

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF SBA TOWERS II, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 12 BURR ROAD,
BLOOMFIELD, CONNECTICUT

DOCKET NO. 379

Date: August 12, 2009

PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, applicant SBA Towers II, LLC (“SBA”) submits these Proposed Findings of Fact (“Proposed Findings”).

Introduction

1. SBA, in accordance with provisions of Connecticut General Statutes (“CGS”) §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the Regulations of Connecticut State Agencies (“RCSA”), applied to the Connecticut Siting Council (“Council”) on March 16, 2009 for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, operation and maintenance of a 120-foot monopole wireless telecommunications facility (“Facility”) at 12 Burr Road, Bloomfield, Connecticut (the “Property”). (SBA Exhibit 1 (“App.”) at 1).
2. The site is located in the southern portion of the Property and consists of a 50-foot by 90 foot equipment compound in a 50-foot by 90-foot leased area (the “Site”). (App. at 2, Exhibit B).
3. The purpose of the proposed Facility is to provide wireless coverage service to this area for Cellco Partnership d/b/a Verizon Wireless (“Verizon”), Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc. d/b/a T-Mobile (“T-Mobile”) and Sprint/Nextel Corporation (“Sprint”). (App. at 1, Exhibit G; Verizon Exhibit 1).

4. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Thursday, July 9, 2009, beginning at 3:00 p.m. and continued at 7:00 p.m., at the Alvin B. Woods Human Services Center, 370 Park Avenue, Bloomfield, Bloomfield, Connecticut (“Hearing”). (Hearing Notice; 3:00 p.m. Transcript (“Tr.”) at 2).
5. The Council and its staff made an inspection of the Site on July 9, 2009 at 2:00 p.m. (Hearing Notice).
6. SBA flew a balloon, four feet in diameter, at a height of 130 feet at the Site from 7:30 am to 6:30 pm on July 9, 2009. (7:00 p.m. Tr. at 10; SBA Exhibit 7).

Need

7. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services. Through the Federal Telecommunications Act of 1996 (the “Act”), Congress seeks to promote competition, reduce regulation to encourage technical innovation, and foster lower prices for wireless telecommunications services. The Act pre-empts any state or local determination of public need. (App. at 5; 3:00 p.m. Tr. at 4-5; Telecommunications Act of 1996).
8. A Facility at the Site will provide coverage for a significant coverage gap experienced by Verizon and T-Mobile in Bloomfield specifically along Route 12, 185 (Simsbury Road) and the surrounding area. (App. at 5-6, Exhibit G; Verizon Exhibits 1 and 2).
9. Sprint has expressed an interest in co-locating on the proposed Facility and has signed a lease with SBA to do so. (App. at 1-2; SBA Exhibit 3 (Pre-Filed Testimony of Hollis Redding (“Redding Testimony”)); 3:00 TR at 37).
10. The Town of Bloomfield has expressed its interest in locating its emergency services on the proposed Facility. (Redding Testimony).

Coverage

11. T-Mobile has indicated that they need to locate at a minimum height of 127 feet above ground level (“AGL”) on the proposed Facility to minimize the number and height of future telecommunications towers in this area. (App. at Exhibit G).

12. Verizon testified that they need to locate at a minimum height of 117 feet AGL on the proposed Facility to minimize the number and height of future telecommunications towers in this area. (Verizon Exhibit 2).
13. The Town of Bloomfield has expressed its need to locate its emergency services equipment on the proposed Facility. (Redding Testimony).
14. SBA has offered the top of the proposed Facility, free of charge, for the Town of Bloomfield's emergency services. (Redding Testimony).

Site Search

15. SBA determined that there were no existing structures of a suitable height or location from which the existing lack of coverage experienced by licensed telecommunications carriers in this area of Bloomfield would be remedied. (App. at 8-9, Exhibit I; Redding Testimony).
16. Only after determining that any existing structures were unavailable for co-location did SBA search for an appropriate location for a new telecommunications facility. (App. at 8-9; Redding Testimony).
17. SBA conducted a survey of property within the area to identify the best possible location to serve the needs of wireless carriers. SBA's site search was limited to the existence of several large parcels of property located in this area of Bloomfield. (Redding Testimony).
18. The Property was uniquely suited for the development of a Facility due to its large size, presence of natural screening and its commercial use. (Redding Testimony).
19. At the request of the City of Bloomfield, SBA had investigated the possibility of locating the proposed Facility at Auer Farm. After several months of negotiations, Auer Farm rejected SBA's proposal to locate a facility on that property. Auer Farm did not give any reasons for its rejection (Redding Testimony; 7:00 TR at 38-40; SBA late file exhibit).
20. SBA investigated the possibility of locating the proposed Facility at the Tumble Brook Country Club. The Country Club rejected SBA's proposal. (Redding Testimony; 7:00 TR at 49).
21. In the course of investigating the possibility of locating the proposed Facility at the Tumble Brook Country Club, SBA conducted a balloon float at that property

and determined that the visual impact of a facility at that property would be greater than the proposed Facility. (SBA Exhibit 8; 3:00 TR at 63).

22. Even if the Tumble Brook Country Club was available for the proposed Facility, a facility at that property would need to be 25 feet higher than the proposed Facility at the Property. (3:00 TR at 43-44).

The Site

23. SBA proposes to construct the Facility at the Site located in the northwestern portion of a 29.54 acre parcel of land owned by Maple Hill Farms, Inc. known as 12 Burr Road, Assessors Map 85-1, Block 126-2, Lot 13 of the Bloomfield Tax Assessor's Records. (App. at 3, Exhibit B).
24. The Property is located within the R-30 residential zone. The Bloomfield Zoning Regulations (the "Regulations") do not prohibit facilities in residential zones. (App. at 2, 15-16; Town of Bloomfield Zoning Regulations (bulk file)).
25. The Property is currently developed with a farming distribution facility and associated outbuildings. (App. at 2; 07/09/09 Field Review).
26. The area surrounding the Property is primarily composed of mixed uses including residential, commercial and agricultural uses. (App. at Exhibit J; 3:00 TR at 36).
27. The proposed Facility has been designed to accommodate Verizon, T-Mobile, Sprint and the equipment of one (1) other telecommunications carrier as well as the Town of Bloomfield emergency services equipment. (App. at 2, Exhibit B).
28. The proposed Facility will accommodate the antennas and equipment of T-Mobile at an antenna centerline of 127 feet AGL, Verizon at an antenna centerline of 117 feet AGL and two (2) other wireless carriers at antenna centerline heights of 107 feet AGL and 97 feet AGL. (App. at 2, Exhibit B).
29. The compound area at the base of the Facility will include locations for Verizon, T-Mobile, Sprint and the equipment of one (1) other telecommunications carrier. The compound will be enclosed by a new eight-foot security fence. (App. at 2, Exhibit B).
30. With the proposed 40 foot compound shift to the northwest, the fall zone of the proposed Facility will not encroach on any existing buildings on the Property. (3:00 TR at 13).

31. The Town of Bloomfield has expressed its interest in locating its emergency service equipment on the proposed Facility. (Redding Testimony).
32. Vehicular access is proposed from Burr Road over an existing driveway and a new 50-foot long gravel driveway extension. (App. at 2, 10, Exhibit B; SBA Exhibit 3 (Pre-Filed Testimony of Rodney Bascom)).
33. Utility service will run underground from existing utility service currently located on Burr Road. No water or sanitary facilities are required and, once built, the Facility will generate minimal traffic because each of the co-locating entities will only need to visit the Site about once a month to perform routine maintenance and inspection. (App. at 9-12, Exhibit B).
34. SBA's total estimated cost of the proposed Facility is approximately \$225,000.00. The total duration of the construction would be approximately eight weeks. (App. at 20-21).

Municipal Consultation

35. SBA filed its technical report with the Town of Bloomfield on February 6, 2006. (App. at 18).
36. The Town of Bloomfield referred the technical report to Mr. Thomas Hooper, Director of the Town's planning and zoning department. (App. at 18; 3:00 TR at 53-54).
37. SBA met with Mr. Hooper on October 31, 2007 to discuss the proposed Facility. (Redding Testimony; 3:00 TR at 53-54).
38. In additional follow-up with the Town of Bloomfield, the Town has not expressed any comments or concerns regarding the proposed Facility. (Redding Testimony).

Environmental Considerations

39. The Property contains no known existing populations of Federal or State Endangered, Threatened or Special Concern Species, according to the Connecticut Department of Environmental Protection Diversity Database. (App. at Exhibit L, Exhibit M).

40. The proposed development will not directly or indirectly affect any wetlands or watercourses. (App. at Exhibit K; SBA Exhibit 3 (Pre-Filed Testimony of Dean Gustafson (“Gustafson Testimony”))).
41. The proposed Facility is not located in a floodplain or a floodway. (App. at Exhibit L; Gustafson Testimony).
42. The State Historic Preservation Officer (SHPO) has determined that the construction of the Facility will have no adverse effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places with certain conditions, which SBA must comply with pursuant to the National Environmental Policy Act (“NEPA”). (SBA Exhibit 5; 3:00 TR at 34-35).
43. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Facility would not require marking or lighting. (App. at Exhibit P).
44. There would be no impact on any known scenic, historic or recreational areas, including the Metacomet Trail. (App. at Exhibit J; 3:00 TR at 51).
45. A study prepared by T-Mobile indicates that maximum emissions levels by T-Mobile antennas from the proposed Facility would be 3.098% of the safety criteria adopted by the FCC. (App. at Exhibit N).

Visibility

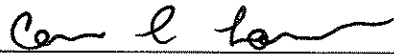
46. The Facility is proposed to be located at the Property in order to minimize impact to residential receptors; the Facility will be located as short as it can be while still providing the necessary coverage to the area. The topography and the mature vegetation at the Property will significantly limit the visual impact of the Facility. (App. at 11-13; Exhibit J).
47. The proposed Facility at the Site will be visible from only 37 acres within a two-mile radius of the tower, which is less than one percent (1%) of the study area. (App. at 12, Exhibit J).
48. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the existing vegetation at the Property. (App. at 12; Exhibit J).

49. The proposed Facility will be partially visible year-round from approximately nine (9) residences and partially visible seasonally from an additional eight (8) residences. (App. at 12, Exhibit J).
50. If the compound is shifted 40 feet to the northwest, the views from 13 Burr Road will be minimized. (7:00 TR at 47).

Towersharing

51. This Facility will provide co-location opportunities for public safety communications systems and four (4) wireless carriers, thus avoiding the proliferation of towers. (App. at Exhibit B).
52. The Town of Bloomfield has expressed its interest in locating its emergency service equipment on the proposed Facility. (Redding Testimony).

Respectfully Submitted,

By: 
Attorney For SBA Towers II, LLC
Carrie L. Larson, Esq.
clarson@pullcom.com
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Ph. (860) 424-4312
Fax (860) 424-4370


Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

Kenneth Baldwin
Joey Lee Miranda
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103

Thomas Midney
13 Burr Road
Bloomfield, CT 06002

Elizabeth Schiro Auerbach
22 Brookside Boulevard
West Hartford, CT 06107



Carrie L. Larson