



TOWN OF EAST HAMPTON

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Planning Department
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Director

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February 6, 2020

TO: Planning Board

FROM: Eric Schantz
Senior Planner *E.S. JP*

RE: New Cingular Wireless @ Northwest Fire Station Personal Wireless Service Facility (PWSF) – Site Plan/Special Permit
SCTM# 300-135-2-15.2, 19 & 34.2
12 & 18 Old Northwest Road & 105 Bull Path

Last Review Date: Public hearing held on February 5, 2020

Items and Date Received:

- 01/23/20 Public comments – J. Kaufman
- 01/28/20 Public comments – D. Brown
- 01/30/20 Public comments – A. Osborne
- 01/31/20 Public Comments – D. Kirst (1) one DEIS dated March 2017, and (1) one DEIS dated May 2017; (1) One USB 2.0 Flash Drive with a digitized version of both hard copies. – request for the board to incorporate the entire NCW @ Iacono Farms Personal Wireless Services Facility (PWSF) SP.
- 02/04/20 Public Comments – M. Sainato
- 02/04/20 Public Comments – Iris in't Hout
- 02/04/20 Public Comments – L. Miller
- 02/04/20 Public Comments – L. Levitin
- 02/04/20 Public Comments – E Erica Miller, C. M. Miller MD
- 02/05/20 Applicant submission; cover letter, re: (10) ten copies of an opposition to the Site Plan application
- 02/06/20 Public comments – J. Rost

Background Information: Application has been made to construct a Personal Wireless Service Facility consisting of a 185' tall monopole with twelve (12) panel antennas at a centerline height of 155' along with fifteen (15) remote radio heads and associated equipment, and a diesel generator and equipment shelter on a 264 sq. ft. concrete slab within a 2,500 sq. ft. fenced-in equipment area, along with a gravel access road from Old Northwest Road.

The parcels are zoned A2: Residence and A3: Residence and are situated between Old Northwest Road and Bull Path in the northwest area of East Hampton. They have historically been used as a brush dump (from between roughly 1973 to 1982) and a mostly cleared of naturally-occurring vegetation.

The property was issued a site plan approval in December 2017 to construct a 3,800 sq. ft. fire sub-station and associated parking and accessory structures along Old Northwest Road. A building permit for this project has been issued.

Issues for Discussion:

Public Comments

A public hearing was held on February 5, 2020. Five (5) members of the public spoke at the hearing as well as two (2) attorneys representing neighbors and the attorney for the applicants. Nine (9) letters and two (2) memorandum of law have been received.

Two (2) members of the public spoke in support of the proposed project. The rest of the speakers were opposed to the proposed project.

The public's concerns can be summarized as follows:

1. Concerns over aesthetic impacts:

Members of the public brought up the fact that there is a difference in elevation between the subject site and neighboring properties due to varying topography and that this would result in the proposed monopole seeming to be substantially taller than 185'. The Planning Department has attached an aerial photograph with topographical contour lines at 5' intervals. The proposed location of the monopole has a spot elevation of 96.8' AMSL. Most of the area has a similar if not slightly lower elevation, with the exception of a few lots to the immediate north which are significantly lower in elevation at roughly 45' – 60' AMSL (difference of ~52' – 37').

It was stated that the tower would be visible from surrounding parkland and scenic or recreation areas. The monopole would most likely be visible from most of the farmland areas in the area of Long Lane. The nearest Scenic Area of Statewide Significance (and waterbody) is Northwest Creek, which is over two miles away. It is not anticipated that the monopole would be substantially (if at all) visible from this location.

2. Residential neighborhood:

It was stated that personal wireless service facilities should be located in commercial or industrial areas rather than residential areas. There are personal wireless service facilities in East Hampton in both commercial/industrially-zoned

areas and residentially-zoned areas. Personal wireless service facilities are allowed by special permit in all zoning districts of the Town except for PC: Parks and Conservation. It should be noted that there are no areas of commercial or industrial zoning in the Northwest Woods area of East Hampton.

3. Special permit and site plan standards:

It was stated that the proposed project does not meet the Planning Board's standards for site plan review or the general or specific special permit standards. Ultimately, the Board would need to determine that the application can meet these standards if the application is to be approved. The Planning Department has attached these standards for the Board's review. The Board is reminded that the many of the specific special permit standards for personal wireless service facilities are directory, not mandatory. This does not include the fall zone requirements, for which relief was granted by the Zoning Board of Appeals by resolution dated February 4, 2020

4. Need for tower height not demonstrated:

The applicants submitted a testimony from radio frequency engineer Neil Arceo along with propagation maps (Exhibit B of submission from Phillips Lytle, LLP dated December 17, 2019) that demonstrate the effect that the proposed facility would have on existing coverage gaps. However, the Board is reminded, and should note as it reads the specific special permit standards, that correcting coverage gaps for individual carriers are not to be considered as part of the Board's standards for review.

The Communications Technician for the East Hampton Police Department stated that equipment would be installed in the future above the antennas proposed for New Cingular Wireless (AT&T) to improve emergency services communications capabilities in the area.

Conclusion

In conclusion, the Board should consider the issues summarized above and also consider all submitted items and public comments and determine if the public's concerns have been adequately addressed. Provided the Board finds that these concerns have been met and that all applicable standards can be met, then the application is ready for approval with the conditions noted below.

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Conditions of Approval:

- Approval of the Architectural Review Board (on the ARB's February 13, 2020 agenda)
- Approval of the New York State Department of Environmental Conservation

Planning Board Consensus

Is the application ready for approval?

Additional comments: _____

Additional Board Comments:

Chapter 255. Zoning

Article VI. Site Plan Review

§ 255-6-60. Standards.

In reviewing a site plan submitted to it under this article, the Planning Board may call upon expert advice in varied disciplines to assist it in making the determination required of it. It shall seek to further the overall purposes and goals of this chapter, and of other applicable provisions of the Town Code and state law. More particularly, it shall make certain that any development plan it approves hereunder conforms to the following:

- A. Physical compatibility. The rural, open space environment of the Town shall be fostered by preserving, wherever possible, large trees, scenic vistas and other natural features of the site. Extensive clearing and grading shall be avoided. Screening with trees or other plantings may be required for parking and other disturbed areas which are created. Where necessary or appropriate, a landscaping plan demonstrating that suitable vegetation will be planted and nurtured may be required by the Planning Board. Such plan, when submitted by the applicant and approved by the Board, shall become a part of the approved site plan.
[Amended 9-17-1993 by L.L. No. 28-1993]
- B. Protection of residential areas. When the site is located adjacent to residences or a residence district, appropriate buffer landscaping, natural screening and fencing are to be provided in order to protect neighborhood tranquillity, community character and property values.
- C. Parking. Parking areas and driveways shall be sufficiently drained so as to prevent ponding. All drainage structures, paving, access driveways and parking areas shall be laid out and constructed in accordance with the standards for such facilities contained in this chapter or Chapter **220**, Subdivision of Land, of this Code. Whenever feasible, parking areas shall be placed at the rear of buildings and/or screened by plantings so as not to be visible from the highway.
- D. Access. Vehicular ingress and egress, interior traffic circulation, parking space arrangement, loading facilities and pedestrian walkways shall be planned and built so as to promote safety and efficiency.
- E. Lights. Lighting facilities and lighted signs shall be placed and shielded in such a manner as not to cause direct light to shine on other properties and shall not be permitted to create a hazard upon a public street.
- F. Water supply; fire protection; waste disposal. Provisions for water supply, for fire protection and for sewage, garbage and other waste disposal are adequate to the use,

will ensure the health and safety of persons on and off the site and will not result in the avoidable depletion or degradation of the groundwater supply or harm to surface water bodies, watercourses, wetlands or other natural features or systems.

[Amended 12-2-1994 by L.L. No. 14-1994]

- G. The Planning Board shall seek to protect public views across farm fields and shall insure that proposed site plans comply with any applicable existing agricultural, scenic, and conservation easements, and purchase of development rights agreements, to which the Town of East Hampton, a conservation organization or a homeowners' association is a grantee or a party and, in addition, that any such instruments filed upon adjoining properties are not unduly impaired by the proposed site plan.

[Added 1-8-1999 by L.L. No. 1-1999; amended 6-20-2019 by L.L. No. 28-2019]

- H. Streetscape. In order to maintain the unique character of the Town's hamlets, villages and countryside, commercial development along Montauk Highway and all other roads shall maintain, where appropriate, the green spaces along a hamlet's main arteries. The Planning Board shall ensure that new and reconstructed buildings in Central Business (CB) Districts shall be sited in a manner that protects the established character of the district.

[Added 7-16-2015 by L.L. No. 26-2015]

Chapter 255. Zoning

Article V. Special Permit Uses

§ 255-5-40. General standards.

No special permit shall be granted unless the issuing board shall specifically find and determine that:

- A. Nature of use. The use proposed will be in harmony with and promote the general purposes of this chapter as the same are set forth in § 255-1-11 hereof.
- B. Lot area. The lot area is sufficient, appropriate and adequate for the use, as well as reasonably anticipated operation and expansion thereof.
- C. Adjacent properties. The proposed use will not prevent the orderly and reasonable use of adjacent properties, particularly where they are in a different district.
- D. Compatibility. The site of the proposed use is a suitable one for the location of such a use in the Town, and, if sited at that location, the proposed use will in fact be compatible with its surroundings and with the character of the neighborhood and of the community in general, particularly with regard to visibility, scale and overall appearance.
- E. Effect on specific existing uses. The characteristics of the proposed use are not such that its proposed location would be unsuitably near to a church, school, theater recreational area or other place of public assembly.
- F. Use definition. The proposed use conforms to the Town Code definition of the special permit use where such definition exists or with the generally accepted definition of such use where no definition is included in the Code.
- G. Circulation. Access facilities are adequate for the estimated traffic generated by the proposed use on public streets and sidewalks, so as to assure the public safety and to avoid traffic congestion; and, further, that vehicular entrances and exits shall be clearly visible from the street and not within 75 feet of the intersection of street lines at a street intersection, except under unusual circumstances.
- H. Parking. There is room for creation of off-street parking and truck loading spaces at least in the number required by the applicable provisions of this chapter, but in any case adequate for the actual anticipated number of occupants of the proposed use, whether employees, patrons and visitors; and, further, that the layout of the spaces and related facilities can be made convenient and conducive to safe operation.

- I. Buffering and screening. Adequate buffer yards and screening can and will be provided to protect adjacent properties and land uses from possible detrimental impacts of the proposed use.
- J. Runoff and waste. Adequate provision can and will be made for the collection and disposal of stormwater runoff, sewage, refuse and other liquid, solid or gaseous waste which the proposed use will generate.
- K. Environmental protection. The natural characteristics of the site are such that the proposed use may be introduced there without undue disturbance or disruption of important natural features, systems or processes and without significant negative impact to groundwater and surface waters on and off the site.
- L. Compliance with other laws. The proposed use can and will comply with all provisions of this chapter and of the Code, including Chapters **180** and **185** thereof, which are applicable to it, and can meet every other applicable federal, state, county and local law, ordinance, rule or regulation.
- M. Conformity with other standards. The proposed use can and will meet all of the general standards for special permit uses in particular districts set forth in § 255-5-45 and also meets all of the specific standards and incorporates all of the specific safeguards required of the particular use, if any, by § 255-5-50.

Section 255-5-50 PERSONAL WIRELESS SERVICE FACILITIES

All personal wireless service facilities shall require a special permit and shall be reviewed pursuant to the following standards or make provisions for the following requirements:

- (1) Location standards, as set forth in § 255-2-90 of this chapter.
- (2) Siting standards. Personal wireless service facilities should meet the following siting standards. These standards are directory, not mandatory.
 - (a) To the greatest extent possible, personal wireless service facilities should be concealed within existing structures or where camouflaged conditions surround them, or on inconspicuous mounts.
 - (b) Placement within trees should be encouraged, but no antennas should extend higher than 10 feet above the average tree height.
 - (c) Placement on existing roofs or non-wireless structures should be favored over ground-mounted personal wireless service facilities.
 - (d) Roof-mounted personal wireless service facilities should not project more than 10 additional feet above the height of a legal building, but in no way above the height limit of the zoning district within which the personal wireless service facility is located.
 - (e) Side-mounted personal wireless service facilities should not project more than 20 inches from the face of the mounting structure.
 - (f) These standards apply regardless of RF engineering considerations.
- (3) Design standards. Personal wireless service facilities should meet the following design standards. These standards are directory, not mandatory.
 - (a) Color. All personal wireless service facilities should be painted or complementary with natural tones (including trees and sky).
 - (b) Size. The silhouette of the personal wireless service facility should be reduced to the minimum visual impact.
 - (c) Personal wireless service facilities near residences should either:
 - [1] Provide underground vaults for equipment shelters; or
 - [2] Place equipment shelters within enclosed structures approved by the Town of East Hampton.
 - (d) Equipment. The following types of equipment should be discouraged:
 - [1] Roof-mounted monopoles, lattice towers or guyed towers.

[2] Ground-mounted lattice towers.

[3] Ground-mounted guyed towers.

(e) Height should be kept to a minimum.

[1] Heights of personal wireless service facilities should be no higher than the height of the uppermost height of nearby buildings (within 300 horizontal feet when measured along the ground) of the proposed personal wireless service facility, regardless of prevailing height limits in the zoning district.

[Amended 12-5-2003 by L.L. No. 40-2003]

[2] In the event there are no nearby buildings (within 300 horizontal feet when measured on the ground) of the proposed site of the personal wireless service facility the following should apply:

All ground-mounted personal wireless service facilities (including the security barrier) should be surrounded by nearby dense tree growth for a radius of 20 horizontal feet (when trunk center lines are measured on the ground) from the personal wireless service facility in any direction. These trees can be existing on the subject property or installed to meet the twenty-foot requirement as part of the proposed personal wireless service facility or they can be a combination of both.

Ground-mounted personal wireless service facilities should not project more than 10 feet above the average tree height.

(f) These standards apply regardless of RF engineering considerations.

(4) Safety standards. Personal wireless service facilities should meet the following safety standards. These standards are directory, not mandatory.

(a) Hurricane and tornado design standards should be those of the local building codes used in the Town of East Hampton or EIA-TIA 22 (latest version), whichever is stricter.

(b) Roof mounts on buildings should have railings to protect workers.

(5) Fall zone and setback requirements.

(a) Fall zone.

[1] No habitable structure or outdoor area where people congregate should be within a fall zone of two times the height of the personal wireless service facility or its mount.

[2] No adjoining property line may be within the fall zone of a radius equal to the height of the personal wireless service facility or its mount.

(b) Setback.

[1] All personal wireless service facilities, including mounts and equipment shelters, shall comply with the minimum setback requirements of the applicable zoning district as set forth in the Town of East Hampton Zoning Code, depending upon whether any structure is considered a primary use or an accessory use.

[2] The antenna array for an attached personal wireless service facility is exempt from the setback requirements of this section and from the setback for the zoning district in which they are located, provided that no such antenna array shall extend more than five feet horizontally from the attachment structure at the point of attachment.

[3] On parcels with a principal building housing a primary use, all components of the personal wireless service facility shall be located behind the main building line.

[4] No portion of any personal wireless service facility shall project into a required setback more than the maximum projection permitted in the zoning district in which the facilities are located.

(6) Alternatives analysis and comparison.

(a) Each application for a personal wireless service facility should also contain at least two alternatives that differ from the personal wireless service facility proposed in the application.

(b) The alternatives need not be totally different from the proposed personal wireless service facility; however, the alternatives should contain measurable differences, such as:

[1] Height. An alternative can be identical to the proposed personal wireless service facility except to be for a shorter height.

[2] Number. An alternative could be for two or more personal wireless service facilities that are shorter than the proposed personal wireless service facility.

[3] Location. An alternative could be located on a different property than the proposed personal wireless service facility.

[4] Siting. An alternative could be in a different place on the same property as the proposed personal wireless service facility.

[5] Design. An alternative could be of the same height, location and siting as the proposed personal wireless service facility, but be designed to appear differently.

(c) Submittal requirements for alternatives. The materials submitted for each alternative should show only the differences between each of the alternatives and the proposed personal wireless service facility.

(d) Department of Planning provision of alternatives.

[1] If the applicant has not submitted two alternatives, the Town of East Hampton Department of Planning staff shall prepare at least two alternatives.

[2] If the applicant has submitted two or more alternatives, the Town of East Hampton Department of Planning staff shall prepare at least one alternative.

(e) Comparison of proposed personal wireless service facility and alternatives. The Town of East Hampton Department of Planning staff shall compare the proposed personal wireless service facility to the alternatives on the basis of the following:

[1] Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within its proposed surroundings.

[2] New visible elements proposed on a contrasting background.

[3] Different colors and textures proposed against a contrasting background.

[4] Use of materials that are foreign to the existing built environment.

[5] Conservation of opportunities to maintain community scale, not compromising buffering areas and low-lying buildings so as to start a trend away from the existing community scale.

[6] Amount and diversity of landscaping and/or natural vegetation.

[7] Preservation of view corridors, vistas, and viewsheds.

[8] Continuation of existing colors, textures and materials.

(f) Ranking of proposed personal wireless service facility and alternatives. The Town of East Hampton Department of Planning staff shall rank the proposed personal wireless service facility and each alternative based on the criteria listed in Subsection 255-5-50(6)(e) above. The ranking of the proposed personal wireless service facility and each alternative shall be submitted to the Planning Board along with each application for review by the Planning Board. The Planning Board shall consider the alternatives along with the proposed personal wireless service facility.

(7) Radio frequency radiation emissions.

(a) FCC Guidelines. A statement certifying that as proposed, the personal wireless service facility complies with the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) concerning radio frequency radiation and emissions shall be provided at the time of final site plan review, or building permit application for facilities not requiring site plan review.

(b) No contravention of FCC Guidelines. A personal wireless service facility that meets the FCC Guidelines shall not be conditioned or denied on the basis of radio frequency impacts.

(8) Noise.

(a) No equipment shall be operated at a personal wireless service facility so as to produce noise in excess of the applicable noise standards under § 255-1-90, except for emergency situations requiring the use of a backup generator, where the noise standards may be exceeded on a temporary basis until such emergency has passed.

Section 255-2-90 Location Standards

The approval of personal wireless service facilities shall be subject to meeting or exceeding the following standards:

A. Opportunity sites. A personal wireless service facility should be located at one of the following opportunity sites:

(1) Public rights-of-way utility poles, including telephone poles, utility-distribution poles, streetlights and traffic signal stanchions.

(2) Religious institutions.

(3) Rooftops.

(4) Tree masses.

(5) Town-owned properties (except designated open space), depending upon siting and design standards.

B. Avoidance areas. A personal wireless service facility should not be located in the following avoidance areas:

(1) Open spaces, including:

(a) Woodlands.

(b) Wetlands.

(c) Moorlands (dwarf forest).

(d) Meadow/old fields (open or formerly farmed areas).

(e) Downs (prairie).

- (f) Duneland/beach.
- (g) Farmland (active agriculture).

(2) Other areas attendant to water bodies and shorelines.

(3) Flood-prone areas.

(4) Historically and culturally significant resources, including historic sites, historic districts as well as structures.

(5) Areas identified in the Scenic Resources Study and Scenic Areas of Statewide Significance, not otherwise classified above.

C. These location standards shall be considered directory but not mandatory. Interpretation of opportunity sites and avoidance areas shall be based on the Town of East Hampton Department of Planning maps or aerial photographs provided by the applicant.

D. Personal wireless service facilities may also be permitted in areas that are not opportunity sites subject to the siting, design and safety standards in § 255-5-50 and permitted in avoidance areas subject to the siting, design and safety standards in § 255-5-50.

E. These standards apply regardless of radio frequency (RF) engineering considerations.



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1" = 300 feet



**THE TOWN
 OF
 EAST HAMPTON**

**NEW CINGULAR
 WIRELESS @
 NORTHWEST
 FIRE STATION**

5' TOPOGRAPHY

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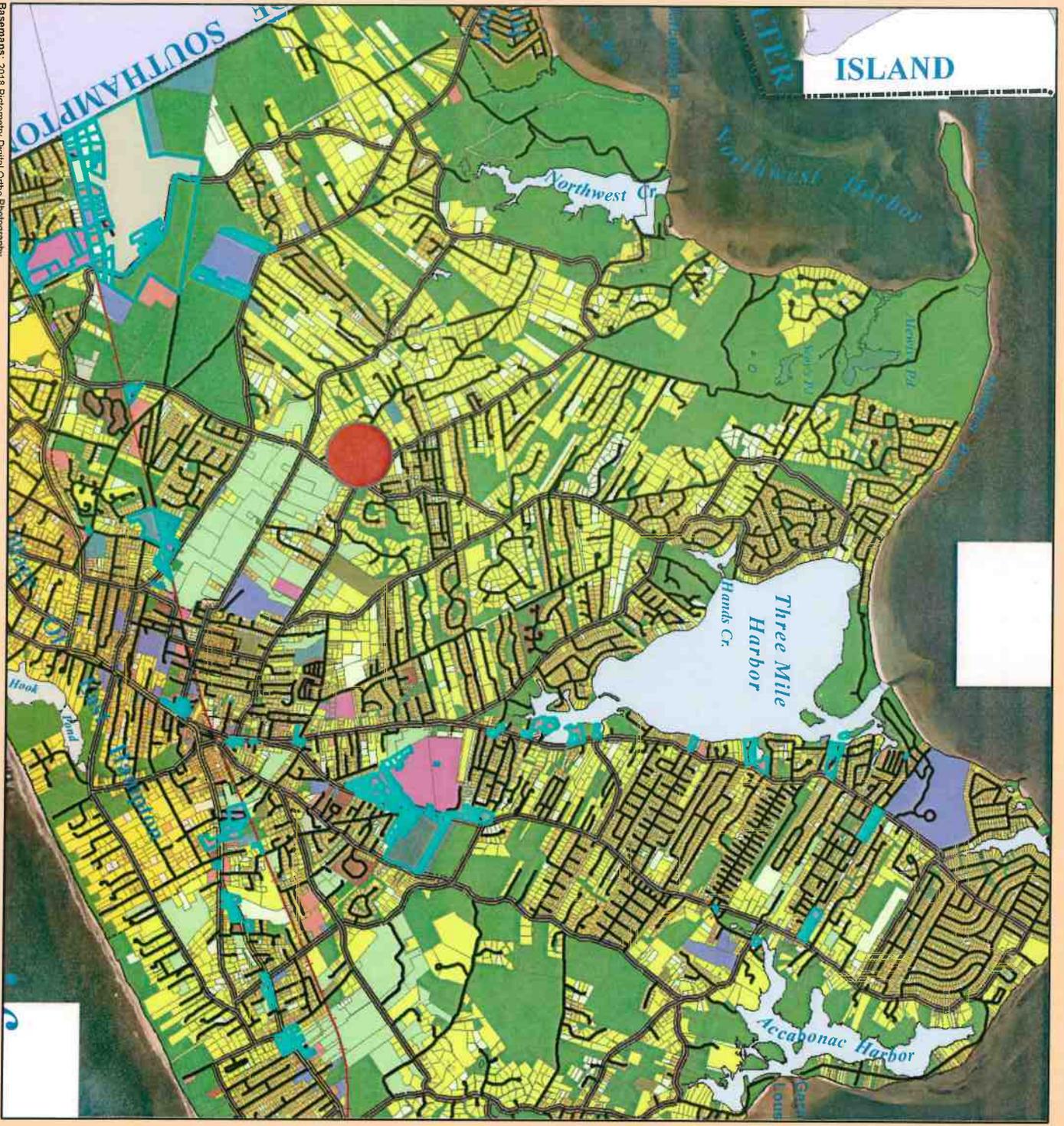
**THE TOWN
 OF
 EAST HAMPTON
 NEW CINGULAR
 WIRELESS @
 NORTHWEST
 FIRE STATION**

**SCENIC AREAS
 OF STATEWIDE
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1" = 1 miles
 Feet
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**THE TOWN
 OF
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 NEW CINCULAR
 WIRELESS @
 NORTHWEST
 FIRE STATION
 COMMERCIAL/
 INDUSTRIAL
 ZONING
 DISTRICTS**

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