

July 28, 2021
Planning Board
Town of Heath
PO Box 689
1 E Main St
Heath, MA 01346

Subject: Special Permit Applicant: New Cingular Wireless PCS, LLC ("AT&T")

Special Permit Description: Personal Wireless Facility at 0 Rowe Road a/k/a 43 Knott Rd

Reference: Adams-Maloney Letter dated April 26, 2021

Adams-Maloney Letter dated May 16, 2021

Adams-Maloney Letter dated May 18, 2021

Adams-Maloney Letter dated June 22, 2021

Dear Planning Board Members,

As abutters, we have written four previous letters to highlight our extensive concerns with the wireless facility being proposed by the applicant of this special permit. As summarized below, the project clearly conflicts with the Heath Zoning Bylaws with respect to granting a Special Permit. Additionally, the applicant has decided to submit documents that are woefully insufficient, non-responsive to the requests from the abutters and developed ignoring the information available in order to present an inaccurate assessment of the site. For these reasons, we request that the Planning Board deny the Special Permit Application by AT&T.

The reasons for denying merit on this application are numerous. The black text in the following five bullets is from our June 22 letter with an update in blue text.

- Conduct a site-specific field wetland delineation effort during the growing season: Our May 18th letter noted [In section 6.3.4.2 Environmental Standards of the Heath Zoning Bylaws, Subsection B.1. states that "personal wireless service facilities shall not be located in wetlands..." and "wireless facilities in wetland buffer areas shall be avoided..." AT&T's finding is "Applicant has determined the proposal will not create an impact on any designated such wetlands or buffer areas."]. From assessing the site in-person, it is now clear to us that the southern end of the proposed access road goes over an intermittent stream bed for a couple hundred feet. The stream is distinctive. It is therefore quite concerning that it could have been missed by the applicant's engineers and scientist. See Exhibit 1 photos. This is just one example of why a site-specific field wetland delineation is required for this proposal in order to be in compliance with the Massachusetts Wetland Protection Act.

[Update 7/28/2021: Based on the applicant's "Response to the Public Comments" dated July 23, 2021, the access road and tower location needed to be staked out and then a wetlands' expert "will inspect the site...and file her findings and report with the Planning Board". It is unclear from the response whether these "findings and report" would be a formal wetland delineation. The applicant continues to utilize data available on-line versus the actual conditions of the site. See discussion under the third bullet regarding the "NEPA Screening Report". Given that this area is known for numerous wetlands and a very high water-table throughout, a formal onsite wetland delineation during the growing season is not an option or preference, it is a necessity. See photos attached to the end of this letter from the site taken last week. Note that these photos are just three examples of the overall conditions that existed over the entirety of the access road alignment.](#)

- Assess the property for habitat for the northern long-eared bat and the potential negative impacts of this project in accordance with federal guidelines. Our May 18th letter noted [There are lands within Rowe that have been identified as winter hibernacula for the endangered northern long-eared bat. Given the proximity of the identified land for this protected species, and the tree clearing proposed for the access route, the Town of Heath should be requiring this applicant to assess this property for habitat of the

northern long-eared bat and the potential negative impacts of this proposed project to them in accordance with federal guidelines.]

Update 7/28/2021: Based on the applicant's "Response to the Public Comments" dated July 23, 2021, their approach is that lacking any previous identification of the bat within 150-feet of the Project Site, they have no obligation to assess the property for the existence of protected habitat. As noted previously, there are identified winter hibernacula within a few miles of this site. As such, it would seem appropriate that as part of the other environmental assessments that need to be conducted, that an assessment with respect to this protected species would be undertaken.

- Release copies of any ecological data collected and any environmental filings to-date. Our May 16th letter noted [This letter is focused on the immediate need to receive all data collected regarding the potential ecological resources and copies of all National Environmental Policy Act (NEPA) and Massachusetts Environmental Policy Act (MEPA) filings that have been made.] During the meeting on May 24th, a representative of the applicant stated that environmental filings have occurred. I had expected that copies of these would have been made shortly after the meeting, but none have been made available to the public.

Update 7/28/2021: During the June 26, 2021 meeting, a representative of the applicant noted that a NEPA filing had occurred and that they would release the findings once issued. The applicant's "Response to the Public Comments" dated July 23, 2021 states that they have supplied a link to the NEPA report for this site. What has been made available is a "NEPA Screening Report" dated July 6, 2021. It is unclear what this document represents and with what context it has been used. At the two previous meetings, the applicant stated that they had already submitted a NEPA filing. To-date, this filing has not been made public nor has a status of the filing been issued. We request that the applicant supply the formal NEPA documents and explain the context and intended use of the recently developed NEPA Screening Report.

In the "SIGNIFICANT CHANGES TO SURFACE FEATURES - Wetlands" portion of their report, it states "EBI did not observe any readily identifiable wetlands or wetland characteristics (e.g. standing water, hydrophytic vegetation, soil saturation and inundation, drainage patterns and sediment deposition, watermarks and drift lines on trees and vegetation, or water stained leaves). A review of the USFWS National Wetlands Inventory (NWI) map (see attached) did not identify any wetlands in the immediate vicinity of the Project Site." What is disturbing with this excerpt is the continued disregard for the actual field conditions. As noted under the first bullet, this site consisted of countless areas of standing water, saturated soils and running water after a recent rain event. See photos attached to the end of this letter from the site taken last week.

- Develop a Visual Impact Assessment with 3-D renderings for the southern terminus of the facility's access road: As noted our letters on April 24 and May 18, the visual impacts of the entire facility must be assessed and reviewed. With the applicant's proposal, the access road is one of the most prominent features as seen from Rowe Road. Our May 18th letter noted [As I pointed out during the hearing on April 26, 2021, the facility access road from Rowe Rd will be one of the most prominent aspects of this project and has been completely left out of almost all the assessments completed to-date. During the meeting, the applicant was completely unaware of the width of tree clearing required by their design (up to 70-ft) to support a 12-ft access drive. The area of particularly wide tree clearing is in the vicinity of Rowe Rd. It is required due to the site topography (sloping up from the east towards the west as the access road is heading north). It is the topography of this specific site that necessitates a design that does not meet the character preservation concerns for this part of Heath.]

Update 7/28/2021: It's appreciated that the applicant has developed two 3D images for how the access road at the terminus with Rowe Rd would appear if constructed. Unfortunately, the images do NOT match the construction plans. The second 3D image shows minimal side slopes and no tree clearing on these side slopes. The construction plans accurately reflect that this is not how the road will need to be constructed. There will be side slopes necessary in this area that will need to be clear-cut of vegetation for between 25 and 35-ft on each side. This image does not reflect what would be constructed. The first 3D image is similarly a distortion of the constructed condition. This image does NOT show the substantial proposed grass swell. Also note that leaving 12-ft of "vegetation" between Rowe Rd and the swell will consist of not much other than air.

· Update the “Statement of Site Acquisition Specialist” to remove or clarify shortcomings and inaccuracies in this document: Our May 18th letter identifies a number of statements within this document that reflects a total lack of knowledge and understanding of the community of Heath. As noted in our May 18th letter, there are statements with this document that when read together makes a clear case to deny a special permit [Given that the subject parcel “provides the only feasible solution” and that it does not come close to closing the significant gaps that exist in covering the area, why would the Town of Heath allow this facility to be permitted? One of the applicant’s key stated goals was that this facility was necessary as part of a larger need to site numerous other future facilities to reliably close the gaps in the Heath/Rowe area. Why would the Town accept the negative impacts on Rowe Road and to the property owners in the area of this facility knowing that the larger goal would never be achieved?] The Board must find that this proposal will not negatively impact “the rural quality, character and overall appearance (i.e. lack of development) of the Town”. With the inaccurate and cookie-cutter nature of the current “Statement of Site Acquisition Specialist”, how could the Board use it as a basis for approving this application?

Update 7/28/2021: The applicant continues to support their application with documents that are full of shortcomings and inaccuracies based on a review of their “Response to the Public Comments” dated July 23, 2021. Many of these are already highlighted above. Some additional ones include:

- o cell coverage data and narratives appear to continue ignoring the recently added new cell tower in Colrain when making very definitive statements such as “due to the lack of any coverage in the area of the proposed site” and “there is no realistic dispute about the existence and significance of AT&T’s coverage gap in Heath”; such definitive statements, when their assessments are incomplete, is a distortion of the situation;
- o The applicant continues to assert that they have done due diligence in determining that there are no other preferred alternatives in Heath for locating a tower – see applicant’s responses to Ed Whitaker’s 6/28/2021 letter.

One new item that we were previously unaware of relates to the existence of backup generators at the site that will be tested weekly. One of the truly special elements of Heath is how sound travels throughout the hills. Most every evening, we hear the sound of train whistles coming from more than five miles away. Each August, we hear the sounds of fair goers and events at the fairgrounds a couple miles away. Each fall, I often lose hours listening to the sound of a breeze heading up the hills ending with the rustle of the leaves on our property, to be followed by another, and another... Continuously, every day, we hear wildlife that is ever changing. The sound of generators is not the type of sounds that we feel are compatible with the “community character of the Town”.

As we noted in our previous letters and during both public hearings, there are key responsibilities that the Planning Board has with respect to granting a Special Permit. Some excerpts from the Town of Heath Protective Zoning Bylaws:

- 6.3.1.3 covering zoning requirements for Personal Wireless Service Facilities includes to “Preserve the rural quality, character and overall appearance (i.e. lack of development) of the Town...”
- 6.1.1 states the purpose as “Special Permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon...the community character of the Town among other considerations. The Special Permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and to insure that proposals are consistent with the purpose and intent of this bylaw.”
- Section 6.1.9.C states “The proposal will avoid or minimize topographic change, removal of mature trees or other botanical assets, removal of cover vegetation, risk of erosion or siltation, increased storm water runoff from the site, or displacement of natural habitats.”
- Section 6.1.9.F states “The proposal is compatible with the neighborhood character.”

It is clear when considering the overall facility, that it is not harmonious with its surroundings nor with the neighborhood character, of which Rowe Rd is an essential aspect. As noted above, it is the topography of the specific site chosen that causes the major impact associated with the design of the access road and

one of the key ways on how this facility interfaces with the community. It will require destruction of mature trees and other botanical assets, as well as cover vegetation in an area otherwise deemed ecologically sensitive.

Every community has different components that make up their "character." Special Permits are required when certain uses have the strong possibility of negatively impacting the character of a community or neighborhood. Heath has a very special character that is precisely why most Heathens choose to reside here. That character includes solitude and the delicate essence and balance of nature around us. We believe that the project being proposed will have a very real and negative impact to the local character and certainly to those who live nearest to it.

The issuance of a Special Permit by the Planning Board is a serious responsibility and one that should not be taken lightly. The Board needs to make certain that the applicant's facility is appropriate for the location, will not have impacts to the ecology and meets the intent of the zoning bylaws. They also need to verify that all other "preferred" locations for a similar facility, as required in the bylaws, have been completely assessed and that there are none.

As butters to the location of this project, we have lived on Rowe Road for 20 years. And, despite having relocated our primary residence to the southwest, we have for each of the last 7 years traveled across the country back to Heath precisely because of the peaceful and natural character of Rowe Road, Heath, and our home there.

We strongly ask for the Planning Board to deny this application for a Special Permit.

Thank you for taking our comments into consideration on this important project. If you have any questions, do not hesitate to contact us at our contact info below.

Sincerely,

Barry Adams PhD

Kevin Maloney PE

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617-599-6936

Copies to: Hilma Sumner, Town Coordinator

Robyn Provost-Carlson, Select Board Chair

Brian DeVriese, Select Board Member

Susan Lively, Select Board Member

Photo 1 – Photo of Running Water – July 18, 2021

Photo is taken in general vicinity of the proposed access road and shows an example of running water

Photo 2 – Photo of Ponding Water – July 18, 2021

Photo is taken in general vicinity of the proposed access road and shows an example of ponding water

Photo 3 – Photo of Saturated Soils – July 18, 2021

Photo is taken in general vicinity of the proposed access road and shows an example of saturated soils

Chief John McDonough
Heath Police Department
heathpd@townofheath.org
1 East Main Street – P.O. Box 35 – Heath, MA 01346
Shelburne Control (413) 625-8200
Department # 413-337-4934 ext 108

August 8, 2021

To the Members of the Heath Planning Board.

In response to your recent request and based on the need for public safety communications, I am sending this email in support of the application filed by AT&T for a communications tower currently pending before the Planning Board. As we all know, there is little to no reliable wireless coverage in the area of the proposed tower, including State Highway 8A. As noted in the letter from the Commonwealth of Massachusetts, the additional roadway coverage is a key metric for public safety communications, for our public safety officers, our first responders and members of the public who need communications. The proposed tower will also provide much need coverage to public buildings in Heath including the Elementary School, Fire Department and Town Hall. In the event of an emergency, reliable wireless coverage is critical to all of us. We also note that the tower could be used to support radio equipment for the town and the commonwealth, and allow for public safety land mobile radio antennas in the future. I am concerned that if the Planning Board denies the application, the Commonwealth will work with AT&T and FirstNet in another community in the area with public safety communications needs which means Heath public safety misses out on the opportunity and investment.

Please enter my comments into the record in the event I cannot attend the upcoming public hearing on August 23, 2021.

Respectfully,

John McDonough

Chief of Police

Sincerely,

John McDonough
Chief of Police
Heath MA

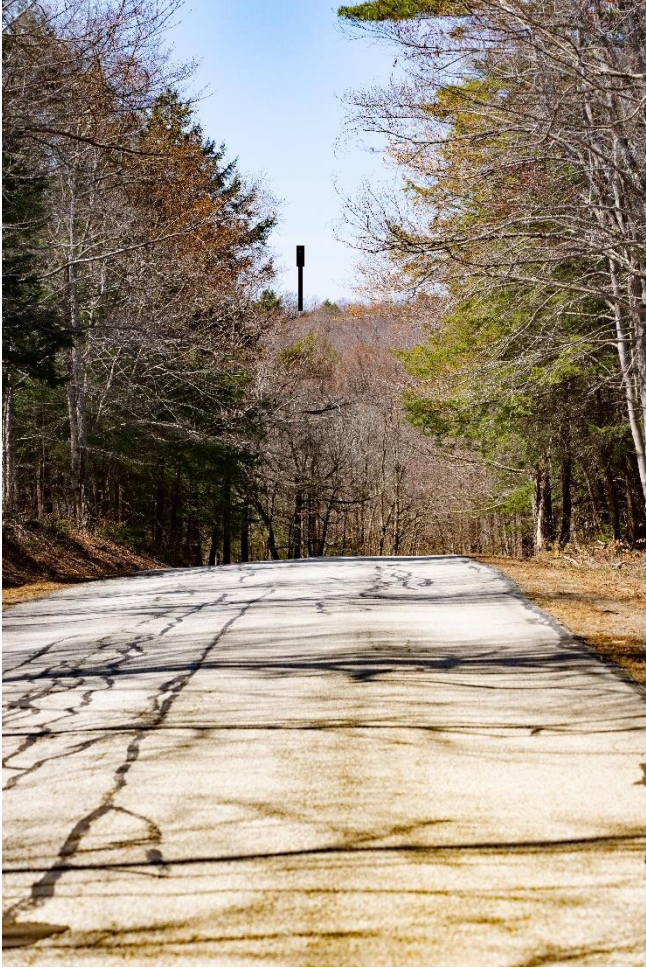
Balloon test images with pole added where balloon was:



Whitacre / Mason property on Knott road.



Weigand home on Knott road.



Near the Heath Dump

Dear Heath Planning Board,

Please do not approve ATT's application for a cell tower

My wife and I moved our family to Heath because we found a property we loved. It's out in the country, on a dead end road on a beautiful piece of property. Allowing ATT to install an unsightly tower would have a serious impact on our ability to enjoy our home and is not in line with the rural character of Heath or our neighborhood!

Based on the balloon test this tower would be easily visible from many locations on our property, including our garden. Our garden is where my wife and I go to relax and enjoy our beautiful property. Having to look at one of these ugly industrial structures would be a constant eyesore and diminish what we love about living here.

Also the plans that ATT submitted are very disingenuous. It is clear this tower will have many more antennas on it than their drawing depicts and could be 20 feet taller. That's like trying to understand what a building would look like when all you have is the plans for the foundation. They are attempting a corporate bait and switch. Please don't take the bait. This tower will not look like the drawings they submitted.

Lastly. Using some kind of claim of "public safety" is one of the most abused ways for people to get what they want. It's one of the oldest tricks in the book. Only with this tower, we are only allowed to consider the potential benefits to public safety but not any negative impacts. We do not need the "safety" ATT is offering. Speaking from experience, Heath does not have a problem with communication during emergencies. ATT's claims of "public safety" are nothing more than a red herring.

Vote "NO" on the tower.

Thank you,

Jesse Weigand