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To: Holly R. Anderson, Clerk of the Public Utility Commission
CC: William Cooper Hayes (applicant attorney),
Sarah Amatruto (ANR Office of Planning and Legal Affairs),
Elizabeth Peebles (VT Division for Historic Preservation),
James Porter (VT Department of Public Service),
Bryan Kovalick (Two Rivers Ottauquechee Regional Planning Commission)
From: Dan McKinley, Chair, Rochester Planning Commission
Date: December 30, 2025
RE: Case #25-2931-PET: Proposed Telecommunication Tower at 1030 Route 100S, Rochester, Vermont

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The Rochester Planning Commission has reviewed the application for the proposed telecommunication facility at 1030 Route 100S in Rochester, Vermont and submits the follow comments and addenda. Please note that the addenda are in a publicly-accessible Google Drive folder, as they were too large to include here as a single document. If you would like us to submit those addenda in an additional way, please let us know.

Introduction

These comments are submitted by the Rochester Planning Commission (PC) in order to:

- identify specific aspects of the project that violate or are not in compliance with the Rochester Town Plan (adopted 2020);
- identify specific aspects of the petition as submitted that are inaccurate, unclear, and/or incomplete;
- request that the Public Utility Commission (PUC) conduct an evidentiary hearing and site visit; and
- preserve the PC's party status in this case.

There are several areas in which the applicant has provided insufficient documentation and/or asserted significant errors of fact. We have indicated those areas throughout these comments, but the most significant include:

- Exhibit SA-5: Natural Resources Report mislocates the project site by 2.4 miles;
- Exhibit SA-6: Historic Properties Report makes erroneous claims about the existence of relevant historic sites and buildings; and
- Exhibits ML-2, ML-3, and ML-4 and the pre-filed testimonies of Scott Adams and Martin Lavin fail to adequately define the coverage goals for this project, or describe any alternative locations or technologies the applicant considered and rejected.

These errors and omissions mean that the PC is unable to adequately evaluate whether the project complies with the Town Plan at several key points or, as filed does not comply with the Town Plan.

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In addition, the applicant's discussion of Rochester's Town Plan was incomplete because it addressed only Section 4B-Section 248a-Telecommunications (15-17). Accordingly, our comments here draw from the entire town plan; for full sections reference, see Addendum 1: Excerpts from the Rochester Town Plan (2020).

Our comments are divided into the following sections:

1. Habitat, Rare/Threatened/Endangered Species, Invasive Species
2. Wetlands
3. Fluvial Erosion
4. Visibility, Historic Sites, Scenic Byways, Public Parks and Trails, Private Drinking Water
5. Coverage
6. Bond
7. Health Effects
8. Other

(1) Habitat, Rare/Threatened/Endangered Species, Invasive Species

Sections 4B.6, 13E, and 13F from the Town Plan address the issues of preserving habitats, protecting rare/threatened/endangered species, and preventing the spread of invasive species.

Section 4B.6 reads as follows (emphasis added in italics):

> 6. Protection of Wildlife: Designers must *gather information about natural and wildlife habitats that exist in the project area and take measures to avoid any undue adverse impact on these resources.* Consideration shall be given to the effects of the project on: rare, threatened, and endangered species; the impacts of human activities at or near habitat areas; and any loss of vegetative cover or food sources for critical habitats for rare, threatened or endangered species. (Town Plan, 16)

Section 13E reads as follows (emphasis added in italics):

> In Rochester, there is a broad range of communities that exist in the older forests, early successional forests, open fields and valley floors. The breadth and diversity of wildlife and plant communities indicate a healthy, thriving ecosystem. Good management practices, such as *requiring developers to locate their projects in less sensitive areas, maintaining buffer areas, and protect against silt runoff from excavating*, are a few of the ways these communities can be protected. […]

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Although nearly all undeveloped land in the town provides habitat for these plants and animals, there are some areas which provide *critical habitat that should remain intact***.** These areas *include* wetlands, vernal pools, and *deer-wintering areas*. […]

Policies […]
3. Protect deer wintering areas from development and other uses that *adversely impact* these areas. (Town Plan, 60-61)

Section 13F reads as follows (emphasis added in italics)

In Rochester the spread of invasives is negatively impacting the rural character of the town, reducing native plant populations and consequently affecting wildlife populations, creating economic impacts by dominating other plants in agricultural fields and inhibiting reproduction of trees in sugarbush areas and other forests, destroying the scenic quality of roadsides, reducing property values, and potentially posing health risks. At the present time, the greatest threats are posed by wild chervil (fields, roadsides and recently logged areas), Japanese knotweed (streams, rivers, roadsides, yards), and Japanese barberry (forests), but there are increasing threats throughout the region from garlic mustard, giant hogweed, and other invasives. […]

One of the more common ways in which invasive species spread to new locations is when seeds or root segments are transported on vehicles, especially construction and logging machinery, mowers, etc. Best management practices have been identified for reducing the accidental spread of invasives, including *avoiding using fill from invaded sites, washing of equipment before leaving infected sites, stabilization of disturbed sites, timing of mowing*, etc.

Goal
1. *Reduce the impact* of invasive species on agriculture and native ecosystems.

Policy
1. Control new occurrences of invasive species to *prevent further infestations*.

Recommendations
1. Town employees and *contractors should become familiar with the best management practices* to prevent the accidental spread of invasives. (Town Plan, 62)

According to the petition, applicant is willing to accommodate mitigation measures including:

- utilize downward-facing, full cut-off lens lights and direct any temporary lighting away from suitable northern long-eared bat and/or tri-colored bat roosting habitat when bats may be present (April 15-October 31) (Petition, 6);

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- any tree trimming/clearing, as well as drilling/blasting will occur during hibernation season between November 1 and April 14 (Petition, 6);
- seasonal restrictions as the project site is within the deer wintering area (between December 15 and April 15) (Petition, 7); and
- the incorporation of non-native species prevention. (Petition, 7)

While these measures would possibly be sufficient for mitigating and/or minimizing adverse impacts to bats and deer on the project site, and preventing the spread of invasive species, the Natural Resources Report submitted by the applicant mis-locates the project, placing it approximately 2.4 miles north of the actual proposed location of 1030 Route 100 South (Exhibit SA-5, Figures 1 and 2, 12-13). Any determinations made through GIS need to be re-analyzed.

Therefore, the PC requests that the Vermont Agency of Natural Resources (ANR) review and confirm the findings asserted by the applicant in Exhibit SA-5 and the pre-filed testimony of Scott Adams.

(2) Wetlands
Section 4B.2 from the Town Plan addresses the issue of wetlands. It reads as follows (emphasis added in italics):

> 2. Prohibited Locations: Because of their distinctive natural, historic, or scenic value, telecommunication facility development *shall be excluded* from the following areas: […]
> - Wetlands as indicated on Vermont State Wetlands Inventory maps *or identified through site analysis*. (Town Plan, 16)

According to Arrowwood Environmental, "there are 2 wetlands located within 100 feet of the proposed Vertex Tower location and access road," and "the proposed access road will impact 210 sq ft. of Wetland A". They conclude that, because "[t]here is no tree cutting associated with this crossing and it is not located on a stream," the level of impact falls below any level of concern of the federal government and Army Corps of Engineers jurisdiction (Exhibit SA-5, 95).

Based on a site visit on November 13, 2023, the Vermont state District Wetland Biologist classified these wetlands as Class III and therefore they are not regulated under the Vermont Wetlands Rules. Although the state determined that the two small wetlands on the project site are Class III and therefore non-jurisdictional for the ANR, the Town Plan specifically requires that telecommunications development be excluded from wetlands identified through site analysis: the Plan gives protection to all wetlands, not just those under state or Army Corps of Engineers jurisdiction.

Therefore, the crossing of a wetland by the access road violates the Town Plan.

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(3) Fluvial Erosion
Sections 4B.2, 4C, 12, 13C, and Appendix B of the Town Plan, as well as the Rochester Local Hazard Mitigation Plan (Addendum 2), address concerns with fluvial erosion hazards.

Section 4B.2 reads as follows (emphasis added in italics):

> 2. Prohibited Locations: Because of their distinctive natural, historic, or scenic value, telecommunication facility development *shall be excluded* from the following areas: […]
> - Fluvial erosion hazard areas shown on Fluvial Erosion Hazard Area maps (except as required for hydro facilities). (Town Plan, 16)

Section 4C reads as follows (emphasis added in italics):

> Much of the flood damage from Irene occurred in locations outside the mapped flood hazard area. Because FEMA mapped floodplains are not as accurate as the community would like, *alternative ways of interpreting the flood hazard area, including improved maps or expanded stream buffers* need to be considered in the future. (Town Plan, 19)

and:

> Policies
> 1. Avoid and minimize the loss of life and property, the disruption of commerce, the depletion of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion.
> 2. Ensure that the selection, design, creation, and use of development in hazard areas is safe and accomplished in a manner that is consistent with public wellbeing, *does not impair stream equilibrium, flood plain function, or the stream corridor.*
> 3. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753 the municipal hazard mitigation plan […]. (Town Plan, 19)

Section 12 reads as follows (emphasis added in italics):

> Interpreted broadly, "resilience" means that an entity—a person, neighborhood, town, state, region or society— when faced with a situation or event, could effectively return to its previous state or adapt to change(s) resulting from the situation or event without undue strain. As such, "*resilience" is an overall preparedness for a future event*. For the purposes of this chapter, flood resilience will mean the ability of Rochester to effectively understand, plan for, resist, manage and, in a timely manner, recover from flooding.
> […]
> The collecting of water in channels in steep areas also causes *fluvial channel erosion*, which can severely damage roads and public and private property. Fast moving water in the stream channel

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may undermine roads and structures and change the river channel itself, predisposing other roads and structures to future flooding damage. Flash floods can also mobilize large amounts of debris, *plugging culverts* and leading to even greater damage. *In Vermont, most flood-related damage is caused by flash flooding and fluvial erosion (erosion of stream banks). Due to its narrow river valley and steep side slopes, Rochester is vulnerable to flash flooding and fluvial erosion*.
[…]
Floodplains and *river corridors fill an important role*, as flood waters and erosive energy must go somewhere. […] Development in one area of the floodplain or river corridor can also cause increased risks to other areas by diverting flood flows or flood energy. […] *Flooding is worsened by land uses that create impervious surfaces that lead to faster runoff,* and by past stream modifications that have straightened or dredged channels, creating channel instability. (Town Plan, 53)

and:

There are two sets of official maps that govern development in floodplains in Vermont. They are the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs) and *VT Agency of Natural Resources (ANR) River Corridor area maps*. […] *During Tropical Storm Irene, several homes were damaged or lost that were not in FEMA mapped floodplains. These were due to fluvial erosion and not inundation flooding*. In total, almost fifty homes were damaged or lost in this event.

Recent studies have shown that a significant portion of flood damage in Vermont occurs outside of the FEMA mapped areas along smaller upland streams, as well as along road drainage systems that fail to convey the amount of water they are receiving. Since FEMA maps are only concerned with inundation, and these other areas are at risk from flash flooding and erosion, these areas are often not recognized as being flood-prone. It should be noted that small, mountain streams may not be mapped by FEMA in NFIP FIRMs (Flood Insurance Rate Maps), flooding along these streams is possible, and such flooding should be expected and planned for. […] Flash flooding in these reaches can be extremely erosive, causing damage to road infrastructure, threatening topographic features including stream beds and the sides of hills and mountains, and creating landslide risk. *The presence of undersized or blocked culverts can lead to further erosion and streambank/mountainside undercutting*. Change in these areas may be gradual or sudden.

Furthermore, precipitation trend analyses suggest that intense, local storms are occurring more frequently. *Vermont ANR's River Corridor maps show the areas that may be prone to flash flooding or erosion, which may be inside FEMA-mapped areas, or extend outside of these areas*. […] The ANR mapped River Corridors accurately represent the area where rivers and streams will move over time to meander, and they depict areas that are at risk to erosion due to the river or streams' lateral movement. Elevation or flood proofing alone may not be protective in these

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areas as erosion can undermine structures. Rivers, streams, and brooks that have mapped River Corridors include Marsh Brook as well as the Main Stem of the White River, the West Branch of the White River, Chittenden Brook, Brandon Brook, Corporation Brook, and Bingo Brook, all of which have mapped special flood hazard areas.

In the Town and Village of Rochester, 26 total structures are located in the special flood hazard area, meaning they have a 1% chance of flooding every year. Additionally, there are 46 structures that are located within the mapped River Corridor. To help reduce the risk to health, structures, and road infrastructure, it is important to restore and improve the flood storage capacity of existing floodplains and to increase the overall area for retention of floodwaters in Rochester. (Town Plan, 54-55)

and:

Policies […]
3. Limit permitted land uses within Rochester's River Corridor Areas to non-structural outdoor recreational and agricultural uses due to the dangerous erosive risk in these areas.
4. Prohibit commercial, industrial, and residential uses within ANR's mapped river corridor areas outside of designated village areas. […]
6. Design culverts and bridges, at minimum, to meet VTrans Hydraulics Manual, ANR Stream Alteration Standards, VTrans Codes and Standards. Maintain culverts to ensure they are effective during severe weather events. […]
8. Encourages property owners to *maintain vegetated buffer strips in riparian zones bordering streams and rivers. Rock rip-rap and retaining walls should only be used to the minimum extent necessary* and when bioengineering techniques may not be adequate to prevent significant loss of land or property.
9. Maintain Rochester's upland forests and watersheds predominately in forest use to ensure high quality valley streams and to *ensure that flood flows are reduced*.
10. Ensure all wetlands which provide flood storage functions remain undeveloped. In the long term, restoration and enhancement of additional wetlands should be pursued to improve Rochester's flood resilience. *Some but not all wetlands can be seen on the ANR atlas*. […] (Town Plan, 57)

Rochester's Local Hazard Mitigation Plan (LHMP) is referenced on pages 19 and 39 of the town plan; selections addressing fluvial erosion hazards read as follows (emphasis added in italics):

Recent studies have shown that the majority of flooding in Vermont is occurring along upland streams as well as along road drainage systems that fail to convey the amount of water they are receiving. […] although small, mountainous streams may not be mapped by FEMA in NFIP FIRMS (Flood Insurance Rate Maps), flooding along these streams is possible, and should be expected and planned for. Flash flooding in these reaches can be very erosive, causing damage to

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road infrastructure and to topographic features, including stream beds and the sides of hills and mountains. […]*The presence of undersized or blocked culverts can lead to further erosion and stream bank/mountain side undercutting*. Furthermore, precipitation trend analysis suggests that intense, local storms are occurring more frequently. Extent data for fluvial erosion is unknown. (LHMP, 25-26)

and:

As a result of the above profiled hazards, the Town believes the following vulnerabilities to be of highest concern due to their potentially severe consequences and likelihood of occurrence:

- *Flash Flood/Flood/Fluvial erosion:* One of the worst threats, flooding impacts roads and the village centers, especially facilities for children, elders, and community emergency shelters. *Undersized bridges and culverts factor into the threat*, with Rochester being home to many known, problematic choke points (as identified by the LHMP Committee). Out-dated flood hazard mapping for Windsor County also compounds existing threats. Furthermore, flood hazard mapping (Special Flood Hazard Areas) does not adequately encompass all areas that could be flooded, thus potentially making some residents too complacent in regard to the threat. In addition, numerous homes and public facilities are located in the 500 year flood plain and could be impaired by a major flood event. *Specific vulnerable roads include* Bethel Mountain Road*, Route 100*, Beans Bridge Road, and River Brook Drive. (LHMP, 48)

Section 13C of the Town Plan reads as follows (emphasis added in italics):

Stream instability can led to excessive flooding and other types of damage due to increased flow velocity.

Riparian buffers are strips of bankside vegetation along waterways that provide a transition zone between water and land use. Construction or development along shorelines, or removal or disruption of vegetation within these areas can create increased water pollution, higher water temperatures, destabilization of banks, higher soil erosion rates and loss of fish or wildlife habitats. Damages from extreme weather events have indicated a need for stream buffers, particularly in areas outside of the Flood Hazard Area. […]

Policies […]

2. Encourage preservation of the natural state of streams and water resources by:
   - *Protection of adjacent wetlands* and natural areas;
   - Protection of natural scenic qualities; and
   - Maintenance of existing stream bank stability, buffer vegetation, and wildlife habitat.
3. Ensure no structures are allowed within 50 feet of the top of the bank of designated permanent streams, except those that by their nature must be located near streams.

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> 4. Ensure no ground disturbance or removal of vegetation is allowed within 35 feet of the top of the stream bank, excepting that incidental to bridge or culvert construction, or permitted bank stabilization. […] (Town Plan, 59)

Appendix B reads as follows (emphasis added in italics):

> The devastation caused by Irene within the Flood Hazard Area (FHA) and *outside the FHA in fluvial erosion hazard areas* has made it clear that development in these areas carries high risk. When surveyed by the Planning Commission in 2012, 70% of the responses indicated that current regulations should be more stringent to enhance flood safety. Nearly 60% of respondents felt that development within the floodplain should be prohibited altogether. (Town Plan, 83)

These sections of the Town Plan demonstrate the significant risks posed by fluvial erosion in the Town of Rochester. Given the increasing frequency of severe and damaging rain events in Vermont, the state's request for the applicant to replace the existing 28" culverts only "in the event the existing culverts shown on the Permit Plans at Sheet Z.2.3 and Z.2.4 fail during or after construction" (Petition, 7) is insufficient to address this issue. Once the undersized culverts have failed catastrophically, the resource damage is done and the potential downstream impacts on Route 100 could be significant. Therefore, the PC requests that ANR reassess the need to replace the existing culverts prior to their failure.

One challenge in addressing fluvial erosion is the shifting regulatory language: as the petition notes, the Rochester Town Plan references "Fluvial Erosion Hazard Maps" (Petition 10), yet they—and the PC—have been unable to locate such maps. Following a discussion with a river scientist in the Watershed Management Division of the Rivers Program at the Vermont Department of Environmental Conservation, it is the PC's understanding that the content of those maps has been superseded by the category of "river corridors" and "fluvial erosion hazard areas" (FEH). River corridor maps can be found on the Vermont ANR Atlas in the River Program layer in the River Corridor section. Given the mis-location of the project by the Natural Resources Analysis (Exhibit SA-5), the FEH status of the watershed labeled as Rogers Brook on the submitted project plans must be reassessed: if the project is in an FEH area, this project would violate 4B.2 of the Town Plan.

The final aspects of the PC's concerns with fluvial erosion hazards are the steepness of the proposed access road and the permeability of the materials being used in the project on the road surface. Approximately 1900' of the road parallels a seasonal stream. There are no stormwater management areas identified in this section of the road other than waterbars, which would result in surface runoff reaching that stream. In fact, there is only one stormwater management area shown and labeled on the project plans as submitted with this petition, at station 40+00.

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The PC received comments expressing concern about steep slopes on the access road. The PC does not have the expertise to evaluate these claims and therefore requests that ANR evaluate the road slopes and assess the adequacy of the design in preventing excessive run-off and erosion.

The PC therefore requests the following:

- ANR reassess the need to replace the existing 28" culverts prior to failure as part of the construction;
- ANR re-evaluates the status of the watershed labeled as Rogers Brook to determine if it is in an FEH area; and
- ANR requires the applicant to submit a detailed stormwater and road maintenance plan that adequately prevents and/or mitigates the risks of fluvial erosion hazards, beyond that required by a general stormwater permit.

As submitted, the petition fails to provide sufficient and accurate information regarding fluvial erosion hazards, therefore the PC cannot determine if the project complies with the Town Plan.

(4) Visibility, Historic Sites, Scenic Byways, Public Parks and Trails, Private Drinking Water
In addition to the specific subjects addressed above, there are several other items in Section 4B-Section 248a-Telecommunications of the Town Plan to address: general concerns about visibility (Section 4B.7); specific criteria for historic sites and scenic byways, (sections 4B.3, 7F, 13H, and the Scenic Byway Corridor Management Plan); and potential adverse impacts on public parks and trails, and private drinking water supplies (Section 4B.3).

GENERAL VISIBILITY
Section 4B.7 reads as follows (emphasis added in italics):

> 7. Site Selection: Site review should not be limited to the telecommunications facilities; other elements required of the facility need to be considered as well. These include access roads, site clearing, onsite power lines, substations, lighting, and off-site power lines. *Development of these elements shall be done in such a way as to minimize any negative impacts. Unnecessary site clearing, and highly visible roadways can have greater visual impacts than the telecommunication facility itself*. In planning for facilities, designers should take steps to *mitigate their impact* on natural, scenic and historic resources and *improve the harmony* with their surroundings. (Town Plan, 16)

As submitted, the petition fails to provide sufficient information regarding efforts to mitigate the visual impacts of the telecommunications facility and related infrastructure, therefore the PC cannot determine if the project complies with the Town Plan.

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HISTORIC SITES
Section 4B.3 of the Town Plan reads as follows (emphasis added in italics):

> 3. Significant Areas: All new telecommunications facilities shall be *sited and designed to avoid or, if no other reasonable alternative exists, to otherwise minimize or mitigate adverse impacts* to the following:
> - Historic districts, landmarks, sites and structures listed, or eligible for listing, on state or national registers. […] (Town Plan, 16)

The applicant's definition of historic sites is incorrect and incomplete. The applicant claims that there are "No Historic Properties in the Area of Potential Effects-Direct Effects" and "No Historic Properties in the Area of Potential Effects-Visual Effects" and that, following their choice to drop the height of the tower from 176' to 140', the project will have "no adverse effect, let alone an undue adverse effect, on historic resources." (Petition, 8; Exhibit SA-6).

While we understand that, at least in the pre-filing documents, the Vermont Division for Historic Preservation (DHP) has agreed with these claims, to the best of our knowledge, this statement is false. For example (emphasis added in italics):

- As Section 7F of the Town Plan notes, Rochester has approved the Scenic Byway Corridor Management Plan (Addendum 3). As that plan notes:
  - *the following sites in Rochester are of historical significance:* Green Mountain National Forest, Rochester Public Library, Rochester Historical Society, Pierce Hall, the Town Green, Mill Village, the Hollows, and Rochester Village Center (Corridor, 42).

- According to Section 13H of the Town Plan,
  - *A survey, conducted in 1973 by Vermont's Division for Historic Preservation, identified approximately 38 structures with historical significance. Twenty-five of these are located around the village Park*. In addition, there are many other structures or sites of local significance. (Town Plan, 64)

- According to a Historic Preservation Report submitted to the PUC in 2008 for the antenna in the steeple of the Federated Church of Rochester (Addendum 4- Case #8548-Historic Properties Report),
  - The green and immediately surrounding properties are within the Rochester Village Green Historic District (Historic Sites & Structures Survey [HSSS] #1415-1) that was listed on the State Register of Historic Places in 1977 and is eligible for listing on the National Register. […] The eligible district includes properties on Main Street (Route 100), Park Street, Bethel Mountain Road, Huntington Lane (formerly East Park Street) and Park Row (formerly South Park Street). Although this district focuses on the

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Rochester Village Green, it could also be extended north and south along route 100 to include more intact 19th century architecture comprising the rest of the downtown of the village. (Papazian, 19).

- There are at least 16 properties designated as historic in the HSSS #1415-1 (Papazian, 20-23)

and

- The Ezekiel Emerson Farm, also known as Apple Hill Farm, located at 936 Brandon Mountain Road was listed on the National Register of Historic Places in 2001.

At a minimum, many of sites from which the petition indicates that the balloon was visible or partially visible during the test on November 26, 2024 fall within these definitions of historic sites (Exhibit SA-6).

Accordingly, the PC requests that the applicant conduct a full and proper assessment of the potential impact of the proposed tower on historic sites and that DHP independently review and confirm the findings of that assessment. For an example of similar information, see Addendum 4.

SCENIC BYWAYS, PUBLIC PARKS AND TRAILS
Section 4B.3 of the Town Plan reads as follows (emphasis added in italics):

> 3. Significant Areas: All new telecommunications facilities shall be *sited and designed to avoid or, if no other reasonable alternative exists, to otherwise minimize or mitigate adverse impacts* to the following: […]
> - Public parks and recreation areas, including state and municipal parks, forests and trail networks.
> - State or federally designated scenic byways, and municipally designated scenic roads and viewsheds. […] (Town Plan, 16)

In terms of the potential impact on scenic byways and public parks and trails, the applicant's assessment of visual impact is limited and incomplete. Exhibit SA-6 does not address the following impacts:

- The proposed tower would be clearly visible for approximately 0.6 miles along Route 100 as motorists and cyclists approach Rochester Village from the north and approximately 0.8 miles along Route 100 as they approach from the south. The duration of this visual impact is more significant than a single point assessment.
- The proposed tower would be visible from the entrance to Pierce Hall, Rochester's restored historic community center.
- The proposed tower would be visible from points on the Rochester Town Park and Lions Park.

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- The proposed tower would be visible from the Rochester recreation area including tennis courts, Little League ball field, softball field and a significant portion of the 0.7-mile Peavine Trail along the White River.

PRIVATE DRINKING WATER SUPPLIES
Lastly, Section 4B.3 of the Town Plan reads as follows (emphasis added in italics):

> 3. Significant Areas: All new telecommunications facilities shall be *sited and designed to avoid or, if no other reasonable alternative exists, to otherwise minimize or mitigate adverse impacts* to the following: […]
> - Public and private drinking water supplies, including mapped source protection areas. (Town Plan, 16)

The applicant has provided no information about attempts to identify, avoid, minimize, or mitigate adverse impacts of the project on private drinking water supplies.

As submitted, the petition fails to provide sufficient and accurate information regarding visibility, historic sites, scenic byways, public parks and trails, or private drinking water supplies, therefore the PC cannot determine if the project mitigates adverse impacts on these aspects. In the absence of such information, this project does not comply with Town Plan.

Accordingly, the PC requests that the Department of Public Service (DPS) conduct a full and independent aesthetic review of the project, with an emphasis on evaluating the potentially adverse impacts on historic sites, scenic byways, public parks, recreation areas, and trail networks, and public/private drinking water supplies. For an example, please refer to Addendum 5: Case #23-4087-PET, Exhibit DPS-LT-2: Aesthetic Assessment and Orderly Development Review.

(5) Coverage – site selection and propagation
Sections 4B.7 addresses site selection of telecommunications towers; it reads as follows

> 7. Site selection […]
> When surveyed in 2012, residents were very supportive of increasing cell coverage throughout the community depending on the location of the proposed telecommunications towers. Residents indicated that Deer Mountain, Alexander Hill and Mount Reeder would be the most acceptable locations for a telecommunications tower, while Mount Cushman, Rochester Mountain, and Austin Hill would be the least. Developers should locate telecommunications towers accordingly. (Town Plan, 16)

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Although the petition notes that the project avoids the three locations listed in the Town Plan as least favorable to community members, it did not mention the three sites that the Town Plan indicates would be *most* acceptable to community members (Petition, 13; pre-filed testimony of Scott Adams, 14).

The petition fails to describe any alternative *locations* the applicant considered and rejected for new construction, listing only existing or permitted *towers/antennas* (Petition, 4; Exhibit ML-2). The petition also fails to describe any alternative *technologies* (which might provide comparable service) that the applicant considered and rejected, such as small cell facilities placed on utility poles along Route 100 or Route 73.

Finally, the petition argues that all existing towers/antennas are inappropriate for co-location because they "cannot provide adequate coverage […] to the Town of Rochester, nor the Route 100 corridor, which is the purpose of this project" (Petition 4); however, the petition fails to provide a functioning definition of "adequate coverage" beyond the submitted propagation maps (Exhibits ML-3 and ML-4). Such a definition could include, but not be limited to: number of households to be served; specific areas and/or distance of travel corridors and roads to be served; and/or level of service deemed acceptable.

The PC requests that the applicant provide this missing information, specifically:

- evidence of alternative locations and technologies considered and explanations for their rejection, especially sites indicated as preferred in the Town Plan; and
- clear definition of what constitutes "adequate coverage" for the applicant, the metrics for judging coverage, and explanations for both.

For an example of a comparable project that provided sufficient information in this area, please see:

- Addendum 6: 23-4087-PET, 11/30/23 Direct Prefiled Testimony of Martin Lavin and related exhibits; and
- Addendum 7: 23-4087-PET-Prefiled Joint Testimony of David Archimbault and Jeffrey Dellicolli and related exhibits.

(6) Bond for removal

In comments submitted during the Advance Notice period, the PC indicated that we would request a tower, structure, and equipment bond for removal. Although the petition did not specifically say the applicant would *not* provide such a bond, it did note that there are no requirements for such a bond in either the Town Plan or Zoning Bylaws (Petition, 14).

In response, the PC notes that in Case #23-4087-PET—a comparable project that has received a Certificate of Public Good in the neighboring town of Granville—the Town requested and received such a bond, even though the issue was not specifically addressed in their town plan (see Addendum 8: 23-4087-PET-Bond). In addition, at a Public Information Session hosted by the PC on October 24, 2024,

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when asked about the length of the lease, Vertex representative Francis Parisi specifically suggested that the town could ask for a bond. He said, "If, through the PUC process, the Town asks, we will agree to post a bond […] it's a common ask." (ORCA recording, 1:31:54-1:32:50)

Accordingly, we repeat our request that the applicant be required to post a tower, structure, and removal bond, separate from any similar agreement that may exist between Vertex and the property owner.

(7) Health Impacts

Over the course of the past year the PC has heard from several community members who either suffer ill-effects from radiofrequency energy, or are concerned about such, and have provided many references supporting their claims and concerns. While the PC is clear that the PUC will not consider health impacts because federal regulations prohibit it (1996 Telecommunications Act), we wish to state that this is a growing community concern and should be reviewed in the future.

(8) Other

There are two other errors of fact in the petition that the PC would like to note for the record:

- Exhibit ML-2: Existing Tower Analysis – lists a monopole at 1610 Town Line Road (item #5). This project received a CPG in 2015, but was not built. This is acknowledged in the pre-filed testimony of Martin Lavin (3, FN1), but not updated elsewhere in the petition.
- On page 13 of the petition, the applicant claims to have revised the initial project from a 176' to a 140' in response to comments by the Town of Rochester, and suggests that should serve as evidence of appropriate and/or sufficient attempts to mitigate conflicts with the Town Plan. However, this statement is inaccurate. It is our understanding that the applicant chose to lower the proposed height sometime between first presentation at a PC meeting on September 3, 2024 and the first public information session hosted by the PC in Rochester on October 24, 2024. At no point during that time period did the Town of Rochester request any changes to the proposal.

CONCLUSION

In summary, the petition as submitted violates the Town Plan in Sections 4B.2-Prohibited Areas wetlands); 4B.2-Prohibited Areas (fluvial erosion hazard); Section 4B.3-Significant Areas (historic sites, Scenic Byways, public parks and trails, and private drinking water supplies).

A. The PC requests that the applicant be required to:

1. Resubmit a Natural Resources Report that correctly locates the project and revises any determinations made through GIS.
2. Conduct a full and accurate assessment of the potential impact of the proposed tower on historic sites. Without this information, the PC cannot determine if the project complies with the Town Plan under Sections 4B.3 (16) and 7F (29).

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3. Provide evidence of alternative locations and technologies considered and explanations for their rejection, especially sites indicated as preferred in the Town Plan. Without this information, the petition as submitted violates the Town Plan under Section 4B.3 and fails to sufficiently address Section 4B.7 (16) .
4. Provide a clear definition of what constitutes "adequate coverage" for this project, the metrics for judging coverage, and explanations for both. Without this information, the PC cannot determine if the project complies with the Town Plan under Sections 4B.3 and 4B.7 (16).
5. To post a tower, structure, and removal bond, separate from any similar agreement that may exist between Vertex and the property owner.

B. Given the multiple errors of fact in the petition as submitted that the PC has identified above**,** *we also request that the appropriate state agencies review and confirm the findings of* <u>*all*</u> *pre-filed testimony and exhibits, and conduct independent assessments as necessary.* We specifically request the following:

1. ANR review and confirm the findings asserted by the applicant in Exhibit SA-5 and the pre-filed testimony of Scott Adams, and in any additional Natural Resources Reports the applicant may resubmit.
2. ANR re-evaluate the status of the watershed labeled as Rogers Brook to determine if it is in an FEH area. If it is, then as designed this project would violate Section 4B.2 of the Town Plan.
3. ANR require that the applicant submit a detailed stormwater and road maintenance plan that adequately prevents and/or mitigates the risks of fluvial erosion hazards, beyond that required by a general stormwater permit.
4. DHP review and confirm findings about historic sites and properties asserted by the applicant in Exhibit SA-6, and in any additional assessments on historic sites and properties the applicant may submit.
5. DPS conduct a full and independent aesthetic review of the project, with an emphasis on evaluating the potentially adverse impacts on historic sites, scenic byways, public parks and trails, and private drinking water supplies.

C. We request that the PUC:

1. Preserve the PC's party status for this project.
2. Conduct a site visit.
3. Schedule an evidentiary hearing for this project.
4. Acknowledge the community concerns regarding potential health effects of telecommunications towers and review existing prohibitions limiting their consideration of this topic.

Respectfully submitted,

Dan McKinley, chair, Rochester Planning Commission

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Addenda

1. Addendum 1: Excerpts from the Rochester Town Plan (2020)
2. Addendum 2: Rochester Local Hazard Mitigation Plan
3. Addendum 3: Scenic Byway Corridor Management Plan
4. Addendum 4: Case #8548-Historic Properties Report,
5. Addendum 5: Case #23-4087-PET, Exhibit DPS-LT-2: Aesthetic Assessment and Orderly Development Review.
6. Addendum 6: Case #23-4087-PET, 11/30/23 Direct Prefiled Testimony of Martin Lavin and related exhibits – note: exhibits may be downloaded individually from https://epuc.vermont.gov/?q=node/64/194612/FV-PFEXAFF-PTL
7. Addendum 7: Case #23-4087-PET-Prefiled Joint Testimony of David Archimbault and Jeffrey Dellicolli and related exhibits– note: exhibits may be downloaded individually from https://epuc.vermont.gov/?q=node/64/194612/FV-PFEXAFF-PTL
8. Addendum 8: 23-4087-PET-Bond