DOCKET NO. 373A - New Cingular Wireless PCS, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at the St. Matthew Lutheran Church, 224 Lovely Street, Avon, Connecticut.	}	Connecticut
	}	Siting
	}	Council

October 7, 2010

Opinion

On October 8, 2009, the Connecticut Siting Council issued a Certificate of Environmental Compatibility and Public Need (Certificate) to New Cingular Wireless PCS, LLC (AT&T) for the construction, maintenance and operation of a wireless telecommunications facility located at the St. Matthew Lutheran Church, 224 Lovely Street, Avon, Connecticut. The Council approved a 110-foot monopole with exterior flush-mount antennas at the Option 3 location, also referred to as the sandpit area, to the rear of the church parsonage.

During the preparation of the Development and Management (D&M) Plan for the site, AT&T submitted preliminary site plans to the Town of Avon (Town) that showed a new location for the proposed tower. Based on these plans, on January 13, 2010, the Town submitted correspondence to the Council expressing concern that AT&T was relocating the Council-approved site to another area of the property. In its letter, the Town also requested that the Council modify the design of the tower to a flagpole type facility, with internal flush-mount antennas, believing this configuration would be less visually obtrusive to the neighborhood.

On May 11, 2010, AT&T submitted a D&M Plan for the facility to the Council. The D&M Plan included a new location for the tower that was approximately 71 feet north of the approved tower location. AT&T stated the new location for the tower was at the request of the church to preserve some of the backyard area of the parsonage.

The new tower location was not consistent with the Council's Decision and Order; therefore, on May 27, 2010, the Council, pursuant to the provisions of Connecticut General Statute § 4-181a(b), reopened the final decision rendered in this docket. The reopening would allow the Council to consider if there are changed conditions that warrant a new proposed location on the property for the facility.

AT&T would construct a 110-foot monopole with exterior flush-mount antennas at the new proposed site. The tower would be capable of supporting a 20-foot extension. The new proposed site is in a brushy area adjacent to wetlands associated with Roaring Brook. Mature trees are located to the east, west and north, with the open sandpit area immediately south. To reduce the amount of ground disturbance, AT&T proposes to construct a 30-foot by 30-foot tower compound at the site rather than a 50-foot by 50-foot compound, as originally approved. AT&T would also enclose the compound with an eight-foot high stockade fence and install an architecturally treated shelter within the compound. Access to the new proposed site would be from a new gravel drive extending 235 feet from the cul-de-sac on Greenwood Drive, passing just east of the sandpit area. This proposed access drive would be along the edge of Roaring Brook and its associated wetlands.

During the re-opened proceeding, the Town and several parties and intervenors objected to the exterior, flush-mount tower design and the expansion capability of the tower. In an attempt to resolve these issues, the Council requested that AT&T discuss potential site modifications with the Town and as many of the other parties and intervenors as possible.

As a result of the subsequent discussion, a compromise agreement between the participating stakeholders was reached that included a 110-foot monopole with interior flush-mount antennas at the new proposed site. The tower would not be capable of supporting an extension. The agreement also included an access drive that would avoid the Roaring Brook area by originating off of the church parking lot and extending generally northeast through the rear yards of the church and adjacent parsonage. This agreement was shared with other parties and intervenors, most of whom agreed to the new compromise. One party, William and Patricia Panetta, were initially opposed to the new tower location but ultimately agreed with the compromise. Youghiogheny Communications-Northeast, LLC (Pocket) indicated they could locate on the tower even if an interior flush-mount design was used.

Although the Town and the interested parties and intervenors arrived at a compromise, the Council is concerned that their agreement would not address the need for further co-location opportunities by other telecommunication carriers seeking coverage in this area. The internal, flush-mount design would require AT&T to locate antennas at three tower levels, instead of the two levels they required using external flush-mounts, as was originally approved. The compromise agreement would leave the 83-foot level available for Pocket for co-location and space for one other carrier at the 75-foot level, although this height would most likely offer limited coverage to the area. By reducing co-location opportunities and preventing the expansion of the tower, the compromise agreement could force other carriers that need coverage in this area to apply for an entirely new tower.

The Council notes that a monopine design was also discussed during the proceeding. The Council believes such a design would be appropriate for the site, given the relatively short height of the tower and presence of numerous surrounding evergreens, allowing the tower to blend in when only the upper portion is seen or when the tower is visible through vegetation. Most views of the tower, the Council notes, are screened by intervening vegetation. A monopine design would also allow more co-location opportunities, since a single carrier using platform-mounted antennas could be accommodated at each level. Despite these advantages of a monopine, the Council acknowledges that the Town and all of the area neighbors who commented on the proposal are against this design, believing it would be out-of-scale with the surroundings.

In terms of impacts to natural resources, the Council finds the new proposed tower location advantageous over the previously approved site. The new proposed site would avoid the sandpit area, whereas the original approved site is located directly in the sandpit. The sandpit apparently is used by turtles for nesting, as turtle egg remnants were observed in the sandpit during the Council's field review conducted on June 24, 2010. Although it was not possible to identify the species of turtle that deposited the eggs, box turtles have been observed in the surrounding neighborhood and sandy areas are preferred nesting soils for this species, as well as for other turtle species. Relocation of the compound site would preserve this exposed sandy area for turtle nesting.

The new proposed site is also located out of the floodplain for Roaring Brook, whereas a portion of the original approved site would have been within the 100-year to 500-year flood plain. Development of the smaller compound at the new proposed site would require less ground disturbance when compared to the larger compound at the original approved site. The Council finds no appreciable difference in visibility between the two sites.

Finally, the Council finds the access drive specified in the compromise agreement preferable because it would avoid the sandpit and reduce the number of mature trees that would need to be removed. It would also prevent permanent soil disturbance along the east edge of Roaring Brook and its associated wetlands, leaving the existing natural buffer in place.

Upon review of the record, the Council finds two changed conditions relating to the new proposed location on the property: relocation of the proposed compound out of a flood zone; and the presence of suitable nesting habitat for turtles in the sandpit area, an area that should be preserved as much as possible. Due to these changed conditions, the Council finds the new proposed location of the facility presented in the compromise agreement acceptable. The agreement also specifies a tower with an interior flush-mount antenna design, and although the Council has reservations about precluding possible future co-location at this site, the Council will support the desire of the Town and surrounding neighbors in choosing this design.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, maintenance, and operation of the telecommunications facility at the new proposed tower location, 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 policies of the State concerning such effects, and are not sufficient reason to deny this proposed site. Therefore, the Council will modify its decision in this docket to provide for the development of a 110-foot monopole telecommunications facility with interior flush-mounted antennas at the new proposed site at 224 Lovely Street in Avon, Connecticut.