

DOCKET NO. 168 - An application of Springwich Cellular Limited Partnership for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a cellular telecommunications facility located on the former site of the Bethany Airport, 719 Amity Road (Route 63) in Bethany, Connecticut. } Connecticut
 } Siting
 } Council
 } July 6, 1995

OPINION

On March 24, 1995, Springwich Cellular Limited Partnership (Springwich) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) to construct, operate, and maintain a cellular telecommunications tower, associated equipment, accessway, and building in the Town of Bethany, Connecticut.

The public need for cellular telephone facilities has been determined and partially pre-empted by the Federal Communications Commission (FCC) which has declared a general public need for cellular service, established a market structure for system development, and developed technical standards that have restricted the design of facilities. These pre-emptive determinations by the FCC have resulted in a system of numerous cellular telecommunications facilities in nearly all areas of the Country. While the Council’s jurisdiction has been limited by the FCC, under Connecticut State law, the Council must balance the need to develop a proposed site as a cellular telecommunications facility with the need to protect the environment, including public health and safety.

In developing a facility, an applicant must first share an appropriate existing tower, or, if an existing tower cannot be shared, seek to develop a new site that can provide suitable coverage without creating substantial negative effects on the environment. Because Springwich does not possess the power to acquire land through eminent domain, proposed development of a site requires consent of the site’s land owner(s) to either lease or sell the rights of the land.

The proposed Bethany facility would consist of a new site with a 150-foot steel monopole tower, a 12-foot by 26-foot single-story equipment building, and a 20-foot wide by 80-foot long gravel access road extending from the Town of Bethany’s (Town) planned maintenance facility. This facility would become part of Springwich’s existing cellular network and would extend call coverage to areas not presently or inadequately covered in the Springwich cellular system, particularly along sections of State Routes 42, 63, 68, and 69, and other areas in Bethany and Prospect. This facility would overlap Springwich’s coverage from existing facilities in Woodbridge, Waterbury, Cheshire, Middlebury, Oxford, and Wolcott.

Under mandates promulgated in Public Act 93-268 and Public Act 94-242, as codified in General Statutes § 16-50p (b)(2), the Council may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of towers to avoid the unnecessary proliferation of towers in the State, provided such sharing is legally, technically, environmentally, and economically possible. Under this mandate, Springwich investigated nine potential sites for a cellular facility in Bethany, including five existing towers, and determined that no existing towers would provide the required service to the area. We regret that shared use of existing towers is not technically feasible in this application. Nonetheless, in compliance with the law, Springwich has offered space on their proposed tower for the Town and other entities to possibly avoid the future construction of additional towers. As yet, no commitments to share the proposed tower have been realized. However, should

antennas for Town emergency and service vehicles be placed on the tower, the Council recommends any related, non-essential towers be dismantled.

Since July 1992, Springwich had discussed with Town officials the prospect of locating a tower site in Bethany. The Town offered the proposed site on the former Bethany Airport (Airport) property in conjunction with the future development of the northern and highest part of the Airport. The proposed cellular facility would be located adjacent to a new Town maintenance facility in an area zoned for Business and Industrial uses. Subsequently, Springwich and the Town signed a leasing agreement in March 1995, for construction of the proposed cellular facility.

Impacts on visual resources from the development of this facility would constitute the greatest effect on the environment. However, the tower will be located on a site that is consistent with long-term development plans of the Town, is isolated from sensitive visual receptors, and such effects would be substantially mitigated by surrounding vegetation. Furthermore, as owner of the site property, the Town has required Springwich to locate the facility behind the treeline of a wooded area adjacent to cleared fields north of the Town's new maintenance facility. Although this location would require the removal of approximately 36 trees of six-inch diameter or more for construction of the accessway and tower, this arrangement would provide additional vegetative screening of the facility from the east, north, and west, and partial screening from the south.

Other environmental effects associated with the development of this facility including air emissions, effluent discharge, and damage to ecologic resources would not occur or would not be significant. Environmental effects associated with construction of this facility can be effectively controlled with erosion, sedimentation, and stormwater management techniques.

Electromagnetic radio frequency power density levels are a concern of the Council; however, the proposed facility's radio power density at the base of the proposed tower would be well below the 1992 American National Standards Institute standard, adopted as the State standard, for the frequencies used by cellular companies.

To conclude, based on the record in this proceeding, we find that the effects associated with the construction, operation, and maintenance of the cellular facility at the proposed Bethany site, including effects on the natural environment, ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, we will issue a Certificate for the construction, maintenance, and operation of a cellular telecommunications facility at the proposed site located at the Bethany Airport, 719 Amity Road, Bethany, Connecticut.

Such certification will be conditioned upon the Certificate Holder submitting a D&M Plan for approval by the Council prior to commencement of any construction at the facility site. This D&M Plan shall include detailed plans for the tower location and tower foundation; the placement of all antennas to be attached to this tower; plans for the equipment building, access road, utility line, and security fence; site clearing and tree trimming; and water drainage and erosion and sedimentation controls consistent with the Connecticut Guidelines for Soil Erosion and Sedimentation Control, as amended. Upon completion of construction, the Certificate holder shall provide to the Council the final cost to construct the facility.