conditions and safeguards, grant a permit for these special exceptions and no others.

(2) Special Exceptions, for which conformance to additional standards is required, may be permitted in their respective districts, subject to the satisfaction of the requirements and standards set forth in this section 275.22, in addition to all other requirements of this ordinance. All such uses are hereby declared to possess such special characteristics that each shall be considered as an individual case.

(3) The Board of Adjustment may require that a site plan for development for a proposed special exception be submitted showing the location of all buildings, parking areas, traffic access, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special exception is in harmony with the intent of this ordinance.

(b) Considerations Governing Granting Special Exceptions: In acting upon an application for a special exception, the Board of Adjustment shall take into consideration whether:

(1) The specific site is an appropriate location for the proposed use or structure. ☑ Yes ☐ No
Reasoning: Please see supporting statement submitted herewith.

(2) The proposal is detrimental, injurious, obnoxious, or offensive to the neighborhood. ☑ Yes ☐ No
Reasoning: Please see supporting statement submitted herewith.

(3) There will be undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off street parking. ☑ Yes ☐ No Reasoning: Please see supporting statement submitted herewith.

(4) Adequate and appropriate facilities and utilities will be provided to ensure the proper operation of the proposed use or structure. ☑ Yes ☐ No Reasoning: Please see supporting statement submitted herewith.

(5) The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan. ☑ Yes ☐ No Reasoning: Please see supporting statement submitted herewith.

Please check section 275.22 of the Zoning Ordinance for any additional specific conditions that apply to your Special Exception request.

33 Wakefield Street * Rochester, NH 03867 * Telephone: (603)332-3508 * Fax: (603)330-0023

2

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

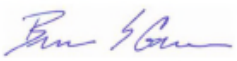
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

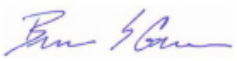
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

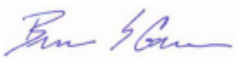
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

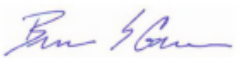
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

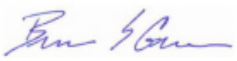
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

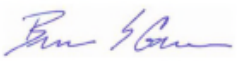
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

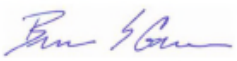
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

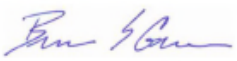
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

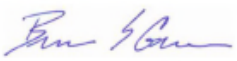
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

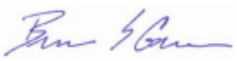
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

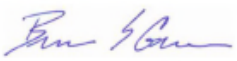
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

BOWDITCH

Bowditch & Dewey, LLP
200 Crossing Boulevard | Suite 300 | Framingham, MA 01702
508-879-5700 | bowditch.com

Brian S. Grossman
Direct telephone: 508-416-2410
Direct facsimile: 508-929-3120
Email: bgrossman@bowditch.com

October 19, 2020

Zoning Board of Adjustment
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Re:	***Applicant:***	***EIP Communications II, LLC***
	Property Owners:	***Joseph P. Casavant & Darin Paige***
	Property:	***156A Lowell Street, Rochester, New Hampshire Parcel ID 0244-0002-0001***
	Petition:	***(1) Special Exception for a Wireless Communications Facility pursuant to Section 275-4.1(C), Section 275-18.5, Section 275-18-D (Use Table), and Section 275-22.2 of the Ordinance; and (2) Any other relief required within the jurisdiction of the Zoning Board of Adjustment (All relief is requested if and to the extent necessary, all rights reserved under the Federal Telecommunications Act of 1996 ("TCA") and otherwise).***

Dear Members of the Zoning Board of Adjustment:

Pursuant to the applicable provisions of the City of Rochester Zoning Ordinance (the "Ordinance"), the New Hampshire Revised Statutes and the Federal Telecommunications Act of 1996, EIP Communications II, LLC ("Everest" or "Applicant") hereby applies to the City of Rochester Zoning Board of Adjustment (the "Board") for the above-captioned zoning relief to construct, operate and maintain a Wireless Communication Facility (the "Facility") on property located at 156A Lowell Street, Rochester, New Hampshire (the "Property"). The Property is in the City's Agricultural District and the Conservation Overlay District. The Facility will address significant gaps in wireless communications network coverage for Everest's tenant AT&T.

I. BACKGROUND

Everest builds, owns and operates the infrastructure that supports wireless telecommunications services and providers. Everest provides its customers, and the communities they serve, with creative, cost efficient solutions to the ever-growing demand for wireless ubiquity and bandwidth. Everest's founders, senior management and staff bring more than 50 years of wireless industry experience to the company, including leadership positions with wireless operators, tower companies, telecommunication infrastructure developers and the FCC. Everest's exceptional human resources are augmented with equity capital from

investors who share the long-term view of investing in responsible communications infrastructure.

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the City of Rochester and throughout the State of New Hampshire. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Facility will enhance service coverage in the City of Rochester and surrounding communities. The enhancement of service coverage in the City of Rochester is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulation.

Most importantly:

1. The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the City of Rochester by enhancing telecommunications services within the City.

2. The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.

3. The proposed Facility will preserve and increase the amenities of the City by enhancing telecommunications services.

4. The proposed Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2017, there were an estimated 411 million wireless telephone users in the United States. See FCC's *First Communications Marketplace Report*, p. 6 (December 26, 2018). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increase connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.* at p. 9.

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. More than one-half of American households (54.9%) are now "wireless only."[1] Even among households with both a landline and wireless telephones, approximately 42% of those households "received all or almost all calls on wireless telephones."[2] The FCC estimates that approximately 70% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. See http://www.fcc.gov/guides/wireless-911-services.

II. THE PROPOSED FACILITY

As depicted on the Plans submitted with this application, Everest proposes to construct a 150 foot monopole tower (with a 6-foot lightning rod extending to 156 feet). The proposed Facility will structurally accommodate at least three wireless communications carriers and their associated antennas, electronic equipment and cabling; and fence at the base of the tower will be sufficient to accommodate ground based radio communications equipment. As shown on

[1] https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf

[2] *Id*.

the Plans that accompany this Application, AT&T's panel antennas will be located at a height of 145 feet (antenna centerline) on the tower.

AT&T's radio communications equipment cabinets will be located on a 12-foot by 20-foot concrete equipment pad located within and surrounded by a 6-foot high chain link fence topped with barbed wire to prevent unauthorized access. A power meter bank and telephone cabinet will also be installed within the fenced in compound. A pad-mounted transformer, protected by bollards, will be located just outside the fenced compound. Additional details for the proposed Facility are set forth below and in the enclosed plans.

Everest anticipates that in the future additional wireless communications providers may also co-locate wireless communications equipment at the Facility.

The Facility will be an unmanned, passive use, will not generate any appreciable noise, dust or odors and will not adversely affect existing developed and natural environments around the City of Rochester. The location of the Facility will mitigate adverse visual impacts. The Facility will enable users to access a state-of-the-art, fully digital system for voice communication, messaging, and data transmission and reception.

III. FEDERAL TELECOMMUNICATIONS ACT OF 1996

Everest's application is governed by the provisions of the Federal Telecommunications Act of 1996, which the United States Supreme Court has explained as follows:

> Congress enacted the Telecommunications Act of 1996 (TCA) … to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." … One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934 … to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities … 47 U.S.C. § 332(c)(7). Under this provision, local governments may not "unreasonably discriminate among providers of functionally equivalent services," § 332(c)(7)(B)(i)(I), take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services," § 332(c)(7)(B)(i)(II), or limit the placement of wireless facilities "on the basis of the environmental effects of radio frequency emissions," § 332(c)(7)(B)(iv). They must act on requests for authorization to locate wireless facilities "within a reasonable period of time," § 332(c)(7)(B)(ii), and each decision denying such a request must "be in writing and supported by substantial evidence contained in a written record," § 332(c)(7)(B)(iii).

City of Rancho Palos Verdes, Cal. v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005) (internal citations omitted).

The TCA was intended to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans. The proposed Facility will help bring advanced and improved telecommunications and information technologies to Rochester.

IV. RELIEF REQUESTED

Everest's proposed Facility satisfies the required findings for grant of the requested special exception as follows (Ordinance in **bold**):

A. The Facility Satisfies the Generally Applicable "Base Criteria" for a Special Exception as Set Forth in Section 275-22.2 of the Ordinance

The Facility satisfies the requirements of Section 275-22.2 of the Ordinance for the grant of a Special Exception as follows:[3]

(1) Location. The specific site is an appropriate location for the proposed use or structure;

The Property is a large 9.63-acre plot of land and appropriate for the proposed Facility. The Facility is permitted by Special Exception within the Agricultural zoning district. As set forth in the Radio Frequency Report submitted herewith, the Property is uniquely situated to allow AT&T to address the significant gap in its wireless network coverage in the vicinity of the Property. Further, as set forth in the Alternatives Analysis submitted herewith, the Property is the only feasible location that will allow AT&T to address this significant gap in its wireless network.

The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless

[3] The design and location of the proposed Facility is generally consistent with the facility the Board previously approved at the Property by its decision dated, September 11, 2014 (the Facility was not constructed and the approval has lapsed).

communication services in the surrounding area by providing opportunities for co-location. The proposed Facility is an unmanned and passive in nature and will involve no overcrowding of land or undue concentration of population. In addition, the proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements.

(2) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

The proposed Facility is not detrimental, injurious, obnoxious or offensive to the neighborhood. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission.

Further, the Facility will benefit the neighborhood and the City by providing enhanced wireless communications services to the residents, visitors and businesses in the vicinity of the Property. The enhancement of wireless network coverage in the City is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis or natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses.

(3) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

The proposed Facility is unmanned and passive in nature. The Facility will only be visited one to two times per month by authorized personnel in an SUV-sized vehicle; therefore it will have no material impact on traffic near the Property. As depicted on the Plans, the Facility will utilize the existing access to the Property. Everest will improve an existing construction driveway and dirt farm road with gravel and extend a portion with a new gravel access road to allow vehicular access to the Facility. Further, one turnaround area/parking space will be located near the proposed Facility for use by authorized personnel. As a result, the proposed Facility will not have any material impact on pedestrian or vehicular traffic and safety on or near the Property.

(4) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

Adequate and appropriate utilities are available to serve the Facility on or near the Property. As depicted on the Plans, electric and telephone utilities necessary for the Facility will be installed from the existing utilities on Lowell Street and run to the Facility. The Facility is unmanned and does not require water or sewer services, nor does it generate any trash or rubbish or otherwise require services for their removal.

(5) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

The proposed Facility is consistent with the spirit of this chapter and the intent of the Master Plan. The proposed Facility will increase the amenities available within the City by providing enhanced wireless communications service to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. By providing for increased availability of wireless communications services during emergencies, the proposed Facility will promote the health, safety and general welfare of the community, and will lessen the danger from fires or other natural disasters.

The unmanned Facility will not contribute to the overcrowding of land. In addition, it does not require any water or sewer services, nor will it increase the burden on other municipal services such as police, fire or schools.

Therefore, the proposed Facility is consistent with the spirit of the Ordinance and Master Plan.

The Facility is also in compliance with the applicable provisions of the Land Use Master Plan as follows:

Goal 1: Provide for a balanced and sustainable pattern of land use that meets the many needs of the City's stakeholders.

Goal 1 – Objective 6: Minimize costs for expansion of infrastructure

As discussed above, the proposed Facility is consistent with the Zoning Ordinance. The location of the proposed Facility utilizes significant setbacks from adjacent property lines and Lowell Street and takes advantage of the existing vegetation and dense tree growth on and near the Property to help minimize any adverse visual impacts. The Facility is generally surrounded by wooded and agricultural land and the required vegetative buffer.

The Facility will help minimize the costs for expansion of infrastructure by providing enhanced wireless communications services to residents, visitors, and businesses in Rochester for personal, business and emergency purposes. As set forth in the RF Report submitted herewith, the Facility will address a significant gap in AT&T's communications network and benefit mobile devices to provide fast web browsing, media streaming, and other applications that require broadband connections. The mobile devices that benefit from these advanced networks are not limited to basic handheld phones, but also include devices such as smartphones, PDA's, tablets, and laptop air-cards. With the evolving rollout of 4G LTE services and devices, AT&T customers will have even faster connections to people, information, and entertainment.

Goal 2: Enhance the quality of development throughout the City

Goal 2 - Objective 4: Develop regulations that mitigate adverse impacts such as noise, glare, odors, vibration, and undue traffic congestion.

The Facility will not generate any excessive noise, heat, smoke, glare, effluent, odor, vibration or pollution. The proposed Facility will not result in the overcrowding of land or over-concentration of population. The Facility will be setback from Lowell Street by 994 feet to the compound and 1024 feet to the tower and will be surrounded by dense tree growth. The

Applicant has designed the Facility to minimize visual impact on the surrounding area.

The Facility will comply with all lawful and applicable regulations concerning radio frequency exposure including those established by the Federal Communications Commission and will comply with all lawful and applicable state and federal safety codes.

The Facility is unmanned and passive in nature. Since the Facility is unmanned it will not require or discharge water or sewerage, not generate any trash or rubbish, nor overburden other municipal services. The proposed Facility will require no more than two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other municipal interests.

Goal 5: Promote positive planning principles and techniques

Goal 5 - Objective 5: Encourage development that is responsive to the broad public interest, well designed, and harmonious with its surroundings.

The Property, is a large wooded parcel located in the AG Zoning District and is an appropriate location for the proposed Facility. The Property is surrounded by wooded and agricultural land and the proposed Facility will be surrounded by dense tree growth. AT&T has identified a significant gap in wireless coverage and a significant need for capacity relief in the City. The proposed Facility will benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population.

Goal 6: Craft ordinances, regulations, policies, and procedures that promote clarity, efficiency, economic value, responsibility, and equity in the development process.

Goal 6 - Objective 2: Support and enhance property values.

The proposed Facility will support and enhance property values. In an effort to minimize any alleged adverse impacts of the proposed Facility, the Applicant has located the Facility 994 feet from Lowell Street. The proposed Facility will be surrounded by dense tree growth. Further, the Applicant has designed the Facility to minimize visual impact on the surrounding area.

The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The use will be passive and require no employees on the premises. Specifically, the proposed Facility will require approximately two (2) vehicle trips per month by a service technician for routine maintenance and will require no water, septic, or other municipal services. Further, the proposed Facility is unmanned and passive in nature and will not contribute to overcrowding of land or undue concentration of population. The proposed Facility will involve no adverse effects on public or private water supplies, drainage, schools, parks, open space, or other public requirements. The proposed Facility will involve no excessive noise or pollution to the environment.

The proposed Facility will also benefit the City and promote and conserve the convenience and general welfare of its residents, businesses and travelers by enhancing telecommunication services and providing reliable state-of-the-art digital wireless voice and data services. The proposed Facility will contribute to securing safety from fire, flood, panic and other dangers by providing more reliable wireless coverage with E911 enhanced emergency service.

B. The Facility Satisfies the Criteria for a Special Exception for a Wireless Communications Facility as Set Forth in Section 275-22.2(N) of the Ordinance

The Facility satisfies the requirements of Section 275-22.2(N) of the Ordinance for the grant of a Special Exception for a Wireless Communications Facility as follows:

N. Wireless Communications Facilities

(1) Co-location/zoning district. Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated:

a. Within a zoning district where these facilities are permitted by right; nor

The proposed Facility cannot be located within a zoning district where these facilities are permitted by-right while meeting AT&T's objectives to address this significant gap in its wireless network coverage. The Facility is permitted by right in the Granite Ridge (GR), General industrial (GI), and Recycling Industrial (RI) Zoning Districts. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including the by-right zoning districts, and determined that there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

b. On any existing or approved antenna support structure in the City of Rochester; nor

The proposed Facility cannot be accommodated on any existing or approved antenna support structure in the City. Based on AT&T's existing locations as set forth in the RF Report and depicted on the radio frequency propagation maps submitted therewith, the existing sites do not provide adequate coverage to the Coverage Objective. As demonstrated by the Alternatives Analysis submitted herewith, Everest has conducted a thorough search for alternatives, including existing and approved antenna support structures, and determined that

there are no feasible alternatives to the Facility that would also allow AT&T to address this significant gap in its wireless network coverage.

c. On any prospective alternative tower structure in the City of Rochester for one of the following reasons:

[1] Structural capacity. The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

[2] Interference. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

[3] Height constraints. Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

[4] Other reasons. Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

As set forth in the RF Report and Alternatives Analysis submitted herewith, there are no existing or approved antenna support structures, towers, or other structures located in the area within which AT&T has identified this significant gap in its wireless coverage network. As a result, the proposed Facility, including the proposed monopole, is necessary in order to address AT&T's significant gap in coverage.

(2) Buffers.

a. In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the

facility shall be surrounded by an area of dense tree growth, including a sufficient percentage of evergreen trees to partially screen the site in the winter, that extends continuously for a minimum distance equal to 1/2 the height of the proposed support structure.

In accordance with this provision of the Ordinance, the proposed Facility, including a 150-foot tower, is required to be surrounded by a buffer of dense tree growth of at least 75 feet. As depicted on the Plans submitted herewith, Everest's proposed Facility is located within an area of dense tree growth, including a significant percentage of evergreen trees, that exceeds 75 feet and therefore complies with this requirement and

b. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met, waive or reduce this requirement due to other mitigating conditions on or off the site and/or approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of site plan review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

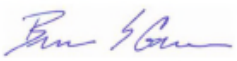
As set forth above, Everest's proposed Facility complies with the buffering requirements. Everest will comply with any lawful and reasonable condition concerning the maintenance of the buffer area.

V. CONCLUSION

Everest respectfully requests the Board to grant the requested variance and any other zoning relief required for the proposed Facility. Everest respectfully requests that the Board schedule this application for a public hearing at its next meeting for which proper notice can be given.

If I can provide any further information regarding this application, please let me know.

Sincerely,



Brian S. Grossman

3

EVEREST
INFRASTRUCTURE PARTNERS

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

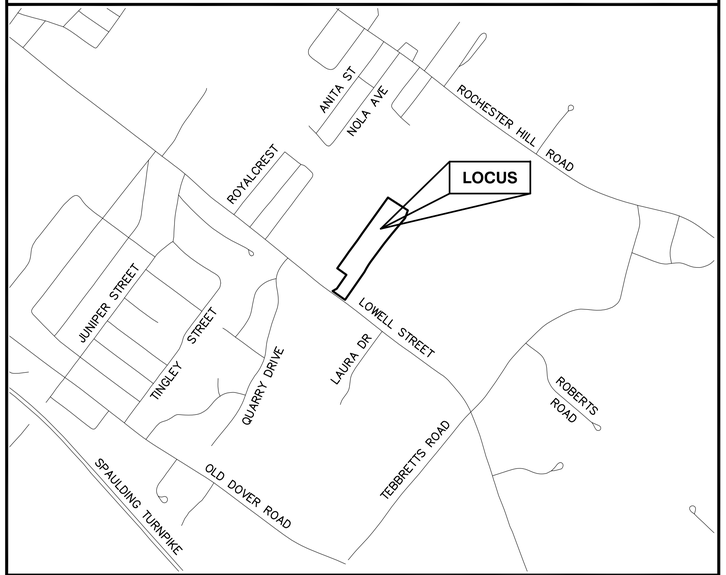
DRAWING INDEX

SHEET	DESCRIPTION	REVISION
T-1	TITLE SHEET	0
C-1	ABUTTERS PLAN	A
C-2	EXISTING CONDITIONS PLAN	A
A-1	COMPILED PLOT PLAN	0
A-2	SITE PLAN	0
A-3	COMPOUND PLAN & ELEVATION	0
P-1	DRIVEWAY PLAN & PROFILE	0
D-1	DETAILS	0
D-2	DETAILS	0
EC-1	EROSION CONTROL PLAN & DETAILS	0
CA-1	TENANT DETAILS	0

GENERAL NOTES

1. CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ENGINEER & APPLICANT REPRESENTATIVE IN WRITING OF DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.
2. PLANS FOR PERMITTING PURPOSES ONLY. NOT FOR CONSTRUCTION.
3. ALL UNDERGROUND UTILITY INFORMATION WAS DETERMINED FROM SURFACE INVESTIGATIONS AND EXISTING PLANS OF RECORD. THE CONTRACTOR SHALL LOCATE ALL UNDERGROUND UTILITIES IN THE FIELD PRIOR TO ANY SITE WORK. CALL DIG-SAFE (888) 344-7233 72-HOURS PRIOR TO ANY EXCAVATION.
4. THIS SHEET WAS ORIGINALLY PRINTED TO ANSI D (22"x34") WITH 1" MARGINS. PRINTING TO ANSI B (11"x17") WILL RESULT IN A HALF-SCALE (1:2) SHEET SET WITH 1/2" MARGINS. CONFIRM ALL SCALED DISTANCES WITH GRAPHICAL SCALES SHOWN HEREIN.
5. NEW CONSTRUCTION SHALL CONFORM TO ALL APPLICABLE CODES AND ORDINANCES INCLUDING BUT NOT LIMITED TO THE FOLLOWING:
   BUILDING CODE:
   NEW HAMPSHIRE STATE BUILDING CODE (2015 IBC) WITH AMENDMENTS
   ELECTRICAL CODE: NEC 2017 WITH NEW HAMPSHIRE AMENDMENTS

VICINITY MAP



SCALE: 1" = 1000'± (22x34)
1" = 2000'± (11x17)

APPROVAL SIGNATURE BLOCK

CITY OF ROCHESTER PLANNING BOARD

CHAIRMAN DATE

TENANT INFORMATION

at&t

SITE ID: NH4143
ROCHESTER-LOWELL ST

NEW CINGULAR WIRELESS PCS, LLC
("AT&T")
550 COCHITUATE ROAD
FRAMINGHAM, MA 01701

PROJECT INFORMATION

SITE TYPE:	RAW LAND WIRELESS COMMUNICATIONS FACILITY
SCOPE OF WORK:	PROPOSED 150' TALL MONOPOLE AND 50'x50' FENCED COMPOUND WITHIN 60'x60' LEASE AREA.
SITE NAME:	ROCHESTER 5
SITE NUMBER:	743597
SITE ADDRESS:	156A LOWELL STREET ROCHESTER, NH 03867
ASSESSOR'S TAX ID#:	244-2-1
ZONING DISTRICT(S):	AGRICULTURAL (AG)
LATITUDE:	43° 17' 03.49"± N (SURVEY 1A)
LONGITUDE:	70° 57' 04.52"± W (SURVEY 1A)
(P) ELEVATION:	355.5'±
DATUM:	NAD83/NAVD88
PROPERTY OWNER:	N/F JOSEPH P. CASAVANT & DARIN PAIGE 214 WEST HIGH STREET SOMERSWORTH, NH 03878
APPLICANT:	EIP HOLDINGS II, LLC TWO ALLEGHENY CENTER NOVA TOWER 2, SUITE 703 PITTSBURGH, PA 15212
SITE ENGINEER:	PROTERRA DESIGN GROUP, LLC 4 BAY ROAD BUILDING A; SUITE 200 HADLEY, MA 01035 TEL: (413) 320-4918
SURVEYOR:	NORTHEAST SURVEY CONSULTANTS 116 PLEASANT STREET SUITE 302 EASTHAMPTON, MA 01027 TEL: (413) 203-5144
WETLAND SCIENTIST:	LUCAS ENVIRONMENTAL, LLC 500A WASHINGTON STREET QUINCY, MA 02169

FOR MORE INFORMATION ABOUT THIS SITE PLAN CONTACT:
MS. MICHAEL ASHLEY CULBERT
VICE PRESIDENT OF SITE DEVELOPMENT
EVEREST INFRASTRUCTURE PARTNERS
PH: 781.820.9120

FOR PERMITTING

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

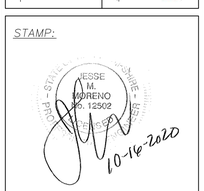
NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

TITLE:

APPLICANT:
EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212
EVEREST INFRASTRUCTURE PARTNERS

STAMP:



DATE: 10/16/20
DRAWN: STZ/JEB
CHECK: JMM/TEJ
SCALE: SEE PLAN
JOB NO.: 20-018

SHEET TITLE:

TITLE SHEET

T-1

FAA 1-A CERTIFICATION

I HEREBY CERTIFY THAT THE LATITUDE, LONGITUDE, AND ELEVATION PRESENTED HEREON MEET THE REQUIREMENTS OF THE FAA WITH THE FOLLOWING ACCURACIES:

THREE (3) FEET VERTICALLY
TWENTY (20') FEET HORIZONTALLY

JAMES M. LAVELLE NH LLS # 489

10-16-2020
DATE

SURVEY NOTES

1. SITE DETAIL SHOWN ON THIS SURVEY IS BASED ON FIELD DATA COLLECTED ON MAY 18, 2020. BOUNDARY INFORMATION IS COMPILED FROM RECORD DOCUMENTS AND IS NOT TO BE CONSTRUED AS HAVING BEEN OBTAINED AS THE RESULT OF A FIELD BOUNDARY SURVEY, AND IS SUBJECT TO CHANGE AS AN ACCURATE FIELD SURVEY MAY DISCLOSE.
2. THE PURPOSE OF THIS SURVEY IS TO SUPPORT THE DESIGN AND CONSTRUCTION OF A TELECOMMUNICATION FACILITY. USE OF THIS SURVEY BY ANYONE OTHER THAN EIP COMMUNICATIONS I, LLC, AND USE OF THIS SURVEY FOR ANY PURPOSE NOT RELATED TO THE DESIGN OF THE INTENDED FACILITY IS STRICTLY PROHIBITED.
3. PROPERTY LINES AND BOUNDARY DIMENSIONS SHOWN ON THIS SURVEY ARE BASED ON A COMPILATION OF RECORDED PLANS AND DEEDS AND ARE NOT INTENDED TO REPRESENT DEFINITIVE BOUNDARY LINES OR BE USED FOR THE PURPOSES OF CONVEYANCE. PROPERTY RELATED INFORMATION HAS NOT BEEN CONFIRMED BY FIELD SURVEY OBSERVATIONS AND NO ASSESSMENT OF LAND OCCUPATION HAS BEEN CONDUCTED IN THE PREPARATION OF THIS SURVEY. A PROPERTY LINE RETRACEMENT SURVEY HAS NOT BEEN CONDUCTED.
4. THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIP'S, AND THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.
5. PRIMARY GEODETIC SURVEY CONTROL WAS ESTABLISHED FROM AN ON THE GROUND SURVEY USING THE GLOBAL POSITIONING SYSTEM (GPS) ON MAY 18, 2020. THE HORIZONTAL REFERENCED DATUM IS THE NAD 83 BASED ON THE GRS 80 REFERENCE ELLIPSOID. THE GRID COORDINATES ARE BASED ON THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM OF 1983 CORS96. ELEVATIONS SHOWN ARE ASSUMED AND ARE APPROXIMATED TO THE NAVD 88 VERTICAL DATUM. VERTICAL AND HORIZONTAL INFORMATION SHOWN MEETS THE STANDARD CRITERIA FOR AN FAA 1A CERTIFICATION (20'± HORIZONTAL AND 3'± VERTICAL).
6. IN THE EVENT THAT BENCHMARKS (TBM'S), ESTABLISHED FOR THIS PROJECT AND PUBLISHED ON THIS SURVEY, ARE DESTROYED, NOT RECOVERABLE OR A DISCREPANCY IS FOUND, THE USER SHOULD NOTIFY THIS FIRM IN WRITING PRIOR TO COMMENCING OR CONTINUING ANY WORK.
7. THE LOCUS PARCEL IS IDENTIFIED AS 0244-0002-0000 IN THE CITY OF ROCHESTER TAX ASSESSOR'S GIS DATABASE.
8. THE PROJECT AREA IS LOCATED IN FLOOD ZONE "X" (AREAS OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN, NO SHADING) FLOOD AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 33017C 0212 D, DATED MAY 17, 2005.
9. ALL UNDERGROUND UTILITY INFORMATION WAS DETERMINED FROM SURFACE INVESTIGATIONS AND EXISTING PLANS OF RECORD. THE CONTRACTOR SHALL LOCATE ALL UNDERGROUND UTILITIES IN THE FIELD PRIOR TO ANY SITE WORK. CALL THE FOLLOWING FOR ALL PRE-CONSTRUCTION NOTIFICATION 72-HOURS PRIOR TO ANY EXCAVATION ACTIVITY: DIG SAFE SYSTEM (MA, ME, NH, RI, VT): 1-888-344-7233
10. THE SUBJECT PROPERTY IS LOCATED IN THE CITY OF ROCHESTER AGRICULTURAL (A) ZONING DISTRICT.
11. WETLANDS SHOWN HEREON WERE DELINEATED BY CHRISTOPHER M. LUCUS, CWS #274, LUCAS ENVIRONMENTAL, LLC ON 4/28/2020.
12. CONTOURS SHOWN HEREON WERE DERIVED FROM THE 2011 USGS Lidar: Northeast (NY to ME), DISTRIBUTED BY NOAA.

PROPERTY OWNER:	JOSEPH P. CASAVANT & DARIN PAIGE 214 WEST HIGH STREET SOMERSWORTH, NH 03878
LOCUS DEED REFERENCE:	BOOK 4176 PAGE 167
PLAN REFERENCE:	BOOK 92 PAGE 72

LEGEND

N/F	– NOW OR FORMERLY
IRF/IPF ○	– IRON ROD/PIPE FOUND
CIRF ○	– CAPPED IRON ROD FOUND
△	– CALCULATED POINT
⊙	– TOWER CONTROL POINT
———	– LOCUS PROPERTY LINE
———	– ABUTTERS PROPERTY LINE

ABUTTERS PLAN

ANSI D (22"X34") SCALE: 1"=100'
ANSI A (11"x17") SCALE: 1"=200'

100' 0' 100' 200'

ProTerra DESIGN GROUP, LLC
4 Bay Road, Bldg A, Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:
NORTHEAST SURVEY CONSULTANTS
116 Pleasant St. Ste. 302
P.O. Box 109
Easthampton, MA 01027
(413) 203-5144
northeastsurvey.com

NO.	DATE	REVISIONS
A	10/16/20	ISSUED FOR REVIEW

TITLE:
SITE NAME: ROCHESTER 5
SITE ID: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

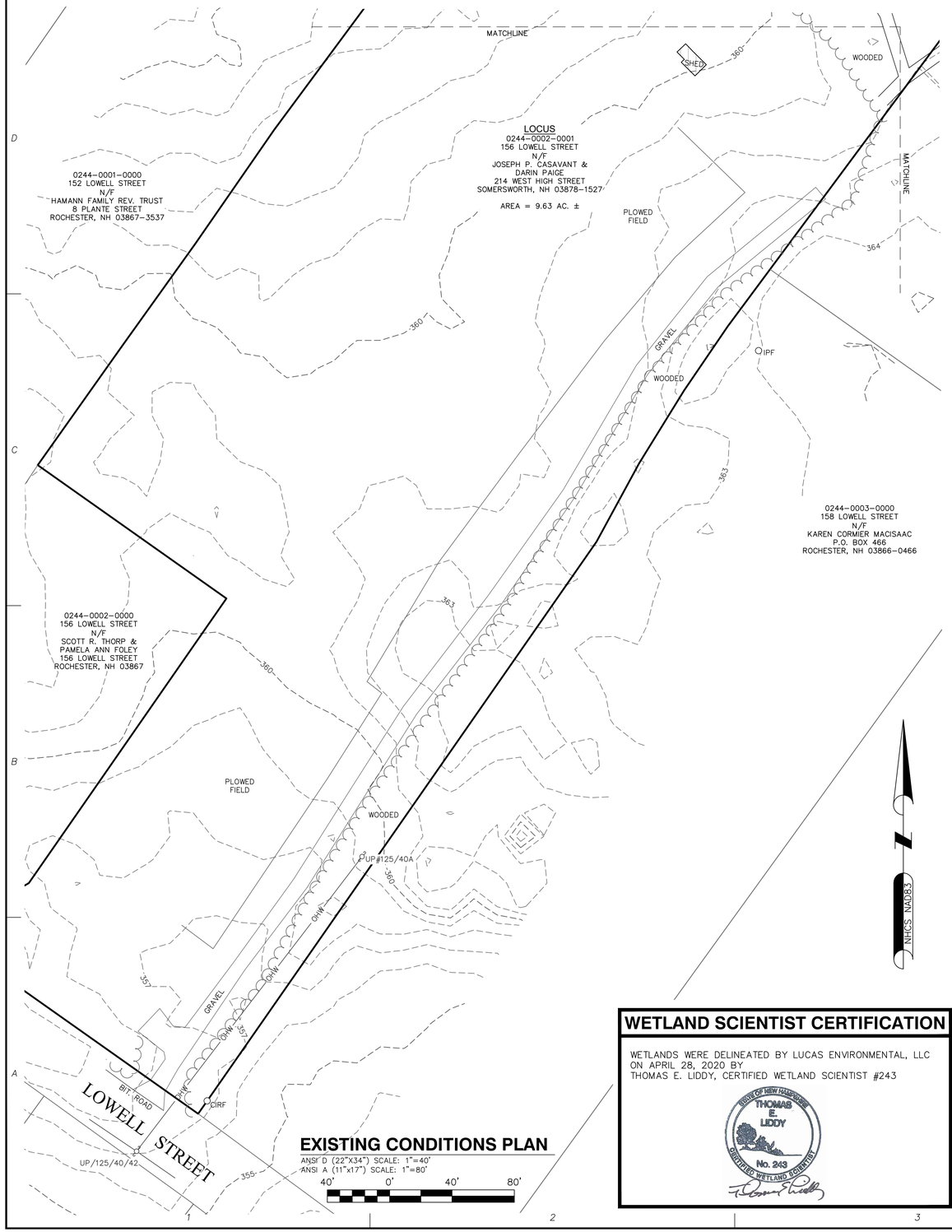
APPLICANT:
EIP COMMUNICATIONS I, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212
EVEREST INFRASTRUCTURE

STATE OF NEW HAMPSHIRE — No. 489 — JAMES M. LAVELLE — LICENSED LAND SURVEYOR — CERTIFICATION

DATE: 10/16/2020
DRAWN: JDG
CHECK: BCF
SCALE: 1"=100'
JOB NO.: 20-091

SHEET TITLE:
ABUTTERS PLAN

C-1



EXISTING CONDITIONS PLAN

ANSI D (22"X34") SCALE: 1"=40'
ANSI A (11"x17") SCALE: 1"=80'

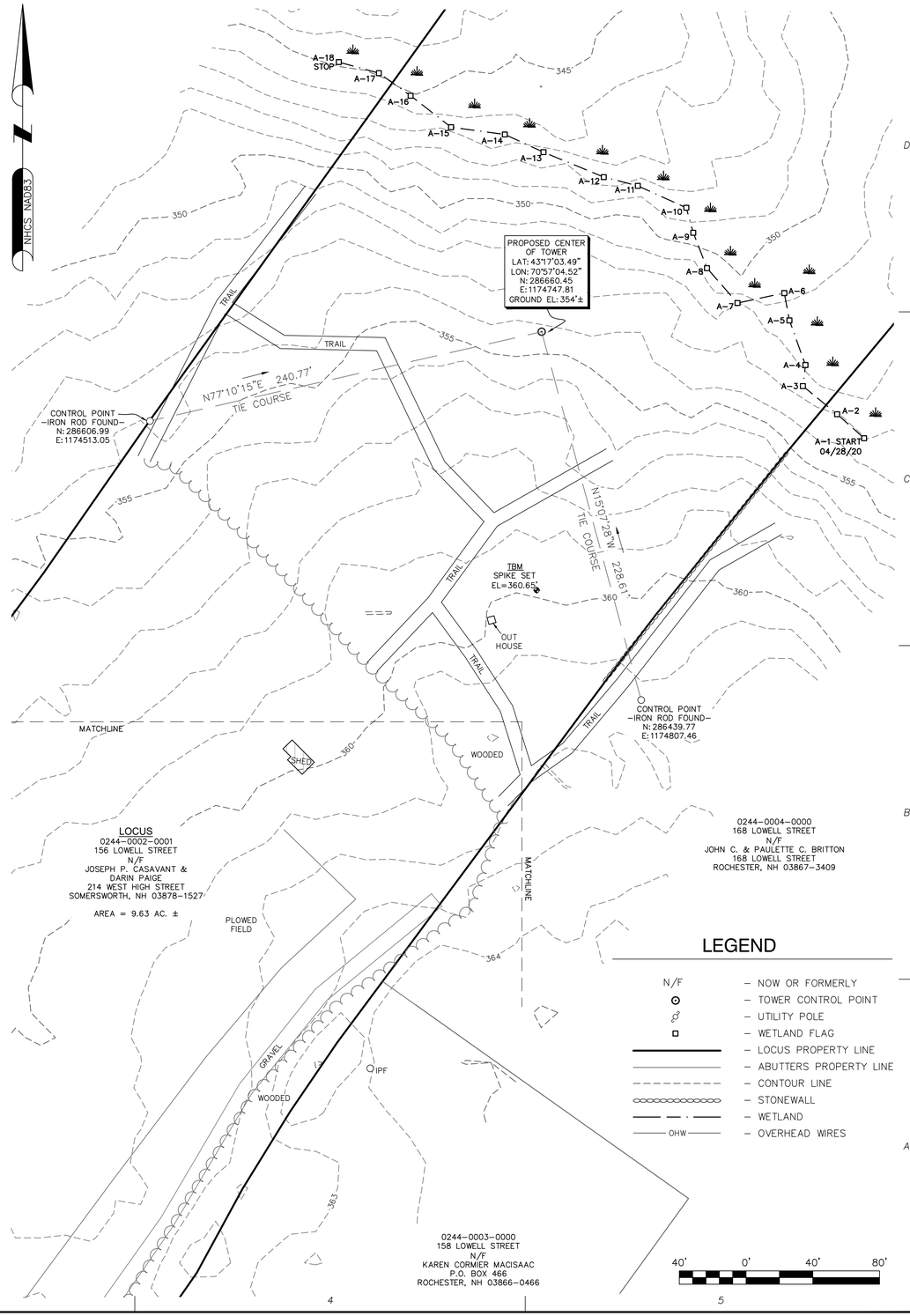
40' 0' 40' 80'

NHCS NAD83

WETLAND SCIENTIST CERTIFICATION

WETLANDS WERE DELINEATED BY LUCAS ENVIRONMENTAL, LLC ON APRIL 28, 2020 BY
THOMAS E. LIDDY, CERTIFIED WETLAND SCIENTIST #243

STATE OF NEW HAMPSHIRE
THOMAS E. LIDDY
No. 243
CERTIFIED WETLAND SCIENTIST



LEGEND

N/F	– NOW OR FORMERLY
⊙	– TOWER CONTROL POINT
ø	– UTILITY POLE
□	– WETLAND FLAG
———	– LOCUS PROPERTY LINE
———	– ABUTTERS PROPERTY LINE
– – – –	– CONTOUR LINE
⊂⊂⊂⊂⊂	– STONEWALL
— — —	– WETLAND
——OHW——	– OVERHEAD WIRES

40' 0' 40' 80'

NHCS NAD83

ProTerra
DESIGN GROUP, LLC
4 Bay Road, Bldg A,
Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:
NORTHEAST SURVEY CONSULTANTS
116 Pleasant St. Ste. 302
P.O. Box 109
Easthampton, MA 01027
(413) 203-5144
northeastsurvey.com

NO.	DATE	REVISIONS
A	10/16/20	ISSUED FOR REVIEW

TITLE:
SITE NAME: ROCHESTER 5
SITE ID: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:
ELP COMMUNICATIONS I, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212
EVEREST INFRASTRUCTURE CONSULTANTS

STATE OF NEW HAMPSHIRE
No. 489
JAMES M. LAVELLE
LICENSED LAND SURVEYOR

DATE:	10/16/2020
DRAWN:	JDG
CHECK:	BCF
SCALE:	1"=40'
JOB NO.:	20-091

SHEET TITLE:
EXISTING CONDITIONS PLAN

C-2

N

COMPILED PLOT PLAN

SCALE: 1"=100' (22x34)
1"=200' (11x17)

1
A–1

100 50 0 100 200

REFERENCES

PROPERTY LINE, TOPOGRAPHY AND EXISTING FEATURES – SEE SHEETS C–1 & C–2 PREPARED BY NORTHEAST SURVEY CONSULTANTS DATED 7/29/2020.

ZONING DISTRICTS – ZONED: AGRICULTURAL FROM MAP ENTITLED "ZONING MAP CITY OF ROCHESTER, NH" ADOPTED 4/14/2014.

FLOODPLAIN – FLOOD INSURANCE RATE MAP 33017C0212D EFFECTIVE MAY 17, 2005 PREPARED BY FEDERAL EMERGENCY MANAGEMENT AGENCY, US DEPARTMENT OF HOMELAND SECURITY. PROJECT AREA IS WITHIN ZONE X: "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN."

AERIAL PHOTOGRAPHY – NH GRANIT, NEW HAMPSHIRE STATEWIDE GIS CLEARINGHOUSE (2010 IMAGES)

GENERAL NOTES

1. THE TYPE, DIMENSIONS, MOUNTING HARDWARE, AND POSITIONS OF ALL PROJECT OWNER'S EQUIPMENT ARE SHOWN IN ILLUSTRATIVE FASHION. ACTUAL HARDWARE DETAILS AND FINAL LOCATIONS MAY DIFFER SLIGHTLY FROM WHAT IS SHOWN.
2. THE PROJECT OWNER'S PCS FACILITY IS AN UNMANNED PRIVATE AND SECURED EQUIPMENT INSTALLATION. IT IS ONLY ACCESSED BY TRAINED TECHNICIANS FOR PERIODIC ROUTINE MAINTENANCE AND THEREFORE DOES NOT REQUIRE ANY WATER OR SANITARY SEWER SERVICE. THE FACILITY IS NOT GOVERNED BY REGULATIONS REQUIRING PUBLIC ACCESS PER ADA REQUIREMENTS.
3. THE DESIGN OF THE TOWER, FOUNDATION AND ANTENNA MOUNTING HARDWARE WILL MEET THE ANSI/EIA/TIA–222–G STANDARDS FOR STRUCTURAL STEEL ANTENNA SUPPORTING STRUCTURES AND STATE BUILDING CODE REQUIREMENTS. DETAILED CONSTRUCTION DRAWINGS AND STRUCTURAL CALCULATIONS WILL BE PREPARED BY A REGISTERED PROFESSIONAL ENGINEER AND SUBMITTED WITH A BUILDING PERMIT APPLICATION FOR REVIEW AND APPROVAL BY THE LOCAL BUILDING CODE ENFORCEMENT OFFICIAL.
4. ONCE THE FACILITY BECOMES FULLY OPERATIONAL, NORMAL AND ROUTINE MAINTENANCE BY TOWER OWNER'S AND CARRIER'S TECHNICIANS WILL BE PERFORMED. THE ESTIMATED VEHICULAR TRAFFIC GENERATED BY THESE VISITS IS PREDICTED TO BE LESS THAN THE TYPICAL TRAFFIC GENERATED BY A SINGLE–FAMILY DWELLING.

ZONING SUMMARY

ZONING DISTRICT(S): AGRICULTURAL (AG)

ASSESSORS ID: 244–2–1

(P) USE: WIRELESS COMMUNICATIONS FACILITY[1]

DIMENSION	PROVIDED	CONSTRAINT
PARCEL – AREA	9.6± AC	45,000 SF MIN.
PARCEL – FRONTAGE	200'±	150' MIN.
PARCEL – LOT COVERAGE	<1%±	40% MAX.
(P) COMPOUND – FRONT YARD	995'±	20' MIN.
(P) COMPOUND – SIDE YARD	128'±	10' MIN.
(P) COMPOUND – REAR YARD	377'±	20' MIN.
(P) COMPOUND – ACCESSORY STRUCTURE HEIGHT	15'±	35' MAX.
(P) MONOPOLE – HEIGHT (HIGHEST APPURTENANCE)	150' (156')	156'[2]
(P) MONOPOLE – DISTANCE TO PROPERTY LINE	156'± MIN.	156'[2]
(P) MONOPOLE – DISTANCE TO (E) BUILDINGS & STRUCTURES	>500'± (NO USES/SIZES/HEIGHTS LABELED)	

SPECIAL CONSIDERATIONS MAY BE REQUIRED FOR THE FOLLOWING:

1 – WIRELESS COMMUNICATIONS FACILITY ALLOWED IN AGRICULTURAL (AG) DISTRICT BY SPECIAL EXCEPTION AS NOTED WITHIN "ZONING ORDINANCE OF THE CITY OF ROCHESTER, NEW HAMPSHIRE" TABLE 18–D.

2 – "ZONING ORDINANCE OF THE CITY OF ROCHESTER, NEW HAMPSHIRE": §42.22.c.14 SPECIAL EXCEPTIONS, CONDITIONS FOR PARTICULAR USES, WIRELESS COMMUNICATIONS FACILITY DOES NOT SPECIFY A MAXIMUM TOWER HEIGHT OR PROPERTY LINE SETBACK. IT WAS ASSUMED A MINIMUM PROPERTY LINE OF AT LEAST THE TOWER HEIGHT BE PROVIDED.

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320–4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:

EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE

STAMP:

DATE: 10/16/20
DRAWN: STZ/JEB
CHECK: JMM/TEJ
SCALE: SEE PLAN
JOB NO.: 20–018

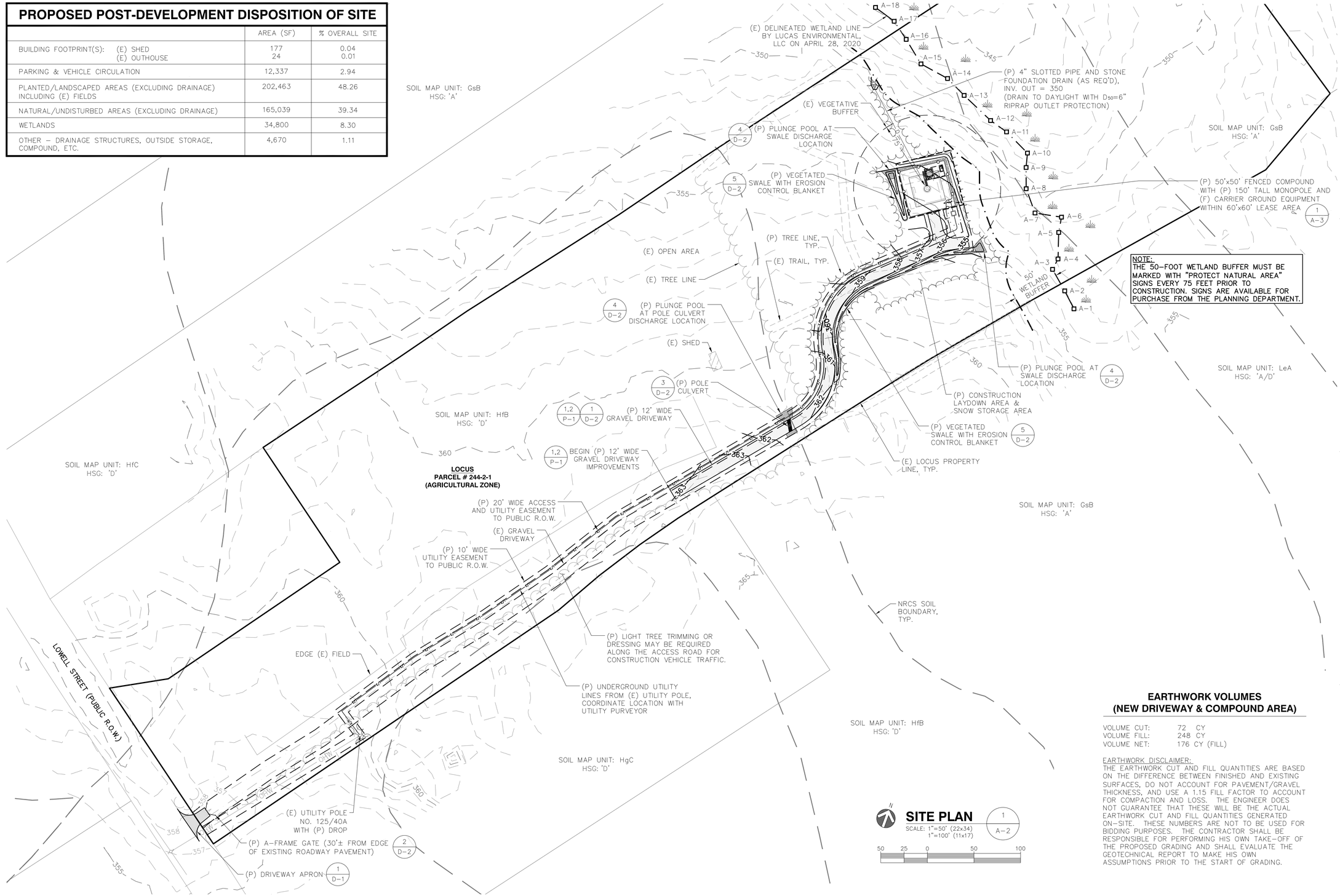
SHEET TITLE:

COMPILED PLOT PLAN

A-1

PROPOSED POST-DEVELOPMENT DISPOSITION OF SITE

	AREA (SF)	% OVERALL SITE
BUILDING FOOTPRINT(S): (E) SHED (E) OUTHOUSE	177 24	0.04 0.01
PARKING & VEHICLE CIRCULATION	12,337	2.94
PLANTED/LANDSCAPED AREAS (EXCLUDING DRAINAGE) INCLUDING (E) FIELDS	202,463	48.26
NATURAL/UNDISTURBED AREAS (EXCLUDING DRAINAGE)	165,039	39.34
WETLANDS	34,800	8.30
OTHER – DRAINAGE STRUCTURES, OUTSIDE STORAGE, COMPOUND, ETC.	4,670	1.11



N

SITE PLAN

1 A-2

SCALE: 1"=50' (22x34)
1"=100' (11x17)

50 25 0 50 100

EARTHWORK VOLUMES (NEW DRIVEWAY & COMPOUND AREA)

VOLUME CUT: 72 CY
VOLUME FILL: 248 CY
VOLUME NET: 176 CY (FILL)

EARTHWORK DISCLAIMER:
THE EARTHWORK CUT AND FILL QUANTITIES ARE BASED ON THE DIFFERENCE BETWEEN FINISHED AND EXISTING SURFACES, DO NOT ACCOUNT FOR PAVEMENT/GRAVEL THICKNESS, AND USE A 1.15 FILL FACTOR TO ACCOUNT FOR COMPACTION AND LOSS. THE ENGINEER DOES NOT GUARANTEE THAT THESE WILL BE THE ACTUAL EARTHWORK CUT AND FILL QUANTITIES GENERATED ON-SITE. THESE NUMBERS ARE NOT TO BE USED FOR BIDDING PURPOSES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PERFORMING HIS OWN TAKE-OFF OF THE PROPOSED GRADING AND SHALL EVALUATE THE GEOTECHNICAL REPORT TO MAKE HIS OWN ASSUMPTIONS PRIOR TO THE START OF GRADING.

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:

EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 708
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE

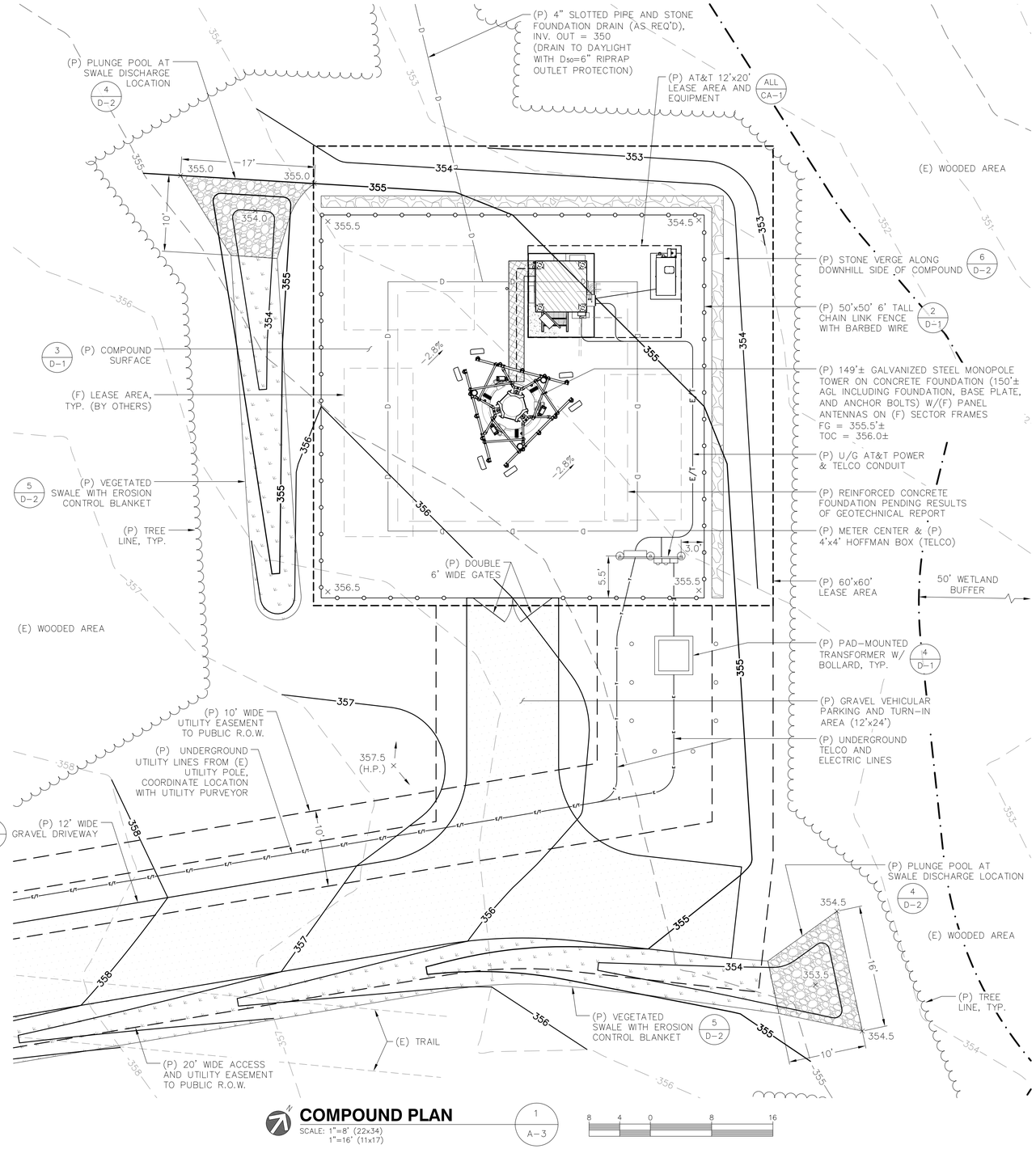
STAMP:

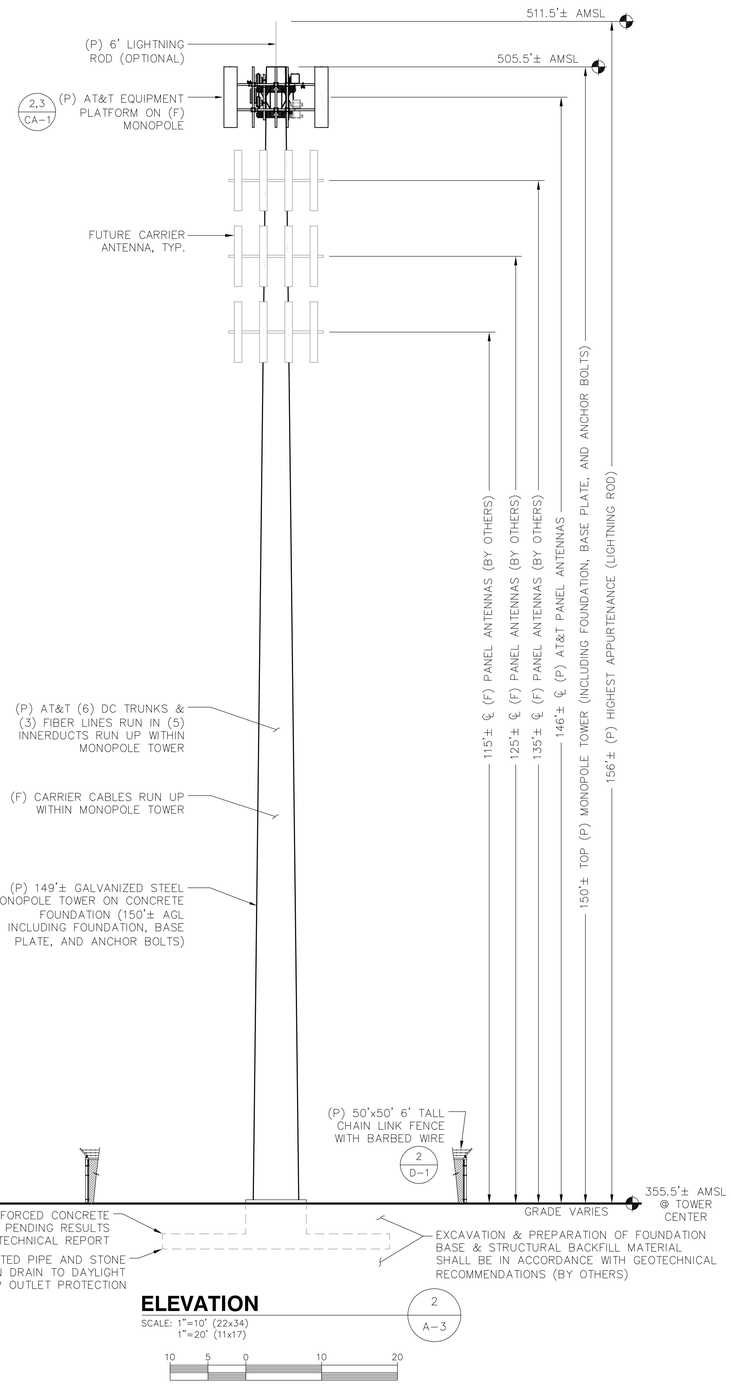
DATE:	10/16/20
DRAWN:	STZ/JEB
CHECK:	JMM/TEJ
SCALE:	SEE PLAN
JOB NO.:	20-018

SHEET TITLE:

SITE PLAN

A-2





ProTerra
DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:

EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE

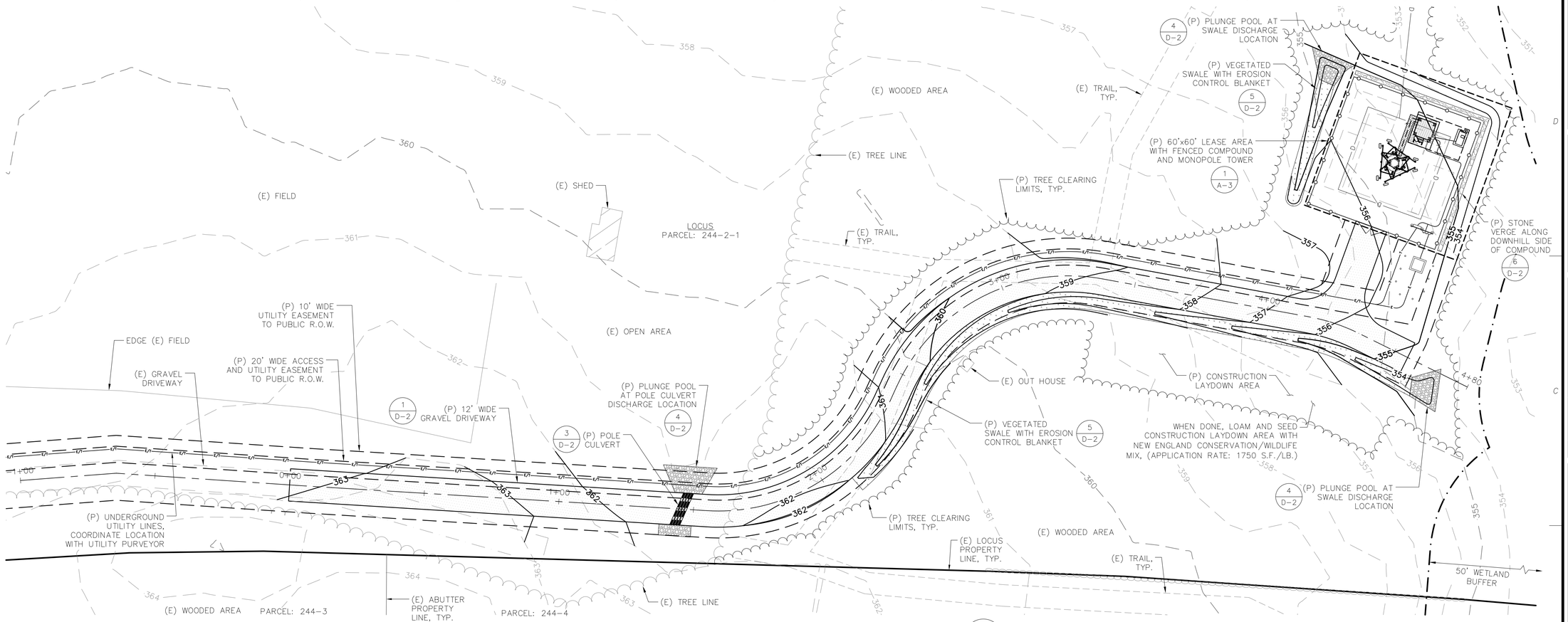
STAMP:

DATE:	10/16/20
DRAWN:	STZ/JEB
CHECK:	JMM/TEJ
SCALE:	SEE PLAN
JOB NO.:	20-018

SHEET TITLE:

COMPOUND PLAN & ELEVATION

A-3

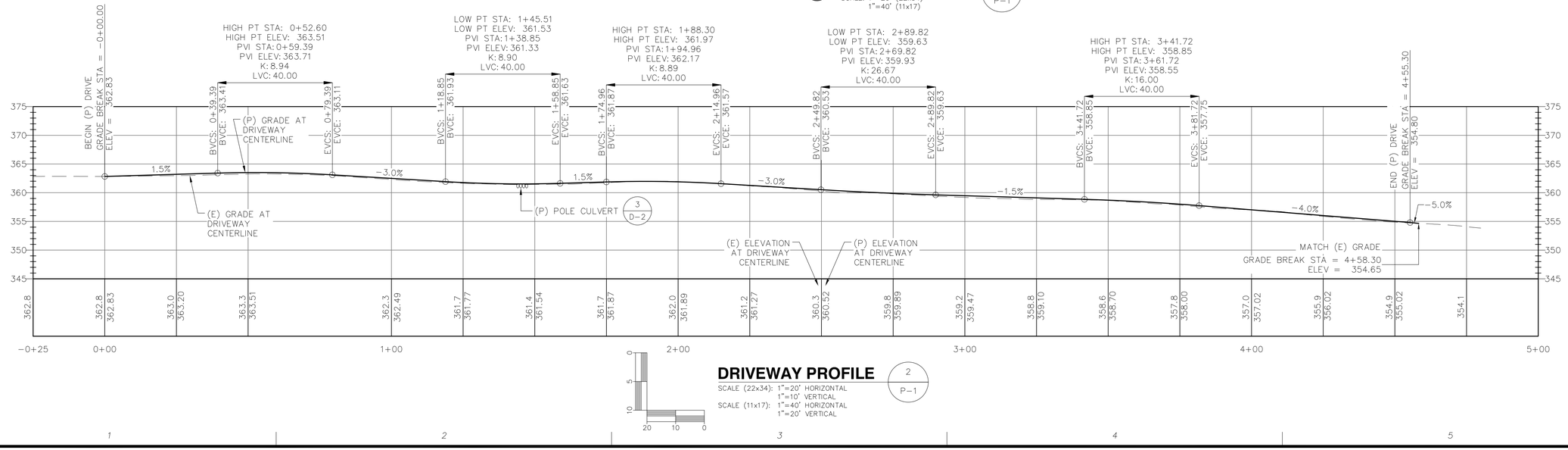


DRIVEWAY PLAN

SCALE: 1"=20' (22x34)
1"=40' (11x17)

1 / P-1

20 10 0 20 40



DRIVEWAY PROFILE

SCALE (22x34): 1"=20' HORIZONTAL
1"=10' VERTICAL
SCALE (11x17): 1"=40' HORIZONTAL
1"=20' VERTICAL

2 / P-1

0 5 10
20 10 0

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 166A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:

EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE

STAMP:

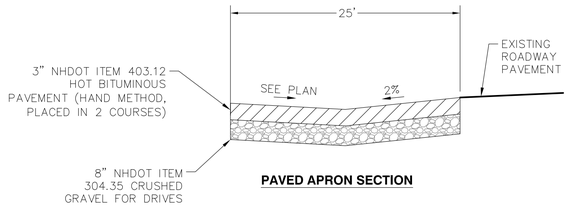
JESSE M. MORENO NO. 12502 STATE OF NEW HAMPSHIRE REGISTERED PROFESSIONAL ENGINEER
10-16-2020

DATE: 10/16/20
DRAWN: STZ/JEB
CHECK: JMM/TEJ
SCALE: SEE PLAN
JOB NO.: 20-018

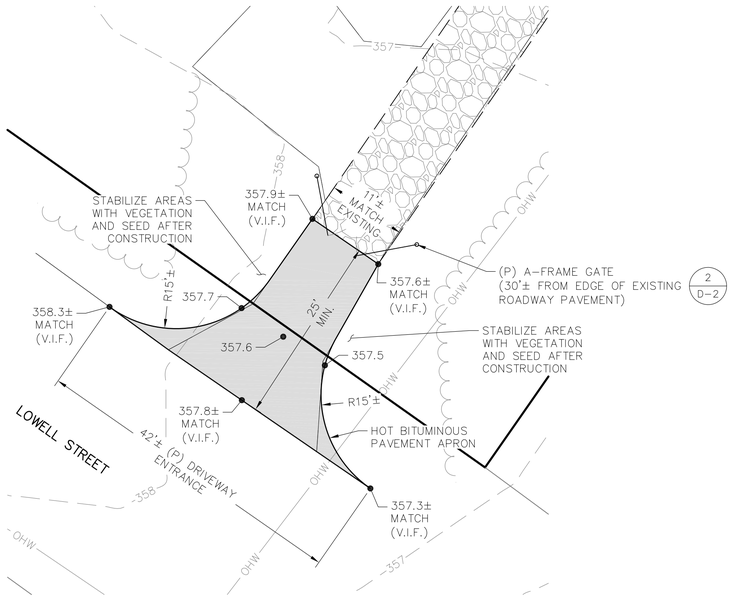
SHEET TITLE:

DRIVEWAY PLAN & PROFILE

P-1



PAVED APRON SECTION

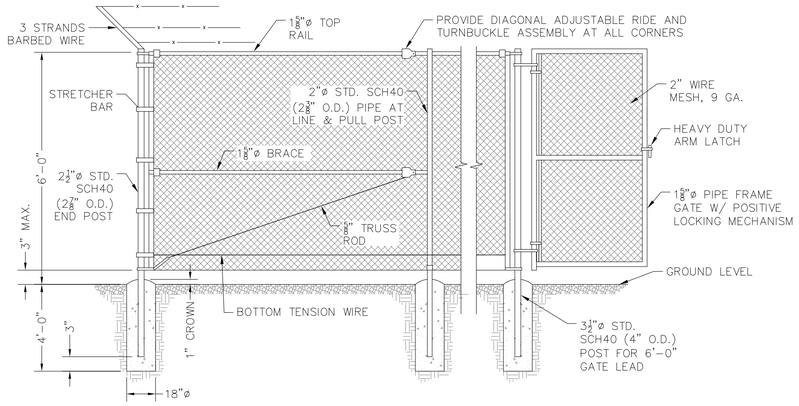


PAVED APRON PLAN

ENTRANCE DETAIL NOTES:
1. AGGREGATE CONSTRUCTION ENTRANCE SHALL BE INSTALLED PRIOR TO COMMENCEMENT OF EARTH MOVING OPERATIONS.
2. CONSTRUCTION ENTRANCE TO BE MAINTAINED UNTIL REMOVED.
3. AFTER CONSTRUCTION OPERATIONS ARE COMPLETE, FINAL ASPHALT APRON TO BE INSTALLED AS NOTED.
4. ANY REMAINING CONSTRUCTION ENTRANCE TO REMAIN IN PLACE.
5. ALL WORK TO CONFORM TO CITY OF ROCHESTER OR NHDOT DRIVEWAY STANDARDS.

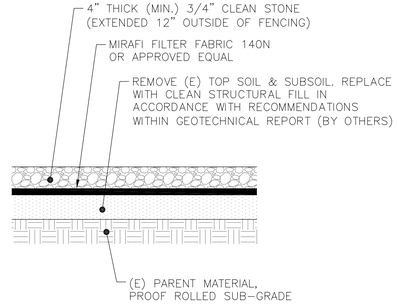
ENTRANCE DETAILS
SCALE: 1"=10'

1 D-1



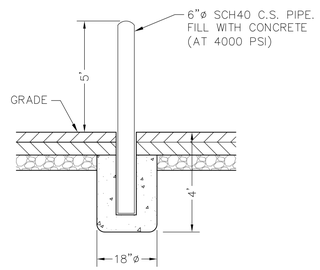
CHAIN LINK FENCE
SCALE: NONE

2 D-1



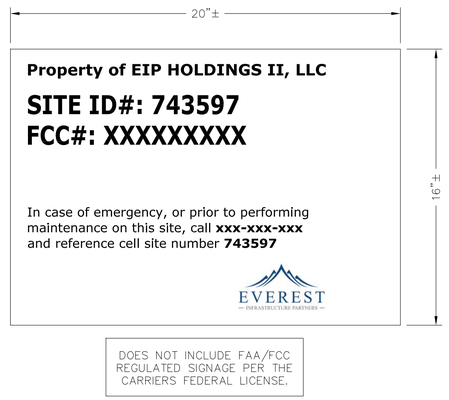
COMPOUND SURFACE
SCALE: NONE

3 D-1



BOLLARD
SCALE: NONE

4 D-1



EMERGENCY CONTACT SIGN
SCALE: NONE

5 D-1

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 166A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:

EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE PARTNERS

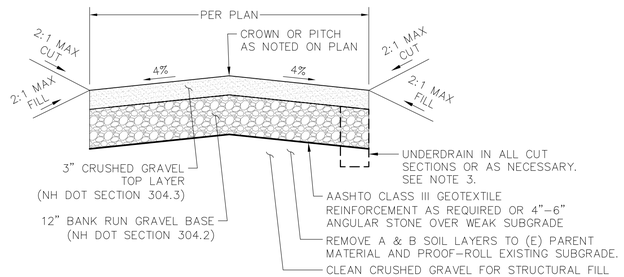
STAMP:

DATE: 10/16/20
DRAWN: STZ/JEB
CHECK: JMM/TEJ
SCALE: SEE PLAN
JOB NO.: 20-018

SHEET TITLE:

DETAILS

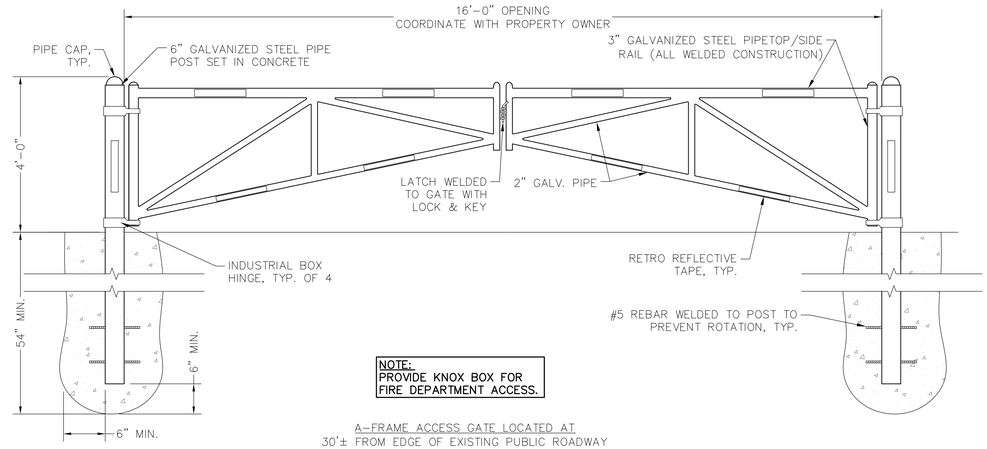
D-1



NOTES:
1. ALL GRANULAR MATERIALS SHALL BE COMPACTED TO 95±% MAXIMUM DRY DENSITY BY STD. PROCTOR METHOD.
2. ALL CUT AND FILL SLOPES TO BE COVERED WITH JUTE MESH EROSION CONTROL BLANKETS AND/OR HYDROSEEDED WITH NEW ENGLAND ROADSIDE MATRIX MIX AT 35LBS PER ACRE OR EQUAL.
3. THE REQUIREMENT FOR INSTALLATION OF SUBDRAINS SHALL BE AT ALL CUT SECTIONS OR AS DETERMINED BY THE ENGINEER–OF–RECORD BASED ON FIELD CONDITIONS AT THE TIME OF CONSTRUCTION. SUBDRAINS SHALL BE OUTLETTED TO DAYLIGHT AS APPROVED BY THE ENGINEER–OF–RECORD.
4. ALL MATERIALS TO CONFORM TO STATE AND/OR MUNICIPAL STANDARD AS REQUIRED.

% PASSING	BASE LAYER	TOP LAYER
6"	100	–
3"	–	100
2"	–	95–100
1"	–	55–85
#4	25–70	27–52
#200	0–12	0–12

DRIVEWAY SECTION
SCALE: NONE — 1 / D–2

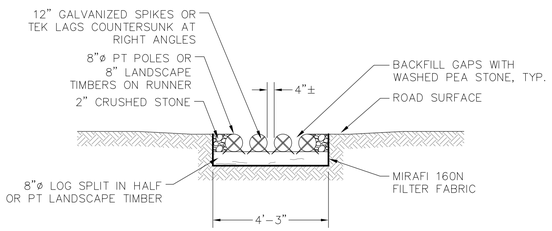


NOTE:
PROVIDE KNOX BOX FOR FIRE DEPARTMENT ACCESS.

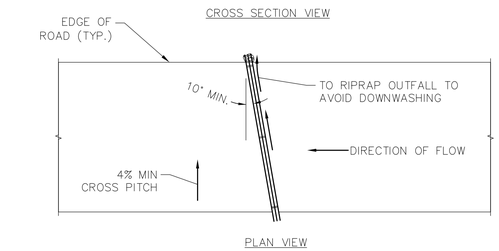
A–FRAME ACCESS GATE LOCATED AT
30'± FROM EDGE OF EXISTING PUBLIC ROADWAY
(COORDINATE LOCATION WITH PROPERTY OWNER)

A–FRAME ACCESS GATE
SCALE: NONE — 2 / D–2

EROSION CONTROL BLANKET TO BE USED ON 2:1 SLOPES AND THE BOTTOM OF THE VEGETATED SWALE.

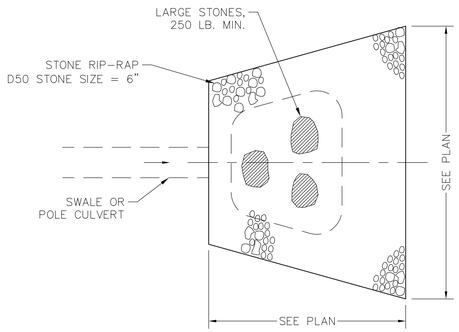


CROSS SECTION VIEW

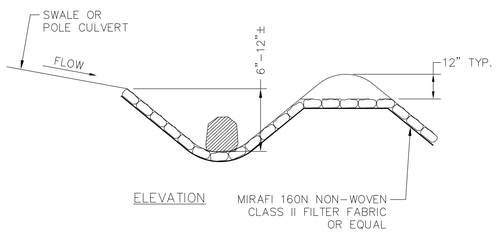


PLAN VIEW

POLE CULVERT
SCALE: NONE — 3 / D–2

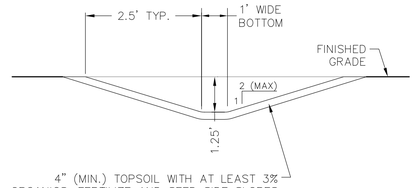


PLAN



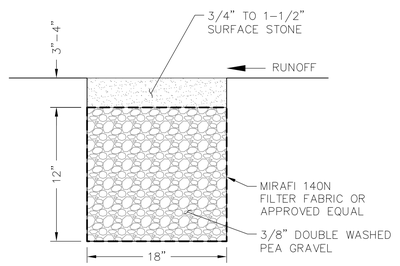
ELEVATION

PLUNGE POOL
SCALE: NONE — 4 / D–2



4" (MIN.) TOPSOIL WITH AT LEAST 3% ORGANICS, FERTILIZE AND SEED SIDE SLOPES AND BOTTOM WITH NEW ENGLAND EROSION CONTROL/RESTORATION MIX FOR DETENTION BASINS & MOIST SITES BY NEW ENGLAND WETLAND PLANTS, INC. OR APPROVED EQUAL. PROVIDE EROSION CONTROL BLANKET.

VEGETATED SWALE
SCALE: NONE — 5 / D–2



STONE VERGE
SCALE: NONE — 6 / D–2

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320–4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:
SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 166A LOWELL STREET
ROCHESTER, NH 03867

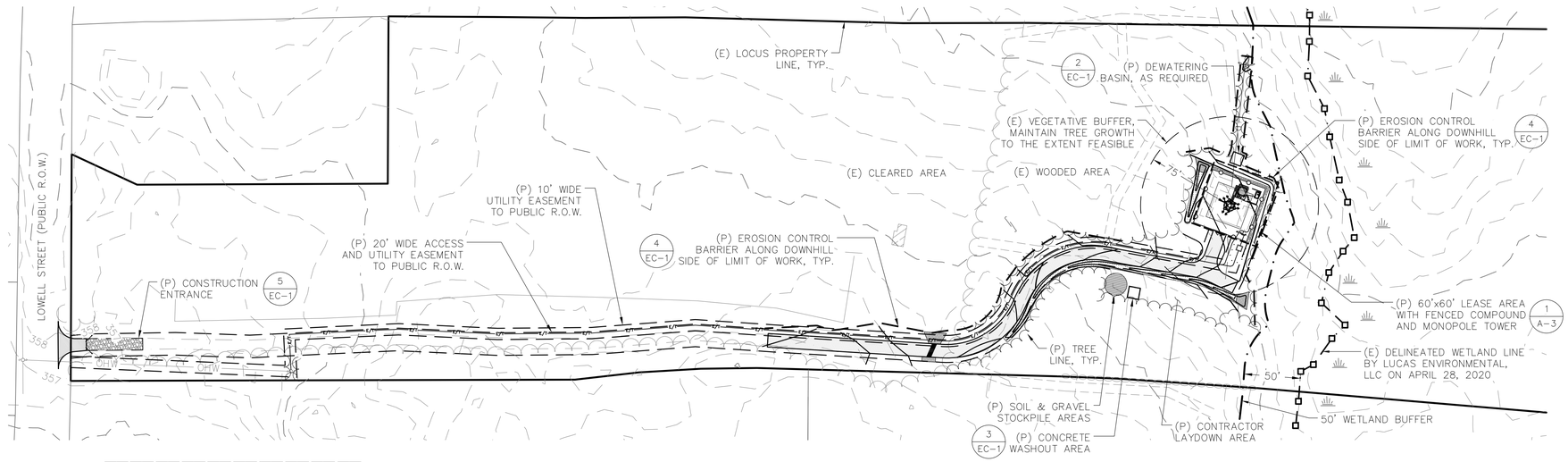
APPLICANT:
FIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212
EVEREST INFRASTRUCTURE PARTNERS

STAMP:
JESSE M. MORENO NO. 12502 — 10-16-2020

DATE:	10/16/20
DRAWN:	STZ/JEB
CHECK:	JMM/TEJ
SCALE:	SEE PLAN
JOB NO.:	20–018

SHEET TITLE:
DETAILS

D–2



EROSION CONTROL PLAN

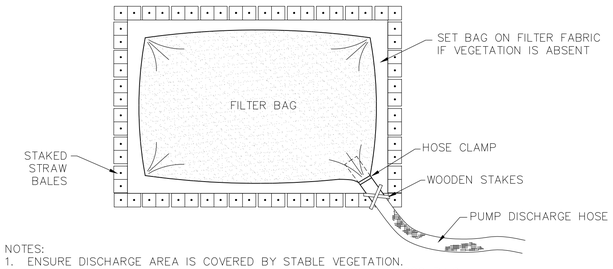
1 EC-1

SCALE: 1"=60' (22x34)
1"=120' (11x17)

60 30 0 60 120

DISTURBANCE SUMMARY

ITEM	AREA (SF)
TREE CLEARING	22,850
(P) GRAVEL SURFACE (COMPOUND & DRIVEWAY)	8,400
RIPRAP (DRAINAGE)	430
VEGETATED SWALE (DRAINAGE)	1,740
LOAM & SEED	18,730
TOTAL EARTH DISTURBANCE	29,300

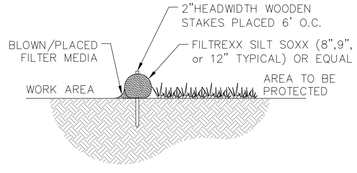


NOTES:
1. ENSURE DISCHARGE AREA IS COVERED BY STABLE VEGETATION.
2. USE DIFFUSER NOZZLE OR LOW DISCHARGE RATE TO PREVENT SCOURING.
3. TO BE PLACED AT AN UPLAND LOCATION THAT WILL ALLOW WATER TO DRAIN TO THE GROUND.
4. SIZE OF STRAW BALE ENCLOSURE TO BE 10'x10' ADJUSTED TO WATER VOLUME.
5. ADDITIONAL STRAW BALES MAY BE USED TO INCREASE RETENTION & FILTERING.

DEWATERING BASIN

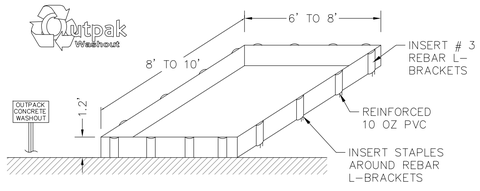
2 EC-1

SCALE: NONE



SILT SOXX / COMPOST MEDIA SOCK

NOTES:
1. USE SILT SOXX WHERE CONDITIONS DO NOT ALLOW STAKES TO BE DRIVEN.
2. STRAW BALES TO BE TIED W/BIODEGRADEABLE TWINE.
3. SILT SOXX FILL TO MEET FILTREXX SPECIFICATIONS AND APPLICATION REQUIREMENTS.
4. SILT SOXX COMPOST MATERIAL TO BE DISPERSED ON SITE, AS DETERMINED BY ENGINEER.
5. FILTER MEDIA/STRAW BALES TO BE INERT AND FREE FROM INVASIVE WEEDS AND NON-NATIVE SPECIES.
6. MAY STAKE BEHIND SOCK AT SLIGHT ANGLE (6' O.C.)

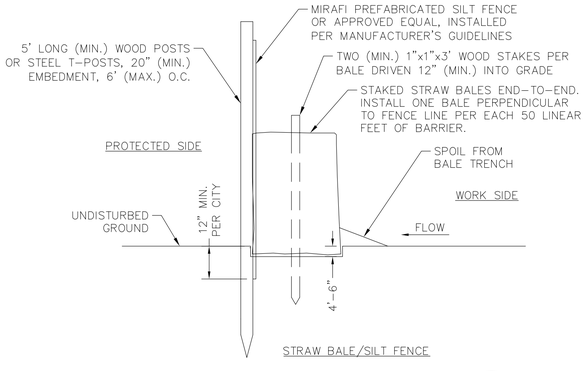


NOTES:
1. THE CONCRETE WASHOUT AREA SHALL BE INSTALLED PRIOR TO ANY CONCRETE PLACEMENT ON THIS PROJECT.
2. SIGNS SHALL BE PLACED AS NECESSARY TO CLEARLY INDICATE THE LOCATION OF THE CONCRETE WASHOUT.
3. THE CONCRETE WASHOUT AREA WILL BE REPLACED AS NECESSARY TO MAINTAIN CAPACITY FOR WASTE CONCRETE AND OTHER LIQUID WASTE.
4. WASHOUT RESIDUE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF AT AN APPROVED WASTE SITE.
5. DO NOT MIX EXCESS AMOUNTS OF FRESH CONCRETE OR CEMENT ON-SITE.
6. DO NOT WASH OUT CONCRETE TRUCKS INTO STORM DRAINS, OPEN DITCHES, STREETS, OR STREAMS.
7. AVOID DUMPING EXCESS CONCRETE IN NON-DESIGNATED DUMPING AREAS.
8. LOCATE WASHOUT AREA AT LEAST 50' (15 METERS) FROM STORM DRAINS, OPEN DITCHES, OR WATERBODIES.
9. WASH OUT WASTES INTO THE OUTPACK WASHOUT AS SHOWN WHERE THE CONCRETE CAN SET, BE BROKEN UP, AND THEN DISPOSED OF PROPERLY.

CONCRETE WASHOUT AREA

3 EC-1

SCALE: NONE



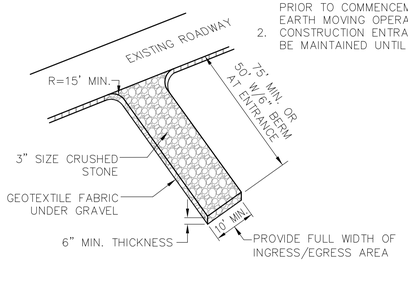
STRAW BALE/SILT FENCE

EROSION CONTROL BARRIER

4 EC-1

SCALE: NONE

CONSTRUCTION ENTRANCE NOTES:
1. AGGREGATE CONSTRUCTION ENTRANCE SHALL BE INSTALLED PRIOR TO COMMENCEMENT OF EARTH MOVING OPERATIONS.
2. CONSTRUCTION ENTRANCE TO BE MAINTAINED UNTIL REMOVED.



CONSTRUCTION ENTRANCE

5 EC-1

SCALE: NONE

EROSION CONTROL NOTES

1. APPLICANT PROPOSES TO CONSTRUCT A CELLULAR TELECOMMUNICATIONS FACILITY CONSISTING OF A FENCED COMPOUND, DRIVEWAY AND UTILITY WORK WITHIN A LEASE AREA AND EASEMENTS.
2. ALL WORK SHALL CONFORM TO THE NEW HAMPSHIRE STORMWATER MANUAL – VOLUME 3 "EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION" BY NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES DATED DECEMBER 2008 OR AS SUBSEQUENTLY REVISED.
3. TEMPORARY SILT FENCE EROSION CONTROL BARRIER SHALL BE MAINTAINED THROUGHOUT SITE CONSTRUCTION. STOCK PILE ON SITE 100 FT. OF SILT FENCE FOR EMERGENCY USE. TEMPORARY EROSION BARRIERS SHALL REMAIN IN PLACE UNTIL PERMANENT VEGETATIVE GROUND COVER IS ESTABLISHED.
4. THE CONTRACTOR SHALL CHIP ALL BRUSH AND SLASH CUTTINGS ON SITE AND STOCKPILE THE CHIPS TO BE USED ON ALL UNSTABLE, DISTURBED AREAS DURING CONSTRUCTION AS TEMPORARY STABILIZATION MULCH. NO BURNING WILL BE ALLOWED ON SITE.
5. TEMPORARY STABILIZATION MUST BE PROVIDED TO ANY DISTURBED EARTH THAT IS OPENED UP IN ANY ONE LOCATION FOR MORE THAN 14 DAYS. CHIPS FROM LAND CLEARING, EROSION CONTROL BLANKETS, OR FAST GROWING RYE GRASSES MAY BE USED FOR TEMPORARY STABILIZATION AS REQUIRED.
6. STRIPPED TOPSOIL SHALL BE STOCKPILED AND PROTECTED WITH STRAW MULCH. ALL STOCKPILES SHALL HAVE AN APPROVED SILTATION BARRIER TOTALLY SURROUNDING THE PILE. THE PILE SHALL BE IN AN APPROVED UPLAND AREA A MINIMUM OF FIFTY FEET FROM ALL RESOURCE AREAS.
7. THE PHASING AND SEQUENCING OF THE WORK FOR THE SITE PREPARATION FOR THE TELECOMMUNICATIONS EQUIPMENT INSTALLATION CONSISTS OF INSTALLING TEMPORARY EROSION AND SEDIMENTATION CONTROL BARRIERS; CLEARING AND ROUGH GRADING OF COMPOUND; FOUNDATION WORK; BACK FILL FOUNDATIONS; FENCED COMPOUND CONSTRUCTION; INSTALLATION OF MONOPOLE AND GROUND EQUIPMENT; INSTALLATION OF UTILITIES; GROUNDING AND LIGHTNING PROTECTION; EQUIPMENT TESTING; FINAL GRADING AND STABILIZATION OF DISTURBED AREAS; LOAM AND SEED DISTURBED AREAS OUTSIDE COMPOUND; FINAL CLEANUP. THE ESTIMATED TIME FOR COMPLETION OF THE WORK IS APPROXIMATELY **TWELVE (12) WEEKS**.
8. THE COMPOUND ENCLOSURE IS SURFACED WITH CRUSHED STONE UNDERLAIN BY A WEED-BLOCK SYNTHETIC FILTER FABRIC. DRAINAGE PATTERNS, RUNOFF VOLUMES AND PEAK FLOW RATES WILL NOT BE ALTERED BY THE PROPOSED CONSTRUCTION.
9. IF REQUIRED, TEMPORARY DEWATERING OF THE TRENCH EXCAVATIONS SHALL BE DIVERTED INTO A TEMPORARY STILLING BASIN. INFILTRATION IN THE STILLING BASIN AND FLOW THROUGH THE CRUSHED STONE CONTAINMENT BERM WILL RESULT IN DIFFUSE, NON-POINT SOURCE RUNOFF OVER VEGETATED AREAS.
10. ALL DISTURBED AREAS OUTSIDE THE LIMITS OF THE FENCED COMPOUND AND ROADWAY SHALL BE PERMANENTLY ESTABLISHED WITH A NATIVE VEGETATIVE GROUND COVER AT THE CONCLUSION OF CONSTRUCTION. GRADED AREAS SHALL BE PROTECTED WITH STRAW MULCH UNTIL A GOOD VEGETATIVE COVER IS ESTABLISHED.
11. THE TOTAL IMPACT AREA OF THE DISTURBED MONOPOLE & COMPOUND CONSTRUCTION SITE IS BOUNDED BY THE "LIMIT OF WORK" AS SHOWN HEREON. THE MAXIMUM AREA OF DISTURBANCE WITHIN THE LIMIT OF WORK IS APPROXIMATELY **29,300 SQUARE FEET**. THE PROJECT IMPACT AREA IS BELOW THE EXEMPTION THRESHOLD OF 43,560 SQUARE FEET IN 40 CFR PARTS 9, 122-124 AND THEREFORE IS NOT SUBJECT TO REGULATION UNDER THE EPA NPDES GENERAL CONSTRUCTION PERMIT PROGRAM.
12. THE PROJECT OWNER'S GENERAL CONTRACTOR SHALL CONDUCT ALL SITE DEVELOPMENT WORK IN A MANNER THAT DOES NOT EXCEED THE LIMITS OF WORK SHOWN ON THE PLANS. ADDITIONALLY, THE PROJECT OWNER'S GENERAL CONTRACTOR SHALL CONDUCT ALL CONSTRUCTION ACTIVITIES IN A MANNER THAT DOES NOT RESULT IN STORM WATER DISCHARGES WITH AN ADVERSE IMPACT ON ANY RESOURCE AREAS OR DOWNSTREAM PROPERTIES.
13. A CONCRETE WASHOUT AREA SHALL BE INSTALLED PRIOR TO ANY CONCRETE PLACEMENT ON THIS PROJECT. SIGNS SHALL BE PLACED AS NECESSARY TO CLEARLY INDICATE THE LOCATION OF THE CONCRETE WASHOUT. WASHOUT RESIDUE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF AT AN APPROVED WASTE SITE.
14. UPON COMPLETION OF THE PROJECT, THE CONTRACTOR SHALL REMOVE ALL ACCUMULATED SILT FROM BEHIND SILTATION BARRIERS AND DISPOSE OF SILT EVENLY IN UPLAND AREAS. REMOVE ALL EROSION CONTROL DEVICES WHEN A GOOD VEGETATIVE COVER IS ESTABLISHED.

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:

SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 156A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:

EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE

STAMP:

DATE:	10/16/20
DRAWN:	STZ/JEB
CHECK:	JMM/TEJ
SCALE:	SEE PLAN
JOB NO.:	20-018

SHEET TITLE:

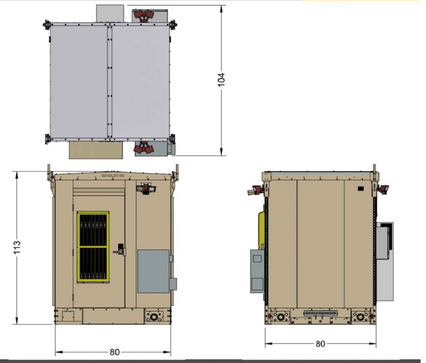
EROSION CONTROL PLAN & DETAILS

EC-1

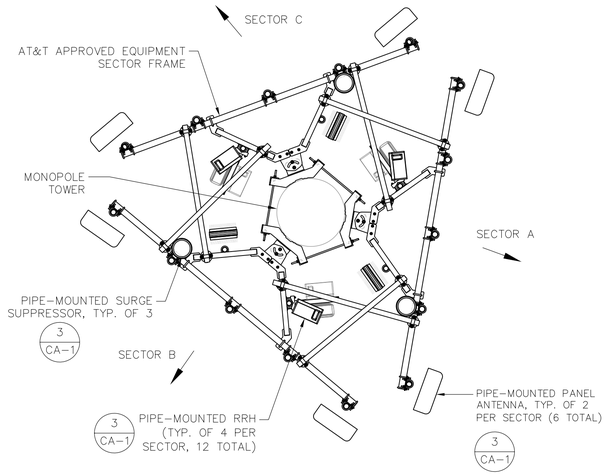
SMARTMOD UE - PRODUCT CONFIGURATION
6 X 6 WALK IN CABINET – ASSEMBLY DRAWING

- External Dimensions
  - 80" x 80" x 113"
- Internal Dimensions
  - 72" x 72" x 105"
- NEQ 19737 (includes below)

Component	Description
F2017012-WIC	ATT 6X6 WIC with labor DC power system, Schrofftech DAC, Marvair HVAC Integration
582127000103	NS721,-48V@1KA,+24V@520A,3 BAT TRAYS@STD
PTLC-12200-MTS	120/240, 200A 1PH; MTS; Strikesorb; 42-Pos SqD Panelboard; 40Hx30Wx10D NEMA Type 3R; ECL CamLok Panel and Utility voltage monitor and dry relay contact alarm for 120/240, 200A 1PH MP Series
AF000135	Direct Air Cooling unit - Lead Lag HVAC Controller/with Smoke Detector
PTS3703-WIC-WOF	Rack CommBay-WIC-W/out Fiber Panel
PTS3704-WIC-WF	Rack CommBay-WIC-With Fiber Panel
ECUA12ACA036S-AS-100	1 TON WALL MOUNTED HVAC, supply & return grille and commstat controller and remote sensor
D1000-0010-0066	WIC Hut Platform Kit - (1) 80" x 80" Platform, (1)2 Step Stair and (4) 6' x 7' Helical Foundation with Leveling Hardware.- Finish: Hot Dip Galvanized



VERTIV.



N

ANTENNA PLAN
SCALE: NONE

2 CA-1

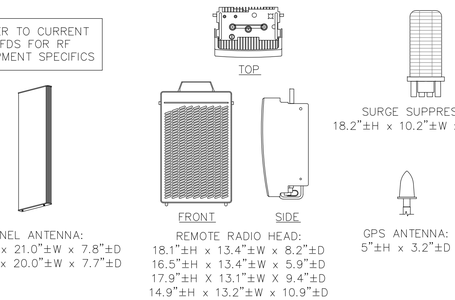
TENANT INFORMATION

at&t

SITE ID: NH4143
ROCHESTER–LOWELL ST

NEW CINGULAR WIRELESS PCS, LLC
("AT&T")
550 COCHITUATE ROAD
FRAMINGHAM, MA 01701

REFER TO CURRENT RFDS FOR RF EQUIPMENT SPECIFICS



PANEL ANTENNA:
96.0"±H x 21.0"±W x 7.8"±D
96.0"±H x 20.0"±W x 7.7"±D

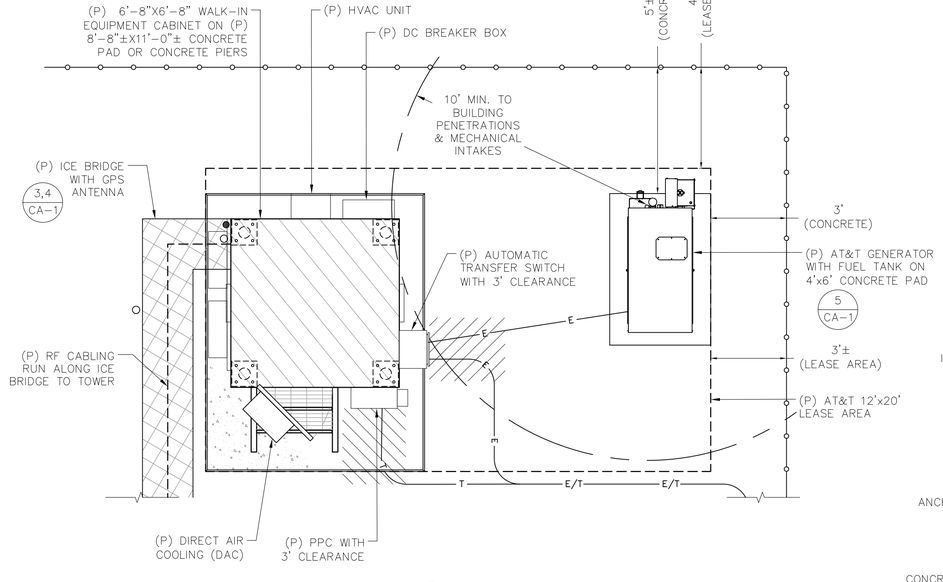
REMOTE RADIO HEAD:
18.1"±H x 13.4"±W x 8.2"±D
16.5"±H x 13.4"±W x 5.9"±D
17.9"±H X 13.1"±W X 9.4"±D
14.9"±H x 13.2"±W x 10.9"±D

SURGE SUPPRESSOR:
18.2"±H x 10.2"±W x 31.4"±D

GPS ANTENNA:
5"±H x 3.2"±D

ANTENNA EQUIPMENT
SCALE: NONE

3 CA-1



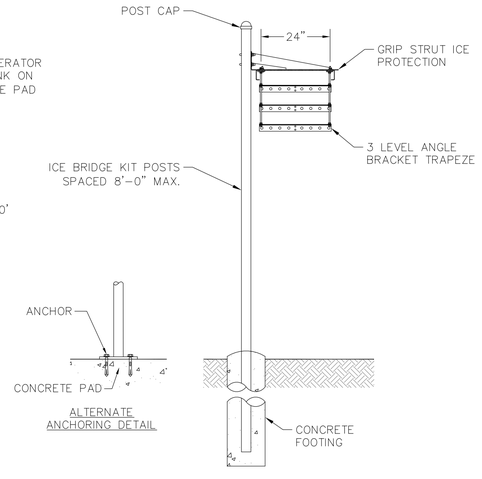
PLAN

NOTE: 6'-8" X 6'-8" EQUIPMENT SHELTER FOR AT&T WIRELESS SERVICES BY VERTIV SHOWN. VERIFY MAKE AND MODEL WITH CONSTRUCTION MANAGER PRIOR TO COMMENCEMENT OF CONSTRUCTION

GROUND EQUIPMENT LAYOUT PLAN
SCALE: 1"=3' (22x34)
1"=6' (11x17)

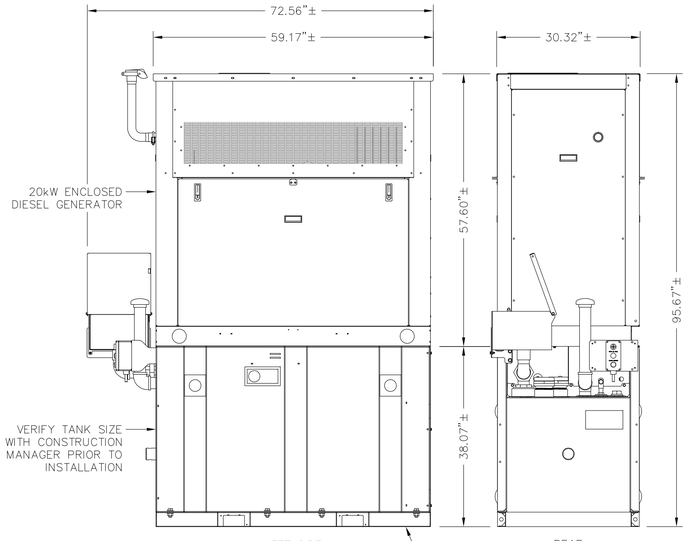
1 CA-1

3 1.5 0 3 6



ICE BRIDGE
SCALE: NONE

4 CA-1



DIESEL GENERATOR
SCALE: NONE

5 CA-1

ProTerra DESIGN GROUP, LLC
4 Bay Road
Building A; Suite 200
Hadley, MA 01035
Ph: (413)320-4918

CONSULTANTS:

NO.	DATE	REVISIONS
A	06/17/20	ISSUED FOR REVIEW
0	10/16/20	FOR PERMITTING

TITLE:
SITE NAME: ROCHESTER 5
SITE NUMBER: 743597
ADDRESS: 166A LOWELL STREET
ROCHESTER, NH 03867

APPLICANT:
EIP HOLDINGS II, LLC
TWO ALLEGHENY CENTER
NOVA TOWER 2, SUITE 703
PITTSBURGH, PA 15212

EVEREST INFRASTRUCTURE

STAMP:

DATE: 10/16/20
DRAWN: STZ/JEB
CHECK: JMM/TEJ
SCALE: SEE PLAN
JOB NO.: 20-018

SHEET TITLE:
TENANT DETAILS

CA-1

4

C Squared Systems, LLC
65 Dartmouth Drive
Auburn, NH 03032
Phone: (603) 644 2800
support@csquaredsystems.com

RF Report
Proposed Wireless Facility

NH4143
156A Lowell Street, Rochester, NH

August 26, 2020

TABLE OF CONTENTS

LIST OF TABLES

EXHIBITS

1. Overview

This RF Report has been prepared on behalf of AT&T Mobility in support of its application to the Town of Rochester for the installation and operation of a wireless facility located at 156A Lowell Street, Rochester, NH. The proposed facility consists of ground based equipment cabinets, and antennas mounted at a centerline of 146' AGL on a proposed 150' monopole tower.

This report concludes that the proposed site will provide coverage improvement to Rochester in order to improve deficient service areas along Route 108, Highway 16, and the surrounding roads, businesses, and neighborhoods in the proximity of the proposed site.

Included in this report is: a brief summary of the site's objectives, maps showing AT&T's neighboring sites, and predicted Radio Frequency coverage maps of the subject site and the surrounding sites in AT&T's network.

2. Introduction

To maintain a reliable and robust communications system for the individuals, businesses, public safety workers and others who use its network, AT&T deploys a network of cell sites (also called wireless communications facilities) throughout the areas in which it is licensed to provide service. These cell sites consist of antennas mounted on structures, such as buildings and towers, supported by radio and power equipment. The receivers and transmitters at each of these sites process signals within a limited geographic area known as a "cell."

Mobile subscriber handsets and wireless devices operate by transmitting and receiving low power radio frequency signals to and from these cell sites. Handset signals that reach the cell site are transferred through land lines (or other means of backhaul transport) and routed to their destinations by sophisticated electronic equipment. In order for AT&T's network to function effectively, there must be adequate overlapping coverage between the "serving cell" and adjoining cells. This not only allows a user to access the network initially, but also allows for the transfer or "hand-off" of calls and data transmissions from one cell to another and prevents unintended disconnections or "dropped calls."

AT&T's antennas also must be located high enough above ground level to allow transmission (a.k.a. propagation) of the radio frequency signals above trees, buildings, and other natural or man-made structures that may obstruct or diminish the signals. Areas without adequate radio frequency coverage have substandard service, characterized by dropped and blocked calls, slow data connections, or no wireless service at all, and are commonly referred to as coverage gaps.

The size of the area potentially served by each cell site depends on several factors including the number of antennas used, the height at which the antennas are deployed, the topography of the surrounding land, vegetative cover, and natural or man-made obstructions in the area. The actual service area at any given time also depends on the number of customers who are on the network in range of that cell site. As customers move throughout the service area, the transmission from the phone or other device is automatically transferred to the AT&T facility with the best reception, without interruption in service, provided that there is overlapping coverage between the cells.

Each cell site must be primarily designed to strike a balance between the overall geographic coverage area it will serve, and the site's capacity to support the usage within the coverage footprint. In rural areas, cell sites are generally designed

to have broader coverage footprints because the potential traffic is sparser and distributed over a larger area. In more densely populated suburban and urban environments, the capacity to handle calls and data transmissions is of increasing concern, and cell sites must limit their coverage footprint to an area where the offered network traffic can be supported by the radio equipment and resources. Due to the aggressive historical and projected growth of mobile usage, particularly for mobile data (42% in 2016-2017, 35% CAGR 2016-2021 in North America)[1], instances arise where the usage demand can no longer be supported by the site(s) serving an area, and new facilities must be integrated to provide capacity relief to the overloaded sites.

We have concluded that by developing the proposed wireless communication facility on 156A Lowell Street at an antenna centerline height of 146' AGL (above ground level), AT&T will be able to provide substantially improved coverage to residents, businesses, and traffic corridors within Rochester that are currently located within deficient service areas of AT&T's network.

3. Coverage Objectives

In order to expand and enhance their wireless services throughout New England, AT&T must fill in existing coverage gaps and address capacity, interference, and high-speed broadband issues. As part of this effort, AT&T has determined that significant gaps in service exist in and around sections of the Town of Rochester, NH as described further below.

AT&T currently operates wireless facilities similar to the proposed facility within Rochester and the surrounding cities/towns. Due in large part to the distances between the existing sites, the intervening topography, and volume of user traffic in the area, these existing facilities do not provide sufficient coverage to portions of Rochester. Specifically, AT&T determined that much of Rochester is without reliable service in the following areas and town roads[2], including but not limited to:

- Route 108 (Rochester Hill Road), serves 11,024 AADT (Average Annual Daily Traffic)
- Highway 16 (Spalding Turnpike), serves 23,000 AADT
- Lowell Street, serves 1,129 AADT
- Tebbetts Road
- The surrounding roads, businesses, and neighborhoods in the proximity of the proposed site and the above-mentioned roads.

[1] "Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2016-2021", February 7, 2017, Cisco Systems, Inc. http://www.cisco.com/c/en/us/solutions/collateral/service-provider/visual-networking-index-vni/mobile-white-paper-c11-520862.html

[2] Traffic counts are sourced from the New Hampshire Department of Transportation.

4. Pertinent Site Data

Table 1 below details the site-specific information for the on-air AT&T macro-sites used to perform the coverage analysis and generate the coverage plots provided herein.

Site Name	Address	City	Location		Antenna Height (ft AGL)	Structure Type	Status
			Latitude	Longitude			
NH5201	Ten Rod Road	Farmington	43.3544	-71.0714	306	Tower	On Air
ME5323	181 Oak Hill Road	Lebanon	43.3494	-70.9439	240	Tower	On Air
ME5333	9 Station Lane Off Route 202	Lebanon	43.3738	-70.8956	180	Tower	On Air
NH5203	103 Walnut Street	Rochester	43.3077	-70.9996	163	Tower	On Air
NH2422	80 Dry Hill Road	Rochester	43.2780	-71.0261	170	Tower	On Air
ME5068	Little Harbor Road	Berwick	43.2950	-70.8689	138	Tower	On Air
NH5208	45 Grand Street	Somersworth	43.2593	-70.8695	102	Water Tank	On Air
NH2424	38 Parsons Lane	Dover	43.2406	-70.9183	148	Tower	On Air
NH5202	Garnett Road	Barrington	43.2152	-71.0378	182	Tower	On Air
NH5200	100A Abbey Sawyer Memorial Hwy	Dover	43.2094	-70.8708	128	Tower	On Air
NH4143	156A Lowell Street	Rochester	43.2843	-70.9512	146	Tower	Proposed

Table 1: AT&T Mobility Site Information Used in Coverage Analysis [3]

[3] Some sites listed in this table are outside the plot view but are included for completeness of information.

5. Coverage Analysis and Propagation Plots

The radio frequency coverage plots provided in this report were produced using deciBel Planner™, a Windows-based RF propagation computer modeling program and network planning tool. The software takes into account the geographical features of an area, land cover, antenna models, antenna heights, RF transmitting power and receiver thresholds to predict coverage and other related RF parameters used in site design and wireless network expansion.

The plots included as Exhibits show coverage based on the minimum required signal strength needed to support reliable 4G LTE service in this area. All other areas (depicted in white) fall within coverage areas characterized by poor voice and data quality, slow data speeds, latency[4], and the substantial likelihood of unreliable service.

While AT&T holds licenses in the 700 MHz, 1900 MHz (PCS), 2100 MHz (AWS) and 2300 MHz (WCS) bands, this report focuses on the 700 MHz layer, which is representative of the 4G LTE service most readily available to AT&T subscribers in Rochester, and is the spectrum layer that is essential to AT&T's ability to address the coverage needs for their 4G LTE service offerings. It is relevant to note that the 700 MHz coverage layer, which serves as the "base" layer for the LTE service, has a substantially larger coverage footprint due to the propagation characteristics of the frequency band. The 1900 MHz, 2100 MHz and 2300 MHz overlay layers will have incrementally smaller footprints and are used by AT&T to manage capacity.

The following paragraphs discuss each of the AT&T maps attached hereto.

Exhibit 1 titled "NH4143 - Existing 700 MHz LTE Coverage" depicts the 700 MHz LTE coverage provided from existing sites listed in Table 1 and demonstrates that there are currently gaps in 700 MHz LTE coverage affecting service along key roadways, and the surrounding neighborhoods in Rochester. The coverage shown is where the signal strengths are: > -83 dBm (minimum required for reliable, high quality service and performance at 700 MHz) and, > -93 dBm (minimum required for adequate level of service at 700 MHz). In an effort to provide the required levels of coverage to these areas, AT&T is proposing to install a wireless facility on the existing tower.

Exhibit 2 titled "NH4143 – Existing 700 MHz LTE Coverage with Proposed Site" shows how this proposed site would fill in the existing coverage gaps and improve AT&T's 700 MHz LTE network within the targeted areas. As evident when compared against Exhibit 1, the proposed facility provides adequate coverage improvement along key roadways such as Route 108 (Rochester Hill Road), Highway 16 (Spalding Turnpike) and the surrounding neighborhoods, community areas, and to Rochester:

- ~ 1.3 miles of Route 108 (Rochester Hill Road);
- ~ 1.3 miles of Highway 16 (Spalding Turnpike);
- ~ 3444 additional residents[5] within the surrounding area at the 700 MHz frequency;
- ~ 659 additional employees[6] within the proximity of the proposed facility;

[4] In data transfer it is the delay or lapse in the time between initiating a request from the wireless device and receiving the response.

[5] Population counts are based upon 2010 U.S. Census residential data. Please note that this does not include any visitors in the area.

[6] Employee population counts are based upon the 2015 U.S. Census Bureau LEHD database.

Exhibit 3 titled "NH4143 – Existing 700 MHz LTE Coverage with Recently Approved Site on Blackwater Street" depicts the 700 MHz LTE coverage provided from existing sites listed in Table 1 and at the highest available antenna centerline on the recently approved site on Blackwater Street. This plot demonstrates that the Proposed site clearly addresses a different coverage area than the coverage objective of the Proposed site and cannot be substituted for the Proposed site.

Exhibit 4 titled "NH4143 – Area Terrain Map" details the topographical features around the proposed "NH4143" site. These terrain features play a key role in dictating both the unique coverage areas served from a given location, and the coverage gaps within the network. This map is included to provide a visual representation of the terrain variations that must be considered when determining the appropriate location and design of a proposed wireless facility. The purple, blue and green shades correspond to lower elevations, whereas the yellow, orange, red and grey shades indicate higher elevations.

Exhibit 5 titled "NH4143 - Neighbor Sites & Radial Distances" provides a "zoomed-out" view of the subject area showing the locations of AT&T's existing sites in neighboring cities and towns that may be contributing to the aggregate coverage in Rochester.

6. Summary

In undertaking its build-out of 4G LTE service in Strafford County, AT&T has determined that an additional facility is needed to provide reliable service throughout areas of Rochester, NH. AT&T determined that developing the proposed wireless communications facility on 156A Lowell Street in Rochester at an antenna centerline height of 146 feet (AGL) will provide coverage needed in the targeted coverage areas including key roadways such as Route 108, Highway 16, and the surrounding roads, businesses and neighborhoods in the proximity of the proposed site.

As discussed in this report and depicted in the attached plots, the proposed AT&T site will provide the public need for service in this area, by providing an appropriate coverage footprint for the Rochester community along with effective connectivity to the rest of AT&T existing network. In addition to providing improved LTE service to AT&T's customers throughout the targeted areas of Rochester, AT&T is providing enhanced services for first responders through the implementation of FirstNet's National Public Safety Broadband Network ("NPSBN").

Without a site in this area, at the height requested, significant gaps in service will continue to exist within the Town of Rochester, and the identified public need for reliable wireless services in this area will not be met; therefore, AT&T respectfully request that the Town of Rochester act favorably upon the proposed facility.

7. Statement of Certification

I certify to the best of my knowledge that the statements in this report are true and accurate.

August 26, 2020
Date

Martin J. Lavin
C Squared Systems, LLC

8. Exhibits

Exhibit 1: NH4143 - Existing 700 MHz LTE Coverage

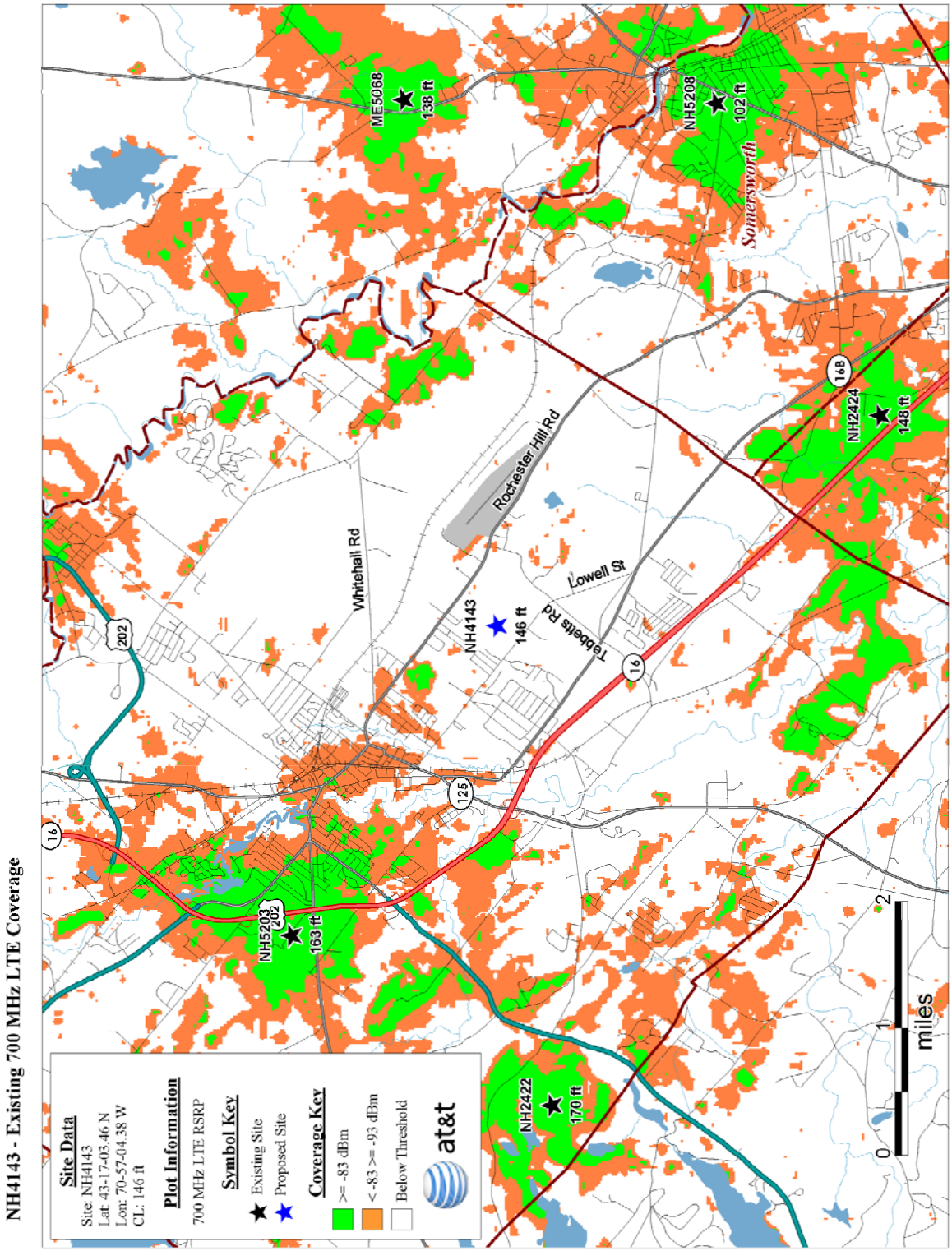


Exhibit 2: NH4143 – Existing 700 MHz LTE Coverage with Proposed Site

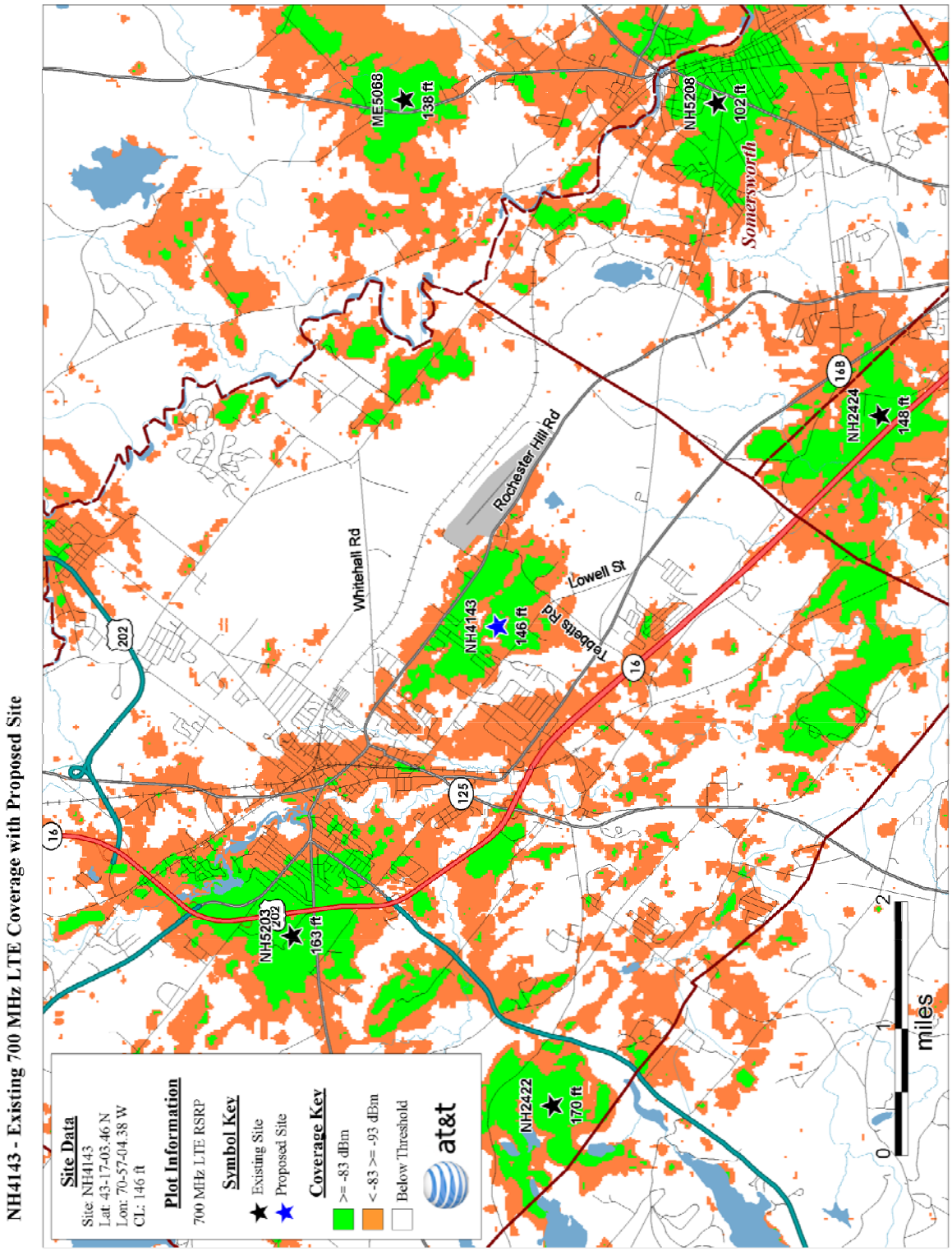


Exhibit 3: NH4143 – Existing 700 MHz LTE Coverage with Recently Approved Site on Blackwater Street

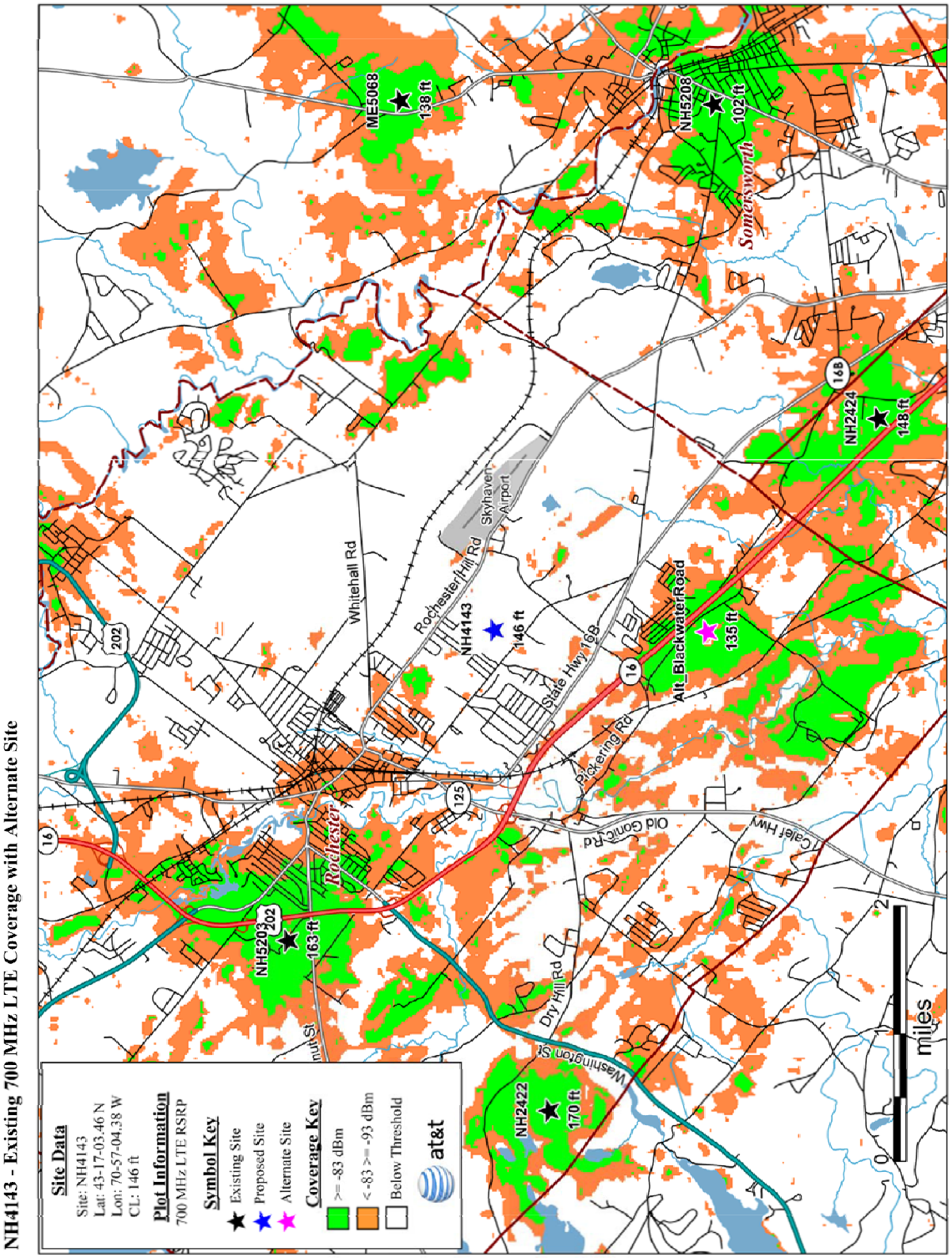


Exhibit 4: NH4143 – Area Terrain Map

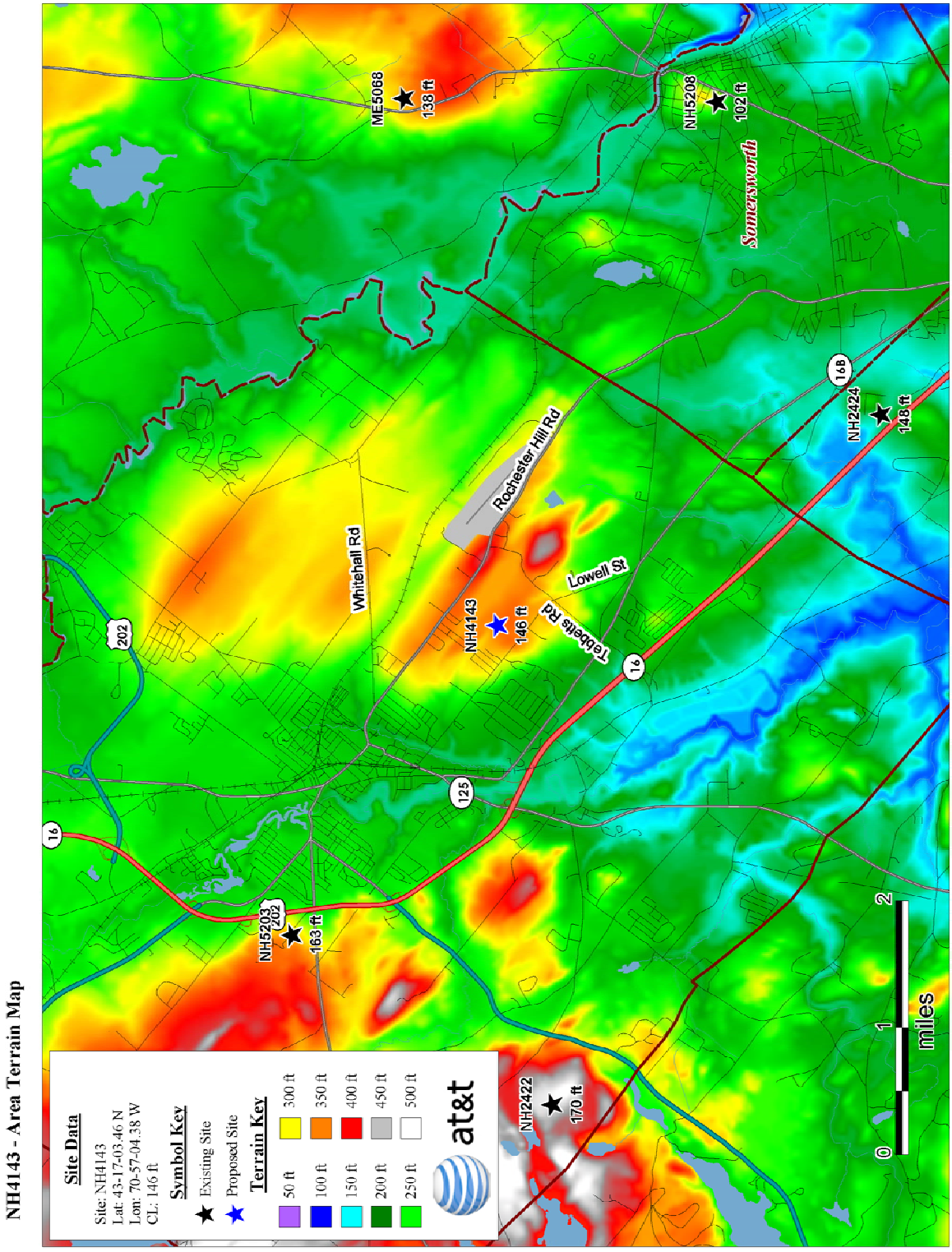
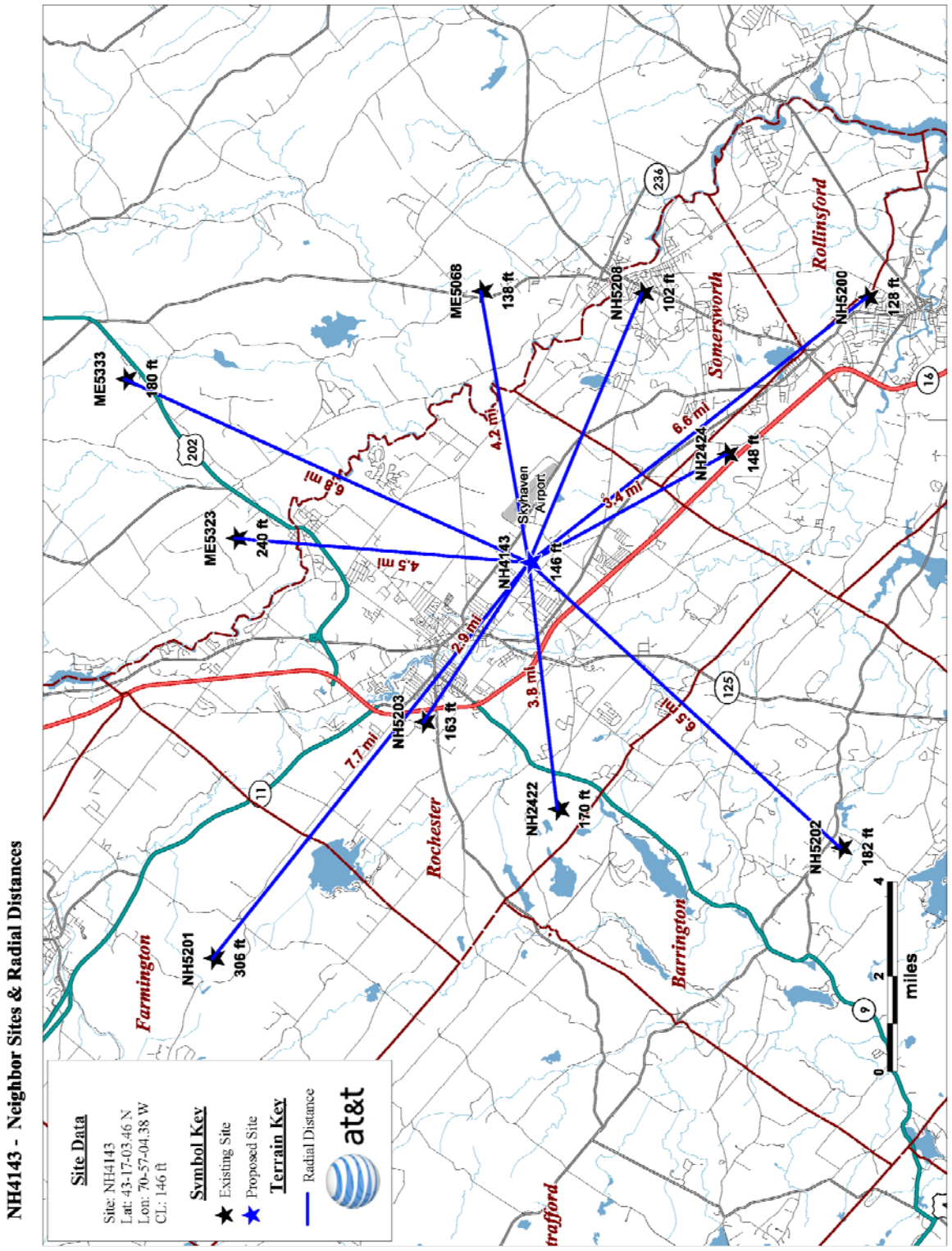


Exhibit 5: NH4143 - Neighbor Sites & Radial Distances

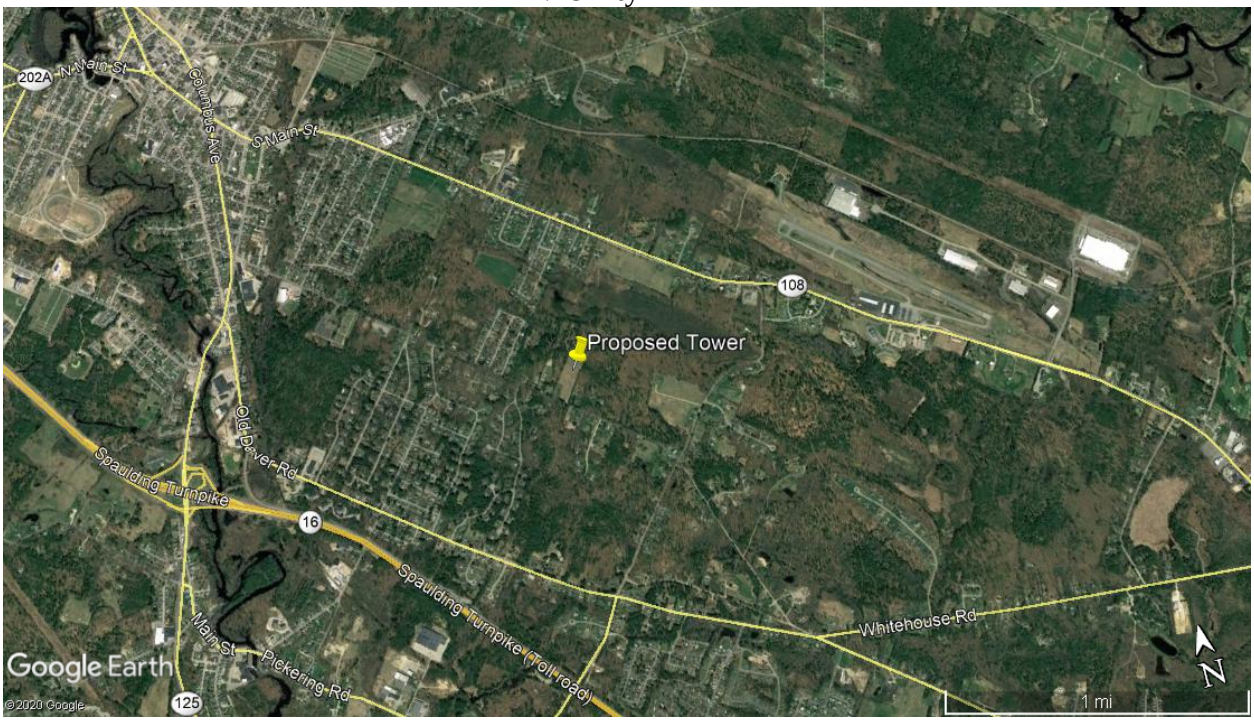


5

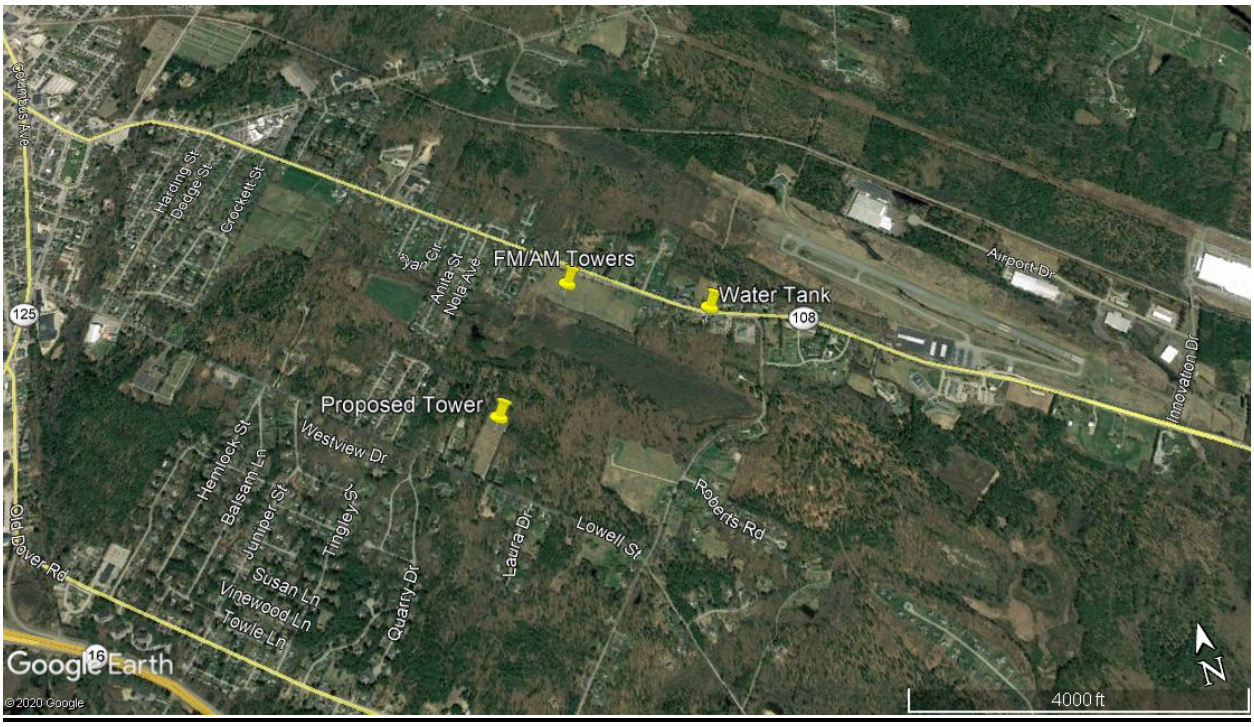
EXISTING SITE ANALYSIS

Rochester, NH -

Vicinity MAP



Overall Aerial Map Existing Structures in Area



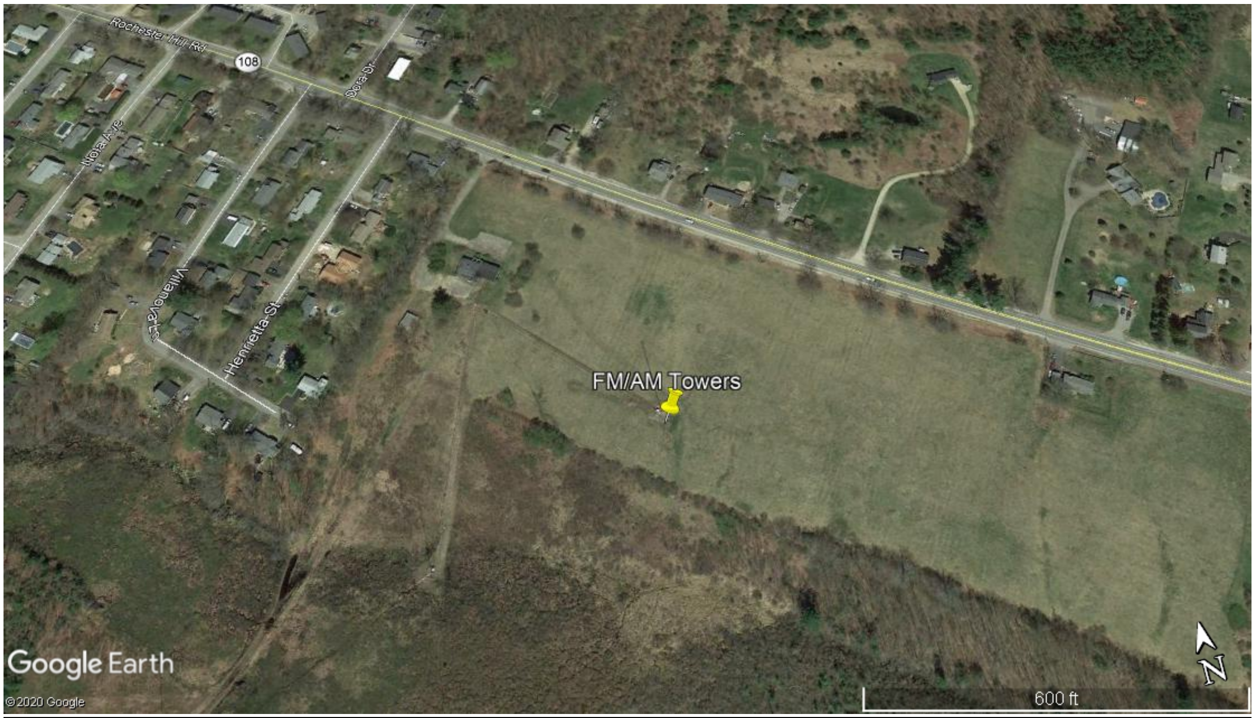
Existing Structure:
Structure type: AM/FM guyed towers
Address: 113 Rochester Hill Road, Rochester, NH
Lat/Lon: 43-17-15, -70-56-50
Owner: Vertical Bridge
Available AGL: Up to 288'
Ground space available: Yes
Existing Carriers: No

Notes: 0 Major Carriers on tower. Approximately.3 miles from proposed site. This is a 3 tower directional AM radio broadcast array (WPKX 930 kHz, originally licensed in 1948). FCC dates show construction in 1963. The easternmost tower also has an FM bay antenna sidemounted at the top. This is for WQSO 96.7 MHz. They received their license in 1980. While you can theoretically collocate on an AM tower, for practical purposes it is not something that the wireless industry contemplates. First, **the tower itself is actually an antenna and is "hot", constantly radiating radio signals (in this case 5,000 watts at 930 kHz)**. If you were to walk up to the tower and touch it you could be terminally shocked. To climb the tower you need to turn off the radio station transmitter or literally jump onto the tower so your feet aren't grounded.

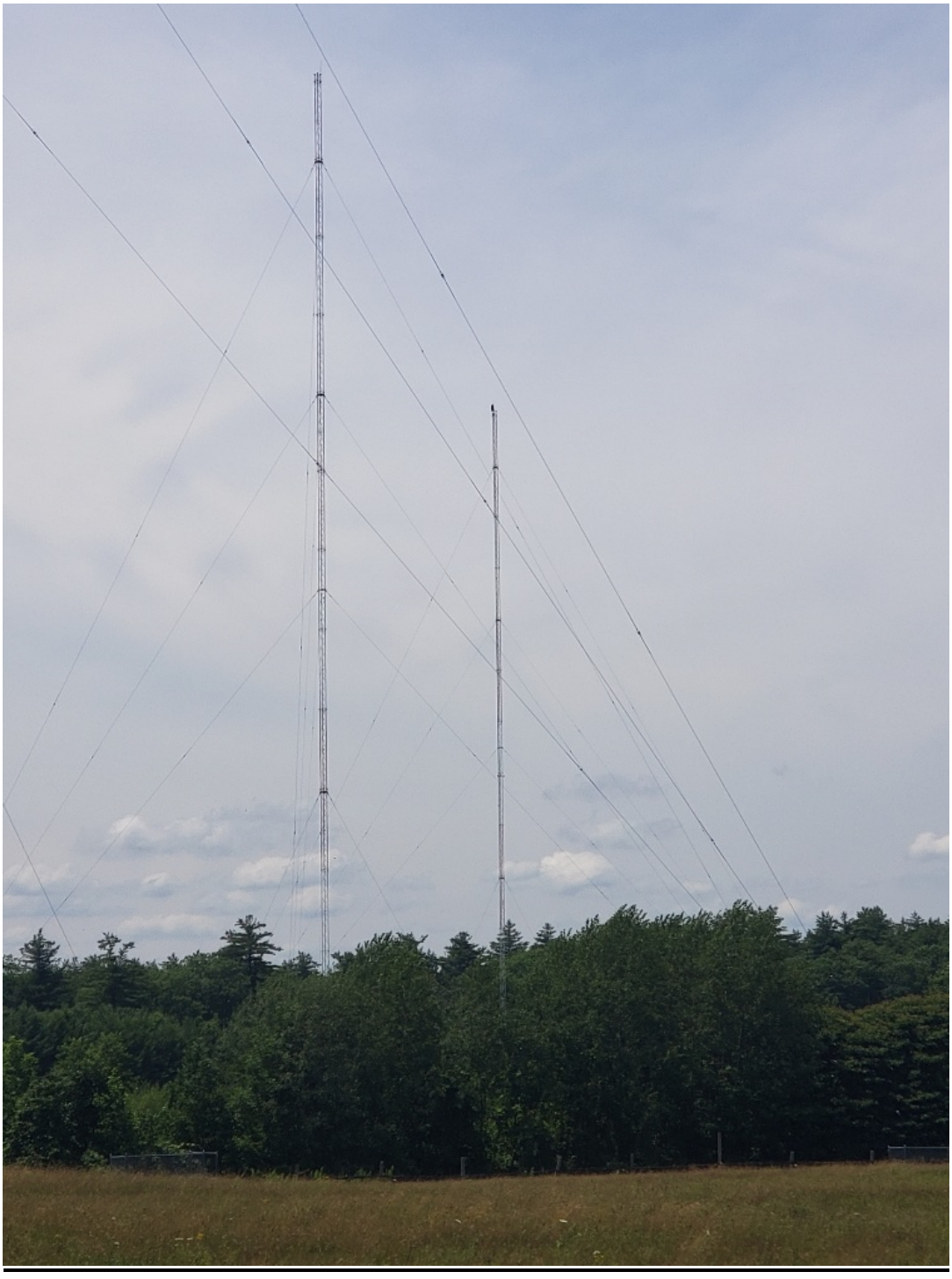
Second, these towers were built in 1963. Structurally they were never intended to hold any kind of additional load, especially today's typical loading which can weigh thousands of pounds and have 20,000 plus sq. inches of effective plate area/wind load. So there is a safety issue due to completely inadequate structural load capacity. The tower selected in all likelihood would need to be replaced with larger more substantial tower to accommodate the additional wind loading

Third, if you installed a typical carrier equipment antenna array on a directional AM tower you can change their radiation pattern (especially a directional station like WPKX). This can create interference with other AM stations operating on or near the same frequency. While this could be rectified, it still puts you in a position that you need to replace the tower in the first place

Aerial View


Rochester Hill Rd
108
Villanova
Henrietta St
FM/AM Towers
Google Earth
©2020 Google
600 ft
N

Street View Rochester Hill Road Towers



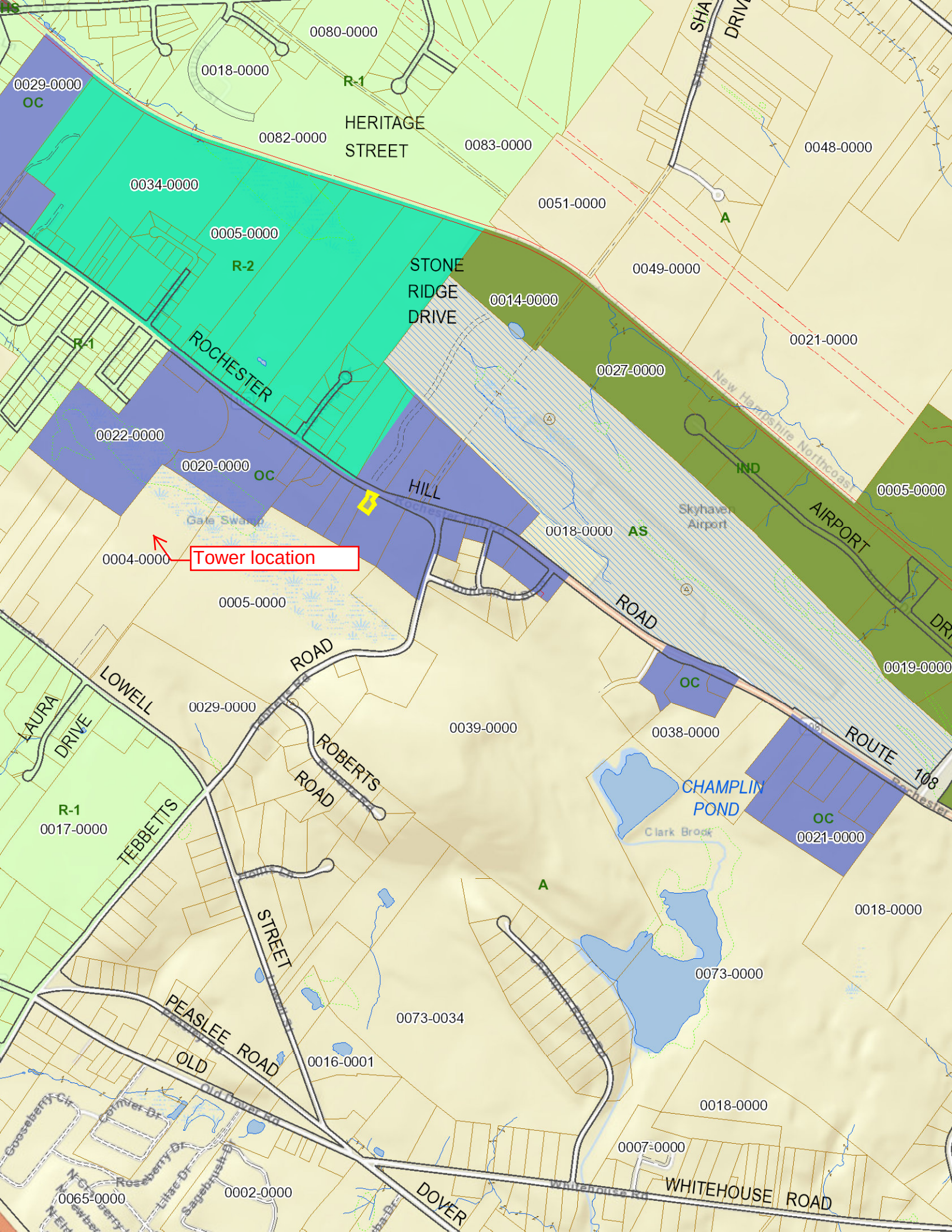
Existing Structure Rochester Hill Road Rochester, NH:

Structure type: Water Tank
Address: 155 Rochester Hill Road, Rochester, NH
Lat/Lon: 43-14-07, -70-56-27
Owner: City of Rochester
Available - None
Ground space available: Yes
Existing Carriers: Yes

Notes: Existing Water Tank. 1 Major Carrier on Tower. Approximately .5 miles away from proposed site. No additional space available to locate on tank. Tank is located at to below the tree line providing minimal to no coverage

Aerial View

Street View Rochester Hill Water Tank


0080-0000
0018-0000
R-1
0029-0000
OC
HERITAGE
STREET
0082-0000
0083-0000
0048-0000
0034-0000
0051-0000
A
0005-0000
R-2
STONE
RIDGE
DRIVE
0049-0000
0014-0000
R-1
ROCHESTER
0021-0000
0027-0000
0022-0000
0020-0000
OC
HILL
IND
AIRPORT
0005-0000
Skyhaven
Airport
0018-0000
AS
0004-0000
Tower location
0005-0000
ROAD
ROAD
0019-0000
OC
LOWELL
LAURA
DRIVE
0029-0000
0039-0000
0038-0000
ROUTE
108
ROBERTS
ROAD
CHAMPLIN
POND
R-1
0017-0000
TEBBETTS
OC
0021-0000
Clark Brook
A
0018-0000
STREET
0073-0000
PEASLEE ROAD
0073-0034
OLD
0016-0001
0018-0000
0007-0000
0065-0000
0002-0000
DOVER
WHITEHOUSE ROAD

6

C Squared Systems, LLC
65 Dartmouth Drive
Auburn, NH 03032
(603) 644-2800
support@csquaredsystems.com

Calculated Radio Frequency Emissions Report

NH4143

156A Lowell Street, Rochester, NH 03867

August 12, 2020

Table of Contents

List of Figures

List of Tables

1. Introduction

The purpose of this report is to investigate compliance with applicable FCC regulations for the proposed installation of AT&T Mobility antenna arrays and monopole tower located at 156A Lowell Street in Rochester, NH. The coordinates of the tower are 43-17-03.46 N, 70-57-04.38 W. Based on available information there are no collocated operators at this site.

AT&T Mobility is proposing to:

1) Install 150' monopole tower;
2) Install four (4) multi-band antennas (two per sector) to support the AT&T LTE network and the FirstNet National Public Safety Broadband Network ("NPSBN").

This report uses the planned antenna configuration for AT&T Mobility[1] to derive the resulting % MPE, once the proposed installation has been completed.

2. FCC Guidelines for Evaluating RF Radiation Exposure Limits

In 1985, the FCC established rules to regulate radio frequency (RF) exposure from FCC licensed antenna facilities. In 1996, the FCC updated these rules, which were further amended in August 1997 by OET Bulletin 65 Edition 97-01. These new rules include Maximum Permissible Exposure (MPE) limits for transmitters operating between 300 kHz and 100 GHz. The FCC MPE limits are based upon those recommended by the National Council on Radiation Protection and Measurements (NCRP), developed by the Institute of Electrical and Electronics Engineers, Inc., (IEEE) and adopted by the American National Standards Institute (ANSI).

The FCC general population/uncontrolled limits set the maximum exposure to which most people may be subjected. General population/uncontrolled exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.

Public exposure to radio frequencies is regulated and enforced in units of milliwatts per square centimeter (mW/cm^2). The general population exposure limits for the various frequency ranges are defined in the attached "FCC Limits for Maximum Permissible Exposure (MPE)" in Attachment C of this report.

Higher exposure limits are permitted under the occupational/controlled exposure category, but only for persons who are exposed as a consequence of their employment and who have been made fully aware of the potential for exposure, and they must be able to exercise control over their exposure. General population/uncontrolled limits are five times more stringent than the levels that are acceptable for occupational, or radio frequency trained individuals. Attachment C contains excerpts from OET Bulletin 65 and defines the Maximum Exposure Limit.

Finally, it should be noted that the MPE limits adopted by the FCC for both general population/uncontrolled exposure and for occupational/controlled exposure incorporate a substantial margin of safety and have been established to be well below levels generally accepted as having the potential to cause adverse health effects.

[1] As referenced to AT&T's preliminary Radio Frequency Design Sheet dated 03/18/2020.

3. RF Exposure Prediction Methods

The emission field calculation results displayed in the following figures were generated using the following formula as outlined in FCC bulletin OET 65:

$$\text{Power Density} = \left(\frac{EIRP}{\pi \times R^2} \right) \times \text{Off Beam Loss}$$

Where:

EIRP = Effective Isotropic Radiated Power

R = Radial Distance = $\sqrt{\left(H^2 + V^2\right)}$

H = Horizontal Distance from antenna in meters

V = Vertical Distance from radiation center of antenna in meters

Off Beam Loss is determined by the selected antenna patterns

Ground reflection factor of 2.0

These calculations assume that the antennas are operating at 100 percent capacity, that all antenna channels are transmitting simultaneously, and that the radio transmitters are operating at full power. Obstructions (trees, buildings, etc.) that would normally attenuate the signal are not taken into account. The calculations assume even terrain in the area of study and do not take into account actual terrain elevations which could attenuate the signal. As a result, the predicted signal levels reported below are much higher than the actual signal levels will be from the final installations.

4. Antenna Inventory

Table 1 below outlines AT&T Mobility's proposed antenna configuration for the site. The associated data sheets and antenna patterns for these specific antenna models are included in Attachments C.

Operator	Sector / Call Sign	TX Freq (MHz)	Power at Antenna (Watts)	Ant Gain (dBi)	Power EIRP (Watts)	Antenna Model	Beam Width	Mech. Tilt	Length (ft)	Antenna Centerline Height (ft)
AT&T	Alpha / 110°	763	160	15.6	5809	TPA65R-BU8D	74	0	8.0	146
		2100	240	18.3	16226		67			
		2300	160	18.0	10095		62			
		739	160	15.1	5177	DMP65R-BU8DA	75	0	8.0	146
		885	160	16.0	6370		64			
		1900	160	17.8	9641		68			
	Beta / 215°	763	160	15.6	5809	TPA65R-BU8D	74	0	8.0	146
		2100	240	18.3	16226		67			
		2300	160	18.0	10095		62			
		739	160	15.1	5177	DMP65R-BU8DA	75	0	8.0	146
		885	160	16.0	6370		64			
		1900	160	17.8	9641		68			
	Gamma / 320°	763	160	15.6	5809	TPA65R-BU8D	74	0	8.0	146
		2100	240	18.3	16226		67			
		2300	160	18.0	10095		62			
		739	160	15.1	5177	DMP65R-BU8DA	75	0	8.0	146
		885	160	16.0	6370		64			
		1900	160	17.8	9641		68			

Table 1: Proposed Antenna Inventory[2] [3]

[2] Antenna models and heights are in reference to AT&T's preliminary Radio Frequency Design Sheet dated 03/18/2020.

[3] Transmit power assumes 0 dB of cable loss.

5. Calculation Results

The calculated power density results are shown in Figure 1 below. For completeness, the calculations for this analysis range from 0 feet horizontal distance (directly below the antennas) to a value of 3,000 feet horizontal distance from the site. In addition to the other worst-case scenario considerations that were previously mentioned, the power density calculations to each horizontal distance point away from the antennas was completed using a local maximum off beam antenna gain (within ± 5 degrees of the true mathematical angle) to incorporate a realistic worst-case scenario.

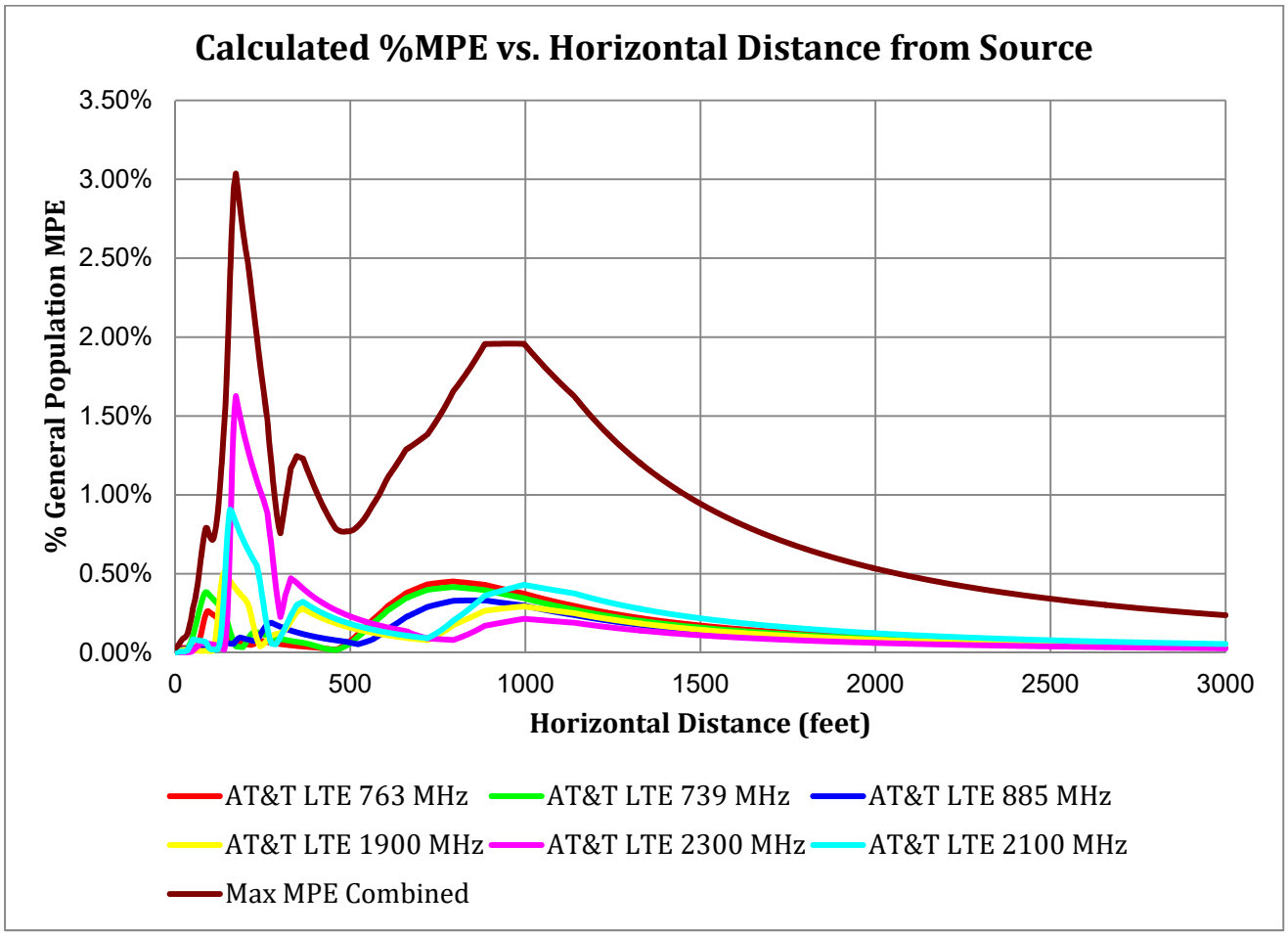


Figure 1: Graph of General Population % MPE vs. Distance

The highest percent of MPE (**3.04%** of the General Population limit) is calculated to occur at a horizontal distance of 173 feet from antennas. Please note that the percent of MPE calculations close to the site take into account off beam loss, which is determined from the vertical pattern of the antennas used. Therefore, RF power density levels may increase as the distance from the site increases. At distances of approximately 1000 feet and beyond, one would now be in the main beam of the antenna pattern and off beam loss is no longer considered. Beyond this point, RF levels become calculated solely on distance from the site and the percent of MPE decreases significantly as distance from the site increases.

Table 2 below lists percent of MPE values as well as the associated parameters that were included in the calculations. The highest percent of MPE value was calculated to occur at a horizontal distance of 173 feet from the site (reference Figure 1).

As stated in Section 3, all calculations assume that the antennas are operating at 100 percent capacity, that all antenna channels are transmitting simultaneously, and that the radio transmitters are operating at full power. Obstructions (trees, buildings etc.) that would normally attenuate the signal are not taken into account. In addition, a six foot height offset was considered in this analysis to account for average human height. As a result, the predicted signal levels are significantly higher than the actual signal levels will be from the final configuration. The results presented in Figure 1 and Table 2 assume level ground elevation from the base of the tower out to the horizontal distances calculated.

Carrier	Number of Transmitters	Power out of Base Station Per Transmitter (Watts)	Antenna Height (Feet)	Distance to the Base of Antennas (Feet)	Power Density (mW/cm^2)	Limit (mW/cm^2)	% MPE
AT&T LTE 1900 MHz	1	160.0	146.0	173	0.004047	1.000	0.40%
AT&T LTE 2100 MHz	1	240.0	146.0	173	0.008245	1.000	0.82%
AT&T LTE 2300 MHz	1	160.0	146.0	173	0.016259	1.000	1.63%
AT&T LTE 739 MHz	1	160.0	146.0	173	0.000199	0.493	0.04%
AT&T LTE 763 MHz	1	160.0	146.0	173	0.000335	0.509	0.07%
AT&T LTE 885 MHz	1	160.0	146.0	173	0.000443	0.590	0.08%
						Total	**3.04%**

Table 2: Maximum Percent of General Population Exposure Values

6. Conclusion

The above analysis verifies that RF exposure levels from the site with AT&T's proposed antenna configuration will be well below the maximum permissible levels as outlined by the FCC in the OET Bulletin 65 Ed. 97-01. Using the conservative calculation methods and parameters detailed above, the maximum cumulative percent of MPE in consideration of all transmitters is calculated to be **3.04% of the FCC limit (General Population/Uncontrolled)**. This maximum cumulative percent of MPE value is calculated to occur 173 feet away from the site.

7. Statement of Certification

I certify to the best of my knowledge that the statements in this report are true and accurate. The calculations follow guidelines set forth in ANSI/IEEE Std. C95.3, ANSI/IEEE Std. C95.1 and FCC OET Bulletin 65 Edition 97-01.

Report Prepared By: Marc Salas
RF Engineer
C Squared Systems, LLC

August 10, 2020
Date

Reviewed/Approved By: Martin J. Lavin
Sr. RF Engineer
C Squared Systems, LLC

August 12, 2020
Date

Attachment A: References

OET Bulletin 65 - Edition 97-01 - August 1997 Federal Communications Commission Office of Engineering & Technology

IEEE C95.1-2005, IEEE Standard Safety Levels With Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz IEEE-SA Standards Board

IEEE C95.3-2002 (R2008), IEEE Recommended Practice for Measurements and Computations of Radio Frequency Electromagnetic Fields With Respect to Human Exposure to Such Fields, 100 kHz-300 GHz IEEE-SA Standards Board

Attachment B: FCC Limits for Maximum Permissible Exposure (MPE)

(A) Limits for Occupational/Controlled Exposure[4]

Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (E) (A/m)	Power Density (S) (mW/cm^2)	Averaging Time $\|E\|^2$, $\|H\|^2$ or S (minutes)
0.3-3.0	614	1.63	(100)*	6
3.0-30	1842/f	4.89/f	($900/f^2$)*	6
30-300	61.4	0.163	1.0	6
300-1500	-	-	f/300	6
1500-100,000	-	-	5	6

(B) Limits for General Population/Uncontrolled Exposure[5]

Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (E) (A/m)	Power Density (S) (mW/cm^2)	Averaging Time $\|E\|^2$, $\|H\|^2$ or S (minutes)
0.3-1.34	614	1.63	(100)*	30
1.34-30	824/f	2.19/f	($180/f^2$)*	30
30-300	27.5	0.073	0.2	30
300-1500	-	-	f/1500	30
1500-100,000	-	-	1.0	30

f = frequency in MHz * Plane-wave equivalent power density

Table 3: FCC Limits for Maximum Permissible Exposure

[4] Occupational/controlled limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits for occupational/controlled exposure also apply in situations when an individual is transient through a location where occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

[5] General population/uncontrolled exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.

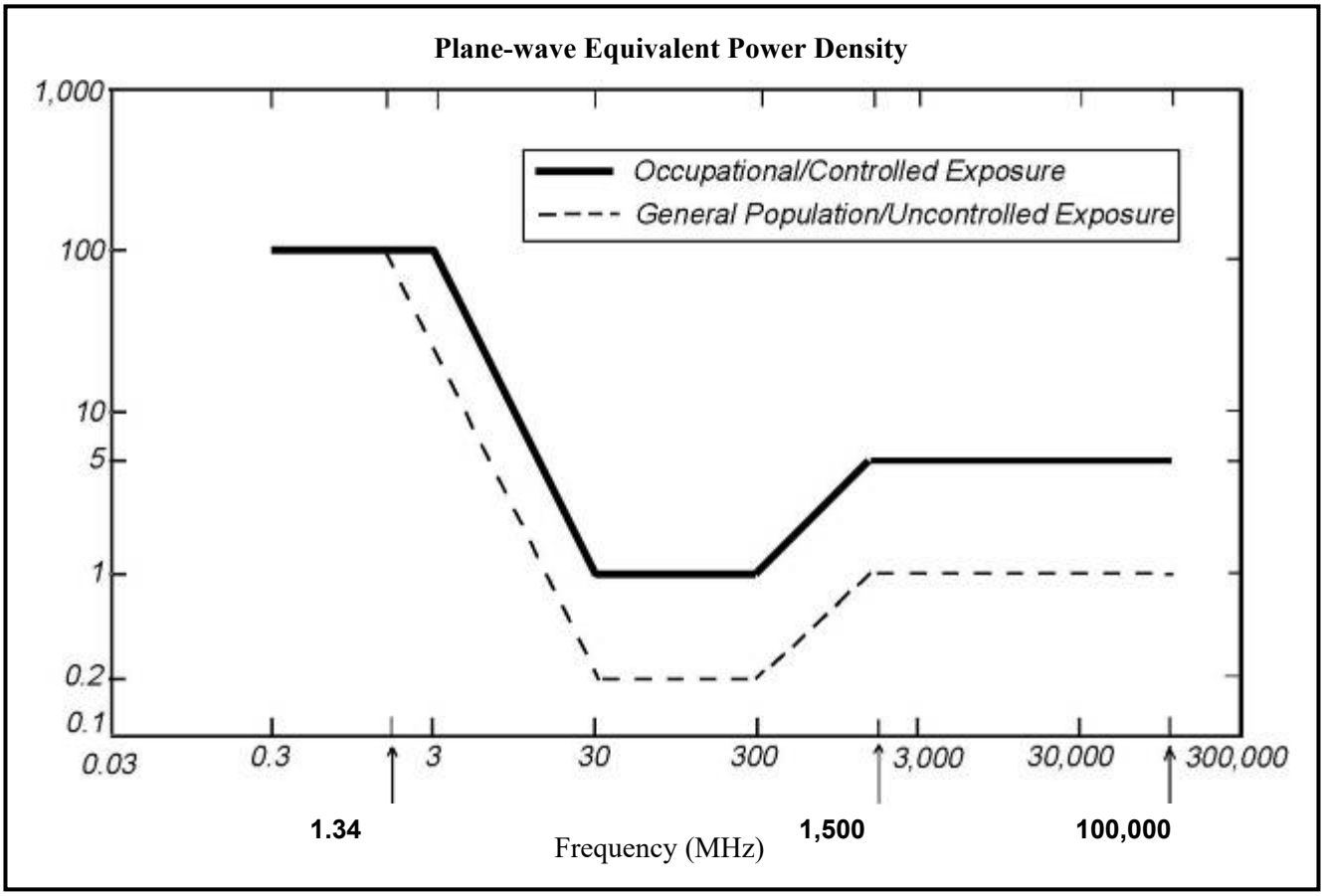
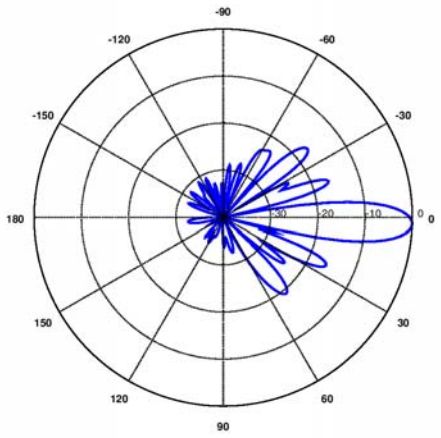


Figure 2: Graph of FCC Limits for Maximum Permissible Exposure (MPE)

Attachment C: AT&T Mobility Antenna Model Data Sheets and Electrical Patterns

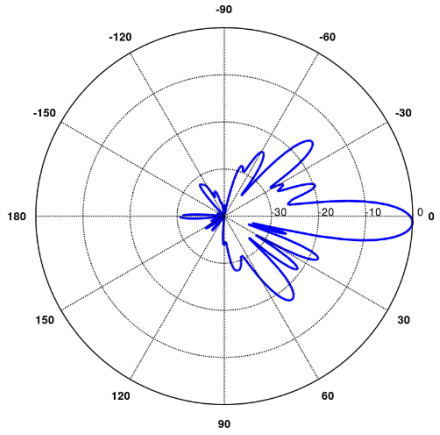
722 MHz

Manufacturer:	CCI
Model #:	DMP65R-BU8D
Frequency Band:	698-806 MHz
Gain:	15.1 dBi
Vertical Beamwidth:	9.5°
Horizontal Beamwidth:	75°
Polarization:	±45°
Dimensions (L x W x D):	96.0” x 20.7” x 7.7”



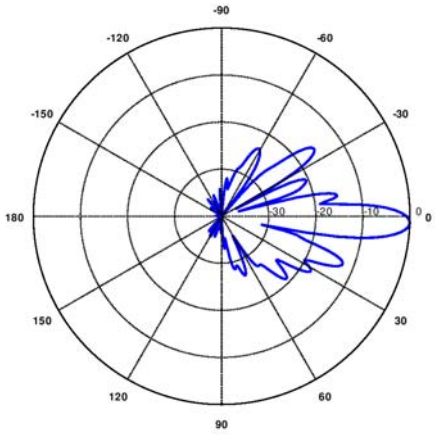
763 MHz

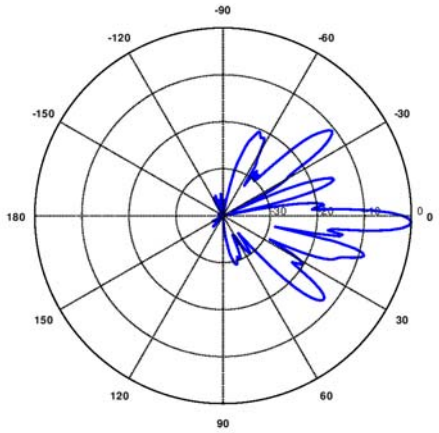
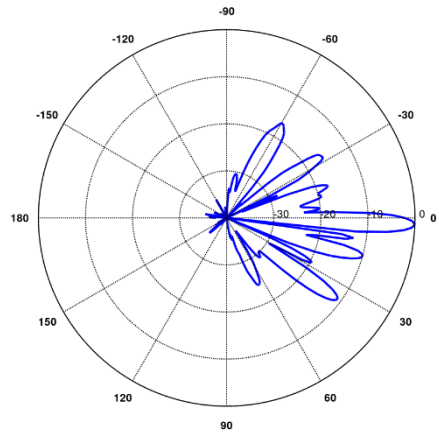
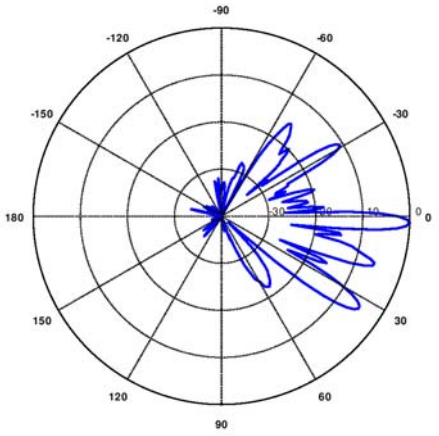
Manufacturer:	CCI
Model #:	TPA65R-BU8D
Frequency Band:	698-806 MHz
Gain:	15.6 dBi
Vertical Beamwidth:	9.5°
Horizontal Beamwidth:	74°
Polarization:	±45°
Dimensions (L x W x D):	96.0” x 20.7” x 7.7”



885 MHz

Manufacturer:	CCI
Model #:	DMP65R-BU8D
Frequency Band:	824-896 MHz
Gain:	16.0 dBi
Vertical Beamwidth:	8.0°
Horizontal Beamwidth:	64°
Polarization:	±45°
Dimensions (L x W x D):	96.0” x 20.7” x 7.7”



1900 MHz Manufacturer: CCI Model #: DMP65R-BU8D Frequency Band: 1850-1990 MHz Gain: 17.8 dBi Vertical Beamwidth: 5.1° Horizontal Beamwidth: 68° Polarization: ±45° Dimensions (L x W x D): 96.0” x 20.7” x 7.7”	
2100 MHz Manufacturer: CCI Model #: TPA65R-BU8D Frequency Band: 1920-2180 MHz Gain: 18.3 dBi Vertical Beamwidth: 4.7° Horizontal Beamwidth: 67° Polarization: ±45° Dimensions (L x W x D): 96.0” x 20.7” x 7.7”	
2300 MHz Manufacturer: KMW Model #: TPA65R-BU8D Frequency Band: 2300-2400 MHz Gain: 18.0 dBi Vertical Beamwidth: 4.1° Horizontal Beamwidth: 62° Polarization: ±45° Dimensions (L x W x D): 96.0” x 20.7” x 7.7”	

7

ProTerra
DESIGN GROUP, LLC

October 16, 2020

Ms. Michael Culbert
Vice President of Site Development
EIP Communications I, LLC
290 Congress Street, 7th Floor
Boston, MA 02210

RE: Engineer of Record Letter of Intent
EIP Holdings II, LLC
Rochester 5 (743597)
156A Lowell Street
Rochester, NH 03867

Ms. Culbert:

ProTerra Design Group, LLC (ProTerra) as the site civil Engineer of Record for the proposed EIP Holdings II, LLC telecommunications tower referenced above shall provide certification and/or documentation for the following:

- During the construction document phase of the project, ProTerra will verify that the site plans, tower design, and tower foundation design comply with the City of Rochester and the State of New Hampshire structural standards.
- An initial (pre-construction) Construction Control Affidavit (CCA) will be submitted outlining what, who, and how inspections will occur during construction.
- A final CCA will be submitted to the City's Code Enforcement Department verifying that the project has been constructed per the approved construction documents.

If you have any questions or need further information, please do not hesitate to call.

Sincerely,
ProTerra Design Group, LLC

STATE OF NEW HAMPSHIRE
JESSE M. MORENO No. 12502 LICENSED
PROFESSIONAL ENGINEER
10-16-2020

Jesse Moreno, PE
Managing Partner

8

File

BUILDING, ZONING & LICENSING SERVICES
31 Wakefield Street,
Rochester, New Hampshire 03867-1917
(603) 332-3976- Fax (603) 509-1912
Web Site: www.rochesternh.net

ZONING BOARD OF ADJUSTMENT
NOTICE OF DECISION
Case No 2014-05

September 11, 2014

2014-05 Request to rehear application by AT& T Mobility for a Special Exception to provide zoning relief, for construction and operation of a telecommunications tower and facility located on the Lowell St. property. According to section 42.24A(c)(9) of the City's Zoning Ordinance.

Location: 156 A Lowell St. Map 244 Lot 2 Blk 1, Agricultural Zone

The request for the special exception was ***Approved*** as presented with the following stipulations:

- To grant the special exception based upon Attorney Grossman and the Abutters agreement, regarding how far back the tower will be situated and the fact the utility lines will be underground as Attorney Grossman stipulated. The utility lines to come back out of the ground to overhead no closer than at least 20ft. into the tree line.
- To move the tower back as far as possible but no closer that 150 ft from the back property line. Defer the distance change and the review of the new placement of the tower to the Planning Department.

The motion passed unanimously by the five voting members.

_____
Ralph Torr, Chair
Rochester Board of Adjustment

It is the applicant's responsibility to obtain any applicable permits from local, state, and federal agencies. Contact the Department of Building, Zoning and Licensing Services at 332-3508 ext. 1, to apply for any necessary permits and certificates. Any work completed within the thirty (30) day appeal period, explained below, is at your risk.

Note: Any person affected has a right to appeal this decision. A request for a rehearing is the first step of an appeal. The request must be submitted to the Department of Building, Zoning and Licensing within **thirty (30) days** (calendar days starting the day after the decision is made). If a rehearing is not granted, the next step is to appeal to Superior Court within thirty (30) days. If a rehearing IS granted, it is the responsibility of the original applicant to present the case to the Zoning Board, with the same obligations and following the same procedure used when the case was first heard.

cc: Attorney Brian Grossman
John Nestor
Joseph P Casavant
Assessing Department
File

9

Abutters List Report

Rochester, NH
September 23, 2020

Subject Property:

Parcel Number:	0244-0002-0001	Mailing Address:	CASAVANT JOSEPH P & PAIGE DARIN
CAMA Number:	0244-0002-0001		214 WEST HIGH ST
Property Address:	156 LOWELL ST		SOMERSWORTH, NH 03878-1527

Abutters:

Parcel Number:	0134-0022-0000	Mailing Address:	IHEARTMEDIA TOWER CO I LLC %
CAMA Number:	0134-0022-0000		VERT BRIDGE CC PARENT LLC
Property Address:	115 ROCHESTER HILL RD		2800 POST OAK BLVD STE 3700
			HOUSTON, TX 77056-6170
Parcel Number:	0134-0022-0000	Mailing Address:	IHEARTMEDIA TOWER CO I LLC %
CAMA Number:	0134-0022-000A		VERT BRIDGE CC PARENT LLC
Property Address:	113 ROCHESTER HILL RD		2800 POST OAK BLVD STE 3700
			HOUSTON, TX 77056-6170
Parcel Number:	0135-0006-0000	Mailing Address:	PLANTE KIMBERLY A LIVING REV
CAMA Number:	0135-0006-0000		TRUST % K A PLANTE TRUSTEE
Property Address:	6 QUARRY DR		6 QUARRY DR
			ROCHESTER, NH 03867-4590
Parcel Number:	0140-0072-0000	Mailing Address:	SEAVEY DONALD E SR & JOAN M
CAMA Number:	0140-0072-0000		P O BOX 446
Property Address:	146 OLD DOVER RD		GEORGES MILLS, NH 03751-0446
Parcel Number:	0244-0001-0000	Mailing Address:	HAMANN FAMILY REV TRUST %
CAMA Number:	0244-0001-0000		HAMANN NORBERT J & CONSTANCE J
Property Address:	152 LOWELL ST		8 PLANTE ST
			ROCHESTER, NH 03867-3537
Parcel Number:	0244-0002-0000	Mailing Address:	THORP SCOTT R & FOLEY PAMELA
CAMA Number:	0244-0002-0000		ANN
Property Address:	156 LOWELL ST		156 LOWELL ST
			ROCHESTER, NH 03867
Parcel Number:	0244-0002-0001	Mailing Address:	CASAVANT JOSEPH P & PAIGE DARIN
CAMA Number:	0244-0002-0001		214 WEST HIGH ST
Property Address:	156 LOWELL ST		SOMERSWORTH, NH 03878-1527
Parcel Number:	0244-0003-0000	Mailing Address:	MACISAAC KAREN CORMIER
CAMA Number:	0244-0003-0000		P O BOX 466
Property Address:	158 LOWELL ST		ROCHESTER, NH 03866-0466
Parcel Number:	0244-0004-0000	Mailing Address:	BRITTON JOHN C & PAULETTE C
CAMA Number:	0244-0004-0000		168 LOWELL ST
Property Address:	168 LOWELL ST		ROCHESTER, NH 03867-3409

EIP Communications I, LLC - 133 Blackwater Road, Rochester, New Hampshire
Cities/Towns Within 20 Mile Radius

City of Rochester, NH City Council 31 Wakefield Street Rochester, NH 03867	Town of Strafford, NH Board of Selectmen Strafford Town Hall ATTN: Ellen White, Town Administrator P.O. Box 23 12 Mountain View Drive Strafford, NH 03884
Town of Wakefield, NH Board of Selectmen 2 High Street Sanbornville, NH 03872	Town of Pittsfield, NH Board of Selectmen Town Hall 85 Main Street Pittsfield, NH 03263
Town of Brookfield, NH Board of Selectmen 267 Wentworth Road Brookfield, NH 03872	Town of Chichester, NH Board of Selectmen Town Hall 54 Main Street Chichester, NH 03258
Town of Middleton, NH Board of Selectmen 182 Kings Highway Middleton, NH 03887	Town of Epsom, NH Board of Selectmen Selectmen's Office Town Office PO Box 10 940 Suncook Valley Highway Epsom, NH 03234
Town of New Durham, NH Board of Selectmen Town Hall 4 Main Street P.O. Box 207 New Durham, NH 03855	Town of Allenstown, NH Board of Selectmen 16 School Street Allenstown, NH 03275
Town of Alton, NH Board of Selectmen Attn: Alton Board of Selectmen PO BOX 659 1 Monument Square Alton, NH 03809	Town of Northwood, NH Board of Selectmen Northwood Town Hall 818 First New Hampshire Turnpike Northwood, NH. 03261
Town of Gilmanton, NH Board of Selectmen 503 Province Road P.O. Box 550 Gilmanton, NH 03237	Town of Deerfield, NH Board of Selectmen 8 Raymond Road Deerfield, NH 03037

Town of Barnstead, NH Board of Selectmen Selectmen's Office 108 South Barnstead Road PO Box 11 Center Barnstead, NH 03225	Town of Candia, NH Board of Selectmen Candia Town Offices 74 High Street Candia, NH 03034
Town of Milton, NH Board of Selectmen 424 White Mountain Highway P.O. Box 310 Milton, NH 03851	Town of Barrington, NH Select Board 333 Calef Highway PO Box 660 Barrington, NH 03825
Town of Farmington, NH Board of Selectmen Farmington Municipal Offices 356 Main Street Farmington, NH 03835	Town of Nottingham, NH Board of Selectmen P.O. Box 114 Nottingham, NH 03290
Town of Raymond, NH Board of Selectmen Raymond Town Offices 4 Epping Street Raymond, NH 03077	City of Somersworth, NH City Council One Government Way Somersworth, NH 03878
Town of Rollinsford, NH Select Board 667 Main Street P.O. Box 309 Rollinsford, NH 03869	City of Dover, NH City Council 288 Central Avenue Dover, NH 03820
Town of Madbury, NH Board of Selectmen 13 Town Hall Road Madbury, NH 03823	Town of Lee, NH Select Board Lee Town Hall 7 Mast Road Lee, NH 03861
Town of Epping, NH Board of Selectmen 157 Main Street Epping NH 03042	Town of Fremont, NH Board of Selectmen 295 Main Street PO Box 120 Fremont, NH 03044-0120
Town of Brentwood, NH Board of Selectmen 1 Dalton Road Brentwood, NH 03833	Town of Durham, NH Town Council Town Administrator's Office 8 Newmarket Road Durham, NH 03824

Town of Newmarket, NH Town Council Town Hall 186 Main Street Newmarket, NH 03857	Town of Newfields, NH Select Board 65 Main Street Newfields, NH 03856
Town of Exeter, NH Select Board 10 Front Street Exeter, NH 03833	City of Portsmouth, NH City Council Council Chambers 1 Junkins Avenue Portsmouth, NH 03801
Town of Greenland, NH Board of Selectmen PO Box 100 11 Town Square Greenland, NH 03840-0100	Town of Stratham, NH Select Board 10 Bunker Hill Avenue Stratham, NH 03885
Town of New Castle, NH Select Board New Castle Town Hall 49 Main Street P.O. Box 367 New Castle, NH 03854	Town of Rye, NH Board of Selectmen Rye Town Hall 10 Central Road Rye, NH 03870
Town of North Hampton, NH Select Board 233 Atlantic Avenue North Hampton, NH 03862	Town of Hampton, NH Board of Selectmen 100 Winnacunnet Road Hampton, NH 03842
Town of Hampton Falls, NH Board of Selectmen 1 Drinkwater Road Hampton Falls, NH 03844	Town of Kensington, NH Board of Selectmen Kensington Town Hall 95 Amesbury Road Kensington, NH 03833

§ 275-4.1 **Powers of Board.**

C. Special exceptions.

(1) The Board grants special exceptions for particular uses and activities as listed in the Tables of Uses in Article 18, Use Regulations, and as articulated in Article 22, Special Exceptions.

(2) The Board shall grant a special exception only if it reasonably determines that all of the following base criteria are met (in addition to those criteria and conditions included for specific uses in Article 22):

(a) Location. The specific site is an appropriate location for the proposed use or structure;

(b) Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

(c) Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

(d) Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

(e) Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan

§ 275-18.5 **Special exceptions.**

A use denoted in the tables by the letter "E" is permitted in that zoning district by special exception. Authorization of special exceptions is subject to review and approval by the Zoning Board of Adjustment as articulated in Article 22, Special Exceptions. For some special exceptions within specific districts there are additional standards and/or criteria that apply, beyond the base criteria applicable to all special exceptions. Where these additional standards and/or criteria apply there is a reference in the right column of the table. Always check these special criteria/conditions to see if they are applicable.

§ 275-22.2 **Base criteria.**

The Zoning Board of Adjustment shall approve a special exception if, and only if, it reasonably determines that all of the following criteria are met (in addition to those criteria/conditions articulated for specific uses in § **275-22.3** below, or in addition to those articulated elsewhere in this chapter for departures from standards):

A. Location. The specific site is an appropriate location for the proposed use or structure;

B. Neighborhood. The proposed use would not be detrimental, injurious, obnoxious, or offensive to the neighborhood;

C. Traffic. The proposed use would not create an undue hazard or nuisance to vehicular or pedestrian traffic;

D. Public facilities. Adequate and appropriate facilities and utilities would be provided to ensure the proper operation of the proposed use or structure; and

E. Master Plan. The proposed use or structure is consistent with the spirit of this chapter and the intent of the Master Plan.

275 Attachment 4

City of Rochester

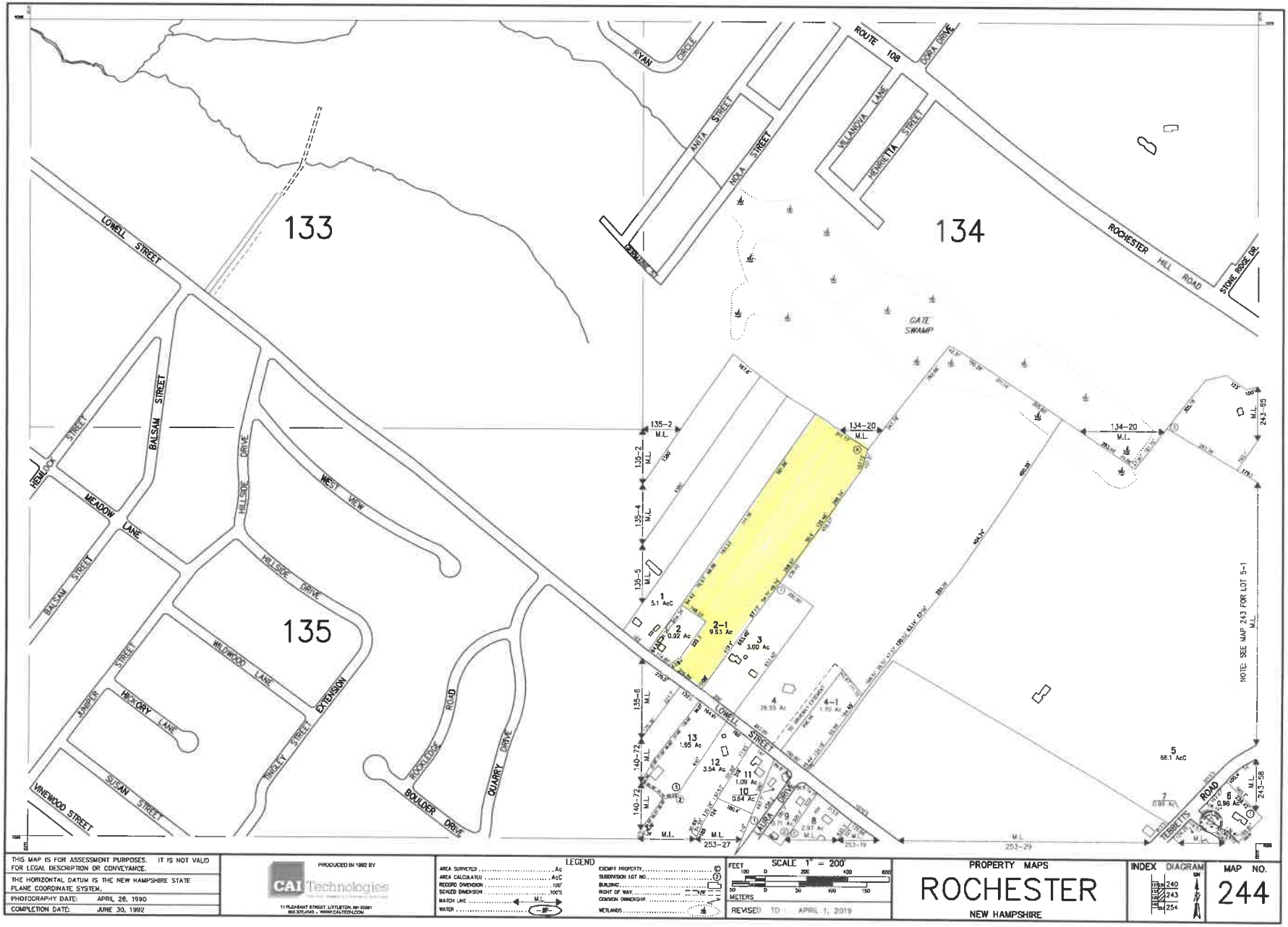
Table 18-D Industrial-Storage-Transport-Utility Uses

LEGEND
P = Permitted Use
C = Conditional Use
E = Use Allowed by Special Exception

Industrial-Storage-Transport-Utility-Uses	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Reference
Airport	—	—	—	E	—	—	—	—	—	—	—	P	Article 21
Contractor's storage yard	—	—	—	E	—	—	—	E	P	P	—	—	Articles 20 and 22
Distribution center	—	—	—	—	—	—	P	C	P	—	—	—	Article 21
Emergency services facility	—	—	—	—	C	C	—	C	C	—	P	—	Article 21
Fuel storage	—	—	—	—	—	—	P	E	E	—	—	—	Article 21
Helipad (accessory use)	—	—	—	E	—	E	P	E	P	P	P	P	Article 21
Industry, heavy	—	—	—	—	—	—	P	E	P	E	—	—	Article 21
Industry, light	—	—	—	—	—	—	P	P	P	—	—	—	Article 21
Industry, recycling	—	—	—	—	—	—	—	—	—	P	—	—	Articles 20 and 22
Junkyard	—	—	—	—	—	—	—	E	E	P	—	—	Articles 20 and 22
Laundry establishment-3	—	—	—	—	—	—	—	P	P	—	—	—	
Mini-warehouse	—	—	—	—	—	—	P	C	P	—	—	—	Articles 20 and 21
Monument production	—	—	C	—		C	—	P	P	P	—	—	Article 21
Parking lot	—	C	C	C	C	C	—	P	C	P	C	P	Article 21
Printing facility	—	—	C	—	—	P	P	P	P	—	—	—	
Recycling facility	—	—	—	—	—	—	—	E	E	P	—	—	Articles 20 and 22
Research and development	—	—	—	—	E	P	P	P	P	—	—	—	Article 21
Sawmill	—	—	—	—	—	—	—	—	E	—	—	—	Article 21
Sawmill, temporary (accessory use)	—	—	—	P	—	P	—	P	P	P	—	P	Article 23
Solid waste facility	—	—	—	—	—	—	—	—	—	P	—	—	Articles 20 and 22
Tank farm	—	—	—	—	—	—	P	C	P	—	—	—	

Industrial-Storage-Transport-Utility-Uses	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Reference
Trade shop	—	—	C	—	C	C	P	P	P	P	—	—	Article 21
Transportation service	—	—	C	—	C	—	P	P	C	C	—	—	Article 21
Truck terminal	—	—	—	—	—	—	P	—	C	C	—	—	Article 21
Utility - substation	E	E	E	E	E	C	E	P	P	P	E	E	Article 21
Utility - power generation	—	—	—	—	E	—	E	—	E	E	—	—	Article 21
Warehouse	—	—	C	—	C	C	P	P	P	C	—	C	Articles 20, 21 and 23
Wireless communications facility	—	—	—	E	E	E	P	E	P	P	E	E	Articles 20 and 22


Search by Address
156 lowell st
Search results (1)
Options
156 Lowell St, Rochester, NH 03867-4541
Lowell St
200 ft
100 m



THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.

THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.

PHOTOGRAPHY DATE: APRIL 28, 1990

COMPLETION DATE: JUNE 30, 1992

PRODUCED IN 1992 BY CAI Technologies

11 PLEASANT STREET, LITTLETON, NH 03561
603.575.4145 • WWW.CAITECH.COM

LEGEND

AREA SURVEYED ..... Ac
AREA CALCULATED ..... AcC
RECORD DIMENSION ..... 100'
SCALED DIMENSION ..... 100'S
MATCH LINE ..... M.L.
WATER ..... W

EXEMPT PROPERTY ..... E
SUBDIVISION LOT NO. 2
BUILDING ..... B
RIGHT OF WAY ..... ROW
COMMON OWNERSHIP C
WETLANDS .....

SCALE 1" = 200'

FEET 100 0 200 400 600

METERS 50 0 50 100 150

REVISED TO: APRIL 1, 2019

PROPERTY MAPS

ROCHESTER

NEW HAMPSHIRE

INDEX DIAGRAM

240 243 254

MAP NO. 244

0244	0002	0001
Map	Block	Lot

Building Location
156-A LOWELL ST

Acct: 12750

City of Rochester

	Total Card	Total Parcel
APPRAISED:	84,600 /	84,600
USE VALUE:	0 /	0
ASSESSED:	84,600 /	84,600

Property Location

No.	Alt No.	Direction/Street/City
156	A	LOWELL ST, ROCHESTER

Ownership

Unit No.

Owner 1	CASAVANT JOSEPH P &
Owner 2	PAIGE DARIN
Owner 3	
Street 1	214 WEST HIGH ST
Street 2	
Town/City	SOMERSWORTH
St/Prov	NH
Country	
Occ	N
Postal	03878
Type	

Previous Owner

Owner 1	CASAVANT JOSEPH P
Owner 2	
Street 1	16 SUNSET DR
Town/City	SOMERSWORTH
St/Prov	NH
Country	
Postal	03878

Narrative Description

This parcel contains 9.63000 AC of land mainly classified as ACCESS BLDG with a Building, having primarily Exterior.

Other Assessments

Code	Description	Amount	Com Int

Property Factors

Item	Code	Description	%	Item	Code	Description
Zone 1	A	AGRICULTURAL	100	Utility 1	4	NONE
Zone 2				Utility 2		
Zone 3				Utility 3		
Census Tract				Exempt		
Flood Hazard						
District 1	RO	ROCHESTER	0	Topo	1	LEVEL
District 2				Street	1	PAVED
District 3				Traffic	4	MEDIUM

In Process Appraisal Summary (First 4 Lines Only)

Use Code	Land Size	Building Value	Yard Items	Land Value	Total Value
108	9.63	0.00	3,000.00	81,600.00	84,600.00
Total Card	9.63	0.00	3,000.00	81,600.00	84,600.00
Total Parcel	9.63	0.00	3,000.00	81,600.00	84,600.00
Source	Mkt Adj Cost	Total Value per Sq Unit /Card		N/A	/Parcel N/A

Legal Description

Entered Lot Size	
Total Land	9.63
Land Unit Type	AC - EXCESS ACRES

Parcel ID 0244-0002-0001

User Account 19558

GIS Reference

GIS Reference

Inspection Date

Patriot Properties Inc.
User Defined

ASR Map	
Factor District	
Reval District	
Market Area	
Year	
Change Reason	

Previous Assessment (First 9 Lines Only)

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Assessed Value	Notes	Date
2020	108	EX	0	3,000	9.6300	81,600	84,600	84,600		10/19/2020
2019	108	FV	0	3,000	9.6300	81,600	84,600	84,600		10/30/2019
2018	108	FV	0	900	9.6300	66,600	67,500	67,500	Year End Roll	09/19/2018
2017	108	FV	0	900	9.6300	66,600	67,500	67,500	Year End Roll	09/07/2017
2016	108	FV	0	900	9.6300	66,600	67,500	67,500	Year End Roll	09/08/2016
2015	108	FV	0	900	9.6300	66,600	67,500	67,500	Year-end	10/01/2015
2014	108	FV	0	900	9.6300	66,600	67,500	67,500	Year End Roll	09/29/2014
2013	130	FV	0	0	9.6300	90,200	90,200	90,200	Year End Roll	09/04/2013
2012	130	FV	0	0	9.6300	90,200	90,200	90,200	Year End Roll	09/20/2012

Print

Date	Time
10/20/20	14:59:12

Last Rev

Date	Time
05/14/19	12:55:00

jon

Pat Acct 12750

Tax District

Sales Information (First 5 Lines Only)

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	TSF	Verification	Notes
CASAVANT JOSEPH P	4176-167	2	10/25/2013	Fam/Rel/Affi	0.00	No	No	OTHER	
THORP SCOTT R	3724-790	99	03/31/2009	? Title	0.00	No	No	OTHER	
CASAVANT LIONEL T & RITA C	1650-11	2	12/08/1992	Fam/Rel/Affi	0.00	No	No	OTHER	

Card
1 of 1

Building Permits (First 8 Lines Only)

Date	Number	Description	Amount	C\O	Last Visit	Fed Code	F. Description	GeneralNotes

Activity Information (First 11 Lines Only)

Date	Result	By	Name
12/18/2015	OWN ADD CHG	LA	LEONA
11/14/2013	DEED CHANGE	VK	VERNA
08/12/2013	EXT ONLY	NM	NANCY
04/15/2009	DEED CHANGE	VB	VERNA
01/28/2009	NAME CHG	VB	VERNA
12/31/2008	DEED CHANGE	VB	VERNA

Land Section (First 9 Lines Only)

Sign: ___/___/____

Use Code	Description	LUC Factor	No of Units	Depth/ PriceUnit	Unit Type	Land Type	LT Factor	Base Value	Unit Price	Adjusted Unit Price	Neigh	Neigh Infl	Neigh Modifier	Infl 1	%	Infl 2	%	Infl 3	%	Appraised Value	Alt Class	%	Spec Land	Juris	Land Factor	Assessed Value	Notes
108	ACCESS BLDG	1.0000	1.0000		PRIMARY ACRE	UNDEVELOP	1.00000		60,000.00	60,000.00	1070	1.000								60,000		0			1.00000	60,000	
108	ACCESS BLDG	1.0000	8.6300		EXCESS ACRES	EXCESS	1.00000	0.00	2,500.00	2,502.90	1070	1.000								21,600		0			1.00000	21,600	
Total AC/HA			9.63000		Total SF/SM			419,482.80000		Parcel LUC	108	ACCESS BLDG		Prime NB Desc	RESIDENTIAL			Total	81,600.00	Total			Total	81,600	

Exterior Information

Type			
Story Height			
(Liv) Units		Total	
Foudation			
Frame			
Prime Wall			
Sec Wall			
Roof Struct			
Roof Cover			
Color			
View/Desir			
Bld Name			

Bath Features

Full Bath		Rating	
A Bath		Rating	
3/4 Bath		Rating	
A 3QBath		Rating	
1/2 Bath		Rating	
A HBath		Rating	
Othr Fix		Rating	

Other Features

Kitchen		Rating	
A Kitchen		Rating	
Fireplace		Rating	
WSFlues		Rating	

Comments

SUBD APPR FOR 244-2 CREATED 244-2-1
11-29-2007 ROD 92-72

Sketch

Res Breakdown (First 4 Only)

No Unit	Rooms	Bed Rooms	Floor
Totals			

General Information

Grade			
Year Blt		Eff Yr Blt	
Alt LUC		Alt %	
Jurisdict		Fact	1.00000
Const Mod			
Lump Sum Adj			

Condo Information

Location	
Total Units	0
Floor	
% Own	
Name	

Remodeling

Exterior	
Interior	
Additions	
Kitchen	
Baths	
Plumbing	
Electric	
Heating	
General	

Mobile Home

Make	
Model	
Serial #	
Year	0
Color	

0244-0002-0001

Parcel ID

Interior Information

Avg Ht/Fl			
Prime Int Wall			
Sec Int Wall			
Partition			
Prim Floors			
Sec Floors			
Basement Floors			
Subfloor			
Basement Garage			
Electric			
Insulation			
Int vs Ext			
Heat Fuel			
Heat Type			
# Heat Sys			
% Heated	0	% AC	0
Solar HW	No	Cntrl Vac	No
% Com Wall	0	% Sprinkled	0

Depreciation

Phys Cond		
Functional		
Economic		
Special		
Override		
Total		

Calc Summary

Basic $ / SQ	0.00000
Size Adj	1.00000
Const Adj	1.00000
Adj $ / SQ	0.00000
Other Features	0.00
Grade Factor	1.00000
NBHD Inf	1.00000
NBHD Mod	1.00000
LUC Factor	1.00000
Adj Total	0
Depreciation	0
Depricated Total	0

Comparable Sales (First 7 Only)

Rating	Parcel ID	Type	Date	Sale Price
WtAv$/SQ		AvRate		
Ind Val				

Sub Area (First 8 Only)

Code	Description	Area - SQ	Rate - AV	Undepr Value
Net Sketched Area			Total	
Size Adj		Gross Area		Fin Area

Sub Area Detail (First 10 Only)

Sub Area	% Usbl	Description	% Type	Qu	# of Tenants

Juris Factor	1.00000	Before Depr	0.00
Special Features	0.00	Val/Su Net	0.00
Final Total	0.00	Val/Su SzAd	0.00

Special Features/Yard Items (First 20 Lines Only)

Code	Description	A	Y/S	Qty	Size/Dim	Qual	Con	Year	Unit Price	D/S	Dep	LUC	Fact	NB	Fact	Appr Value	J Code	J Fact	Juris Value
01	SHED FRAME	D	Y	1	10.00x12.00	C	AV	2008	28.15	T	30%	108	1.00000	1070	1.00000	2,300.00		1.00000	2,300.00
10	CANOPY	A	Y	1	6.00x8.00	C	AV	2010	14.80	T	20%	108	1.00000	1070	1.00000	700.00		1.00000	700.00
More	N		Total Yard Items					3,000.00	Total Special Features							Total SFYI			3,000.00

Image

Abutters List Report

Rochester, NH
September 23, 2020

Subject Property:

Parcel Number:	0244-0002-0001	Mailing Address:	CASAVANT JOSEPH P & PAIGE DARIN
CAMA Number:	0244-0002-0001		214 WEST HIGH ST
Property Address:	156 LOWELL ST		SOMERSWORTH, NH 03878-1527

Abutters:

Parcel Number:	0134-0022-0000	Mailing Address:	IHEARTMEDIA TOWER CO I LLC %
CAMA Number:	0134-0022-0000		VERT BRIDGE CC PARENT LLC
Property Address:	115 ROCHESTER HILL RD		2800 POST OAK BLVD STE 3700
			HOUSTON, TX 77056-6170
Parcel Number:	0134-0022-0000	Mailing Address:	IHEARTMEDIA TOWER CO I LLC %
CAMA Number:	0134-0022-000A		VERT BRIDGE CC PARENT LLC
Property Address:	113 ROCHESTER HILL RD		2800 POST OAK BLVD STE 3700
			HOUSTON, TX 77056-6170
Parcel Number:	0135-0006-0000	Mailing Address:	PLANTE KIMBERLY A LIVING REV
CAMA Number:	0135-0006-0000		TRUST % K A PLANTE TRUSTEE
Property Address:	6 QUARRY DR		6 QUARRY DR
			ROCHESTER, NH 03867-4590
Parcel Number:	0140-0072-0000	Mailing Address:	SEAVEY DONALD E SR & JOAN M
CAMA Number:	0140-0072-0000		P O BOX 446
Property Address:	146 OLD DOVER RD		GEORGES MILLS, NH 03751-0446
Parcel Number:	0244-0001-0000	Mailing Address:	HAMANN FAMILY REV TRUST %
CAMA Number:	0244-0001-0000		HAMANN NORBERT J & CONSTANCE J
Property Address:	152 LOWELL ST		8 PLANTE ST
			ROCHESTER, NH 03867-3537
Parcel Number:	0244-0002-0000	Mailing Address:	THORP SCOTT R & FOLEY PAMELA
CAMA Number:	0244-0002-0000		ANN
Property Address:	156 LOWELL ST		156 LOWELL ST
			ROCHESTER, NH 03867
Parcel Number:	0244-0002-0001	Mailing Address:	CASAVANT JOSEPH P & PAIGE DARIN
CAMA Number:	0244-0002-0001		214 WEST HIGH ST
Property Address:	156 LOWELL ST		SOMERSWORTH, NH 03878-1527
Parcel Number:	0244-0003-0000	Mailing Address:	MACISAAC KAREN CORMIER
CAMA Number:	0244-0003-0000		P O BOX 466
Property Address:	158 LOWELL ST		ROCHESTER, NH 03866-0466
Parcel Number:	0244-0004-0000	Mailing Address:	BRITTON JOHN C & PAULETTE C
CAMA Number:	0244-0004-0000		168 LOWELL ST
Property Address:	168 LOWELL ST		ROCHESTER, NH 03867-3409

EIP Communications I, LLC - 133 Blackwater Road, Rochester, New Hampshire
Cities/Towns Within 20 Mile Radius

City of Rochester, NH City Council 31 Wakefield Street Rochester, NH 03867	Town of Strafford, NH Board of Selectmen Strafford Town Hall ATTN: Ellen White, Town Administrator P.O. Box 23 Strafford, NH 03884
Town of Wakefield, NH Board of Selectmen 2 High Street Sanbornville, NH 03872	Town of Pittsfield, NH Board of Selectmen Town Hall 85 Main Street Pittsfield, NH 03263
Town of Brookfield, NH Board of Selectmen 267 Wentworth Road Brookfield, NH 03872	Town of Chichester, NH Board of Selectmen Town Hall 54 Main Street Chichester, NH 03258
Town of Middleton, NH Board of Selectmen 182 Kings Highway Middleton, NH 03887	Town of Epsom, NH Board of Selectmen Selectmen's Office Town Office PO Box 10 940 Suncook Valley Highway Epsom, NH 03234
Town of New Durham, NH Board of Selectmen Town Hall 4 Main Street P.O. Box 207 New Durham, NH 03855	Town of Allenstown, NH Board of Selectmen 16 School Street Allenstown, NH 03275
Town of Alton, NH Board of Selectmen Attn: Alton Board of Selectmen PO BOX 659 1 Monument Square Alton, NH 03809	Town of Northwood, NH Board of Selectmen Northwood Town Hall 818 First New Hampshire Turnpike Northwood, NH. 03261
Town of Gilmanton, NH Board of Selectmen 503 Province Road P.O. Box 550 Gilmanton, NH 03237	Town of Deerfield, NH Board of Selectmen 8 Raymond Road Deerfield, NH 03037

Town of Barnstead, NH Board of Selectmen Selectmen's Office 108 South Barnstead Road PO Box 11 Center Barnstead, NH 03225	Town of Candia, NH Board of Selectmen Candia Town Offices 74 High Street Candia, NH 03034
Town of Milton, NH Board of Selectmen 424 White Mountain Highway P.O. Box 310 Milton, NH 03851	Town of Barrington, NH Select Board 333 Calef Highway PO Box 660 Barrington 03825
Town of Farmington, NH Board of Selectmen Farmington Municipal Offices 356 Main Street Farmington, NH 03835	Town of Nottingham, NH Board of Selectmen P.O. Box 114 Nottingham, NH 03290
Town of Raymond, NH Board of Selectmen Raymond Town Offices 4 Epping Street Raymond, NH 03077	City of Somersworth, NH City Council One Government Way Somersworth, NH 03878
Town of Rollinsford, NH Board of Selectmen 667 Main Street P.O. Box 309 Rollinsford, NH 03869	City of Dover, NH City Council 288 Central Avenue Dover, NH 03820
Town of Madbury, NH Board of Selectmen 13 Town Hall Road Madbury, NH 03823	Town of Lee, NH Select Board Lee Town Hall 7 Mast Road Lee, NH 03861
Town of Epping, NH Board of Selectmen 157 Main Street Epping NH 03042	Town of Fremont, NH Board of Selectmen 295 Main Street PO Box 120 Fremont, NH 03044-0120
Town of Brentwood, NH 1 Dalton Road Brentwood, NH 03833	Town of Durham, NH Town Council Town Administrator's Office 8 Newmarket Road Durham, NH 03824

Town of Newmarket, NH Town Hall 186 Main Street Newmarket, NH 03857	Town of Newfields, NH Board of Selectmen 65 Main Street Newfields, NH 03856
Town of Exeter, NH Select Board 10 Front Street Exeter, NH 03833	City of Portsmouth, NH City Council Council Chambers 1 Junkins Avenue Portsmouth, NH 03801
Town of Greenland, NH Board of Selectmen PO Box 100 11 Town Square Greenland, NH 03840-0100	Town of Stratham, NH Select Board 10 Bunker Hill Avenue Stratham, NH 03885
Town of New Castle, NH Select Board New Castle Town Hall 49 Main Street P.O. Box 367 New Castle, NH 03854	Town of Rye, NH Board of Selectmen Rye Town Hall 10 Central Road Rye, NH 03870
Town of North Hampton, NH 233 Atlantic Avenue North Hampton, NH 03862	Town of Hampton, NH Board of Selectmen 100 Winnacunnet Road Hampton, NH 03842
Town of Hampton Falls, NH Board of Selectmen 1 Drinkwater Road Hampton Falls, NH 03844	Town of Kensington, NH Board of Selectmen Kensington Town Hall 95 Amesbury Road Kensington, NH 03833