



**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**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 44 GAVITT ROAD,
BARKHAMSTED, CONNECTICUT**

DOCKET NO. _____

Date: September 17, 2009

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ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

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I. Introduction

A. Purpose and Authority

Pursuant to Chapter 277a, Sections 16-50g *et seq.* of the Connecticut General Statutes (“CGS”), as amended, and Sections 16-50j-1 *et seq.* of the Regulations of Connecticut State Agencies (“RCSA”), as amended, SBA Towers II LLC hereby submits this application and supporting documentation to the Connecticut Siting Council (“Council”) for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless communications facility (the “Facility”) in the Town of Barkhamsted (the “Application”). The proposed Facility will fill a coverage gap in New Cingular Wireless PCS, LLC (“AT&T”) network plan to provide personal wireless communications services in Litchfield County, and will also accommodate antennas and equipment of other wireless carriers. Cellco Partnership d/b/a Verizon Wireless (“Verizon”) has expressed interest in co-locating on the proposed facility. The proposed Facility will provide service along Routes 219 and 179 in Barkhamsted as well as in adjacent areas.

B. Executive Summary

SBA Towers II LLC (“SBA”) is the applicant. SBA was responsible for the site search in the area. SBA will be the Certificate holder and, as such, will be responsible for construction and maintenance of the Facility. Both AT&T and Verizon indicated their need for a facility in this area of Barkhamsted, plan to intervene in this proceeding and co-locate on the proposed Facility.

SBA identified the property located at 44 Gavitt Road in Barkhamsted for the construction and operation of the proposed facility. The property consists of 36 acres, is owned by Karen and Richard Langer, and is currently undeveloped (the “Property”). The proposed facility will consist of a 170 foot monopole, antennas, associated equipment and related site improvements required for a wireless communications facility (the “Site”).

The Site is located in the northern portion of the 36 acre Property. SBA proposes to install a monopole with appurtenances extending to approximately 170 feet in height with an associated 70 foot by 70 foot fenced compound within a 70 foot by 70 foot leased area (the “Facility”). The monopole and compound area location will be designed to accommodate use by four carriers. AT&T has expressed a need to locate at 167’ AGL. Verizon has expressed a need to locate at 157’ AGL. Vehicular traffic to the Site would extend from Gavitt Road along an existing access drive, which will be improved with gravel. Utility service will extend underground from existing utility lines on Gavitt Road.

Included in this Application and the exhibits attached hereto are a copy of SBA’s notice of lease (Exhibit A) and survey-based plans for the proposed Facility (Exhibit B) and other information and reports found detailing the proposed Facility and the potential environmental impacts associated therewith. SBA respectfully submits that the reports and other supporting documentation included in this Application contain the relevant site specific information required by statute and the Council’s regulations. A copy of the Council’s Community Antenna Television

and Telecommunication Facilities Application Guide with references to this Application is included as Exhibit C.

C. The Applicant

The applicant SBA is a Delaware limited liability company. SBA is a subsidiary of SBA Communications Corporation, a publicly traded company and a leading independent owner and operator of wireless infrastructure nationwide. SBA owns and maintains over 7,800 telecommunications facilities nationwide. SBA has offices at One Research Drive, Suite 200C, Westborough, Massachusetts 01581. SBA will construct and maintain the proposed Facility.

Correspondence and/or communications regarding this Application shall be addressed to the attorney for the applicant:

Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Attn: Carrie L. Larson

D. Application Fee

The estimated total construction costs, excluding carrier antennas and equipment, for the Facility is \$227,300. In accordance with RCSA Section 16-50v-1a(b), a check made payable to the Siting Council in the amount of \$1,000.00 accompanies this Application.

E. Compliance with CGS Section 16-50l(c)

SBA is not engaged in generating electric power in the State of Connecticut, and therefore the proposed Facility is not subject to CGS Section 16-50r. The proposed Facility has not been identified in any annual forecast reports, and therefore is not subject to CGS Section 16-50l(c).

II. Service and Notice Required by CGS Section 16-50l(b)

Pursuant to CGS Section 16-50l(b), copies of this Application have been sent to municipal, regional, State, and Federal officials. A certificate of service, along with a list of the parties

served with a copy of the Application is attached hereto as Exhibit D. Pursuant to CGS 16-50(b), notice of the Applicant's intent to submit this application was published on two occasions in the, Hartford Courant on September 9, 2009 and September 10, 2009. A copy of the legal notice is attached hereto as Exhibit E. The publishers' affidavits of service will be forwarded upon receipt. In compliance with CGS 16-50(b), notices were sent to each person appearing of record as owner of a property which abuts the Property. Certification of such notice, a sample notice letter, and the list of property owners to whom the notice was mailed are also included in Exhibit E.

III. Statements of Need and Benefits

A. Statement of Need

In amending the Communications Act of 1934 by the Telecommunications Act of 1996, the United State Congress recognized the important public need for high quality telecommunication services throughout the United States. The purpose of the Telecommunication Act of 1996 was to "provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans." H.R. Conf. Rep. No. 104-458, 206, 104th Cong., Sess. 1 (1996). The Telecommunications Act of 1996 expressly preserved State and/or local land use authority over wireless facilities, placed several requirements and legal limitations on the exercise of that authority, and preempted State or local regulatory oversight of radio frequency emissions as more fully set forth in 47 U.S.C. § 332(c)(7). In doing so, Congress sought a balance between the public interest in deployment of wireless services and legitimate areas of State and/or local regulatory control over wireless infrastructure.

The Facility proposed in this Application is an integral component of AT&T and Verizon's wireless network in Litchfield County. Currently, a gap in coverage exists in AT&T and Verizon's network in this area of Barkhamsted, specifically along Routes 219, 179 and in adjacent

areas. The proposed Facility, in conjunction with other existing and future facilities in Barkhamsted and surrounding towns, is needed to allow AT&T and Verizon to provide its wireless services to people living in and traveling through this area of the State.

AT&T's need for the proposed Facility is depicted in propagation plots attached hereto as Exhibit F. In addition, Verizon has expressed interest in co-locating antennas on the proposed Facility. As is there usual practice, SBA has offered to provide reasonable space, free of charge, for the Town of Barkhamsted's emergency services equipment. Based on the location of the proposed Facility and the current lack of coverage in this area, the Applicant cannot readily predict a point in time at which the Facility might reach maximum capacity.

B. Statement of Benefits

In recent years, wireless carriers in Connecticut have seen the public's demand for traditional cellular telephone services evolve to include expectations that service will be available wherever they travel and that they will be able to access internet service as well as send and receive voice, text, image and video through their wireless devices. As the availability of wireless service has become widespread and as the technological services provided have become more sophisticated, people have begun to employ their wireless devices as their primary form of communication for both personal and business needs.

To help provide the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999 (the "911 Act"). The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. In enacting the 911 Act, Congress recognized that networks which provide for the rapid, efficient deployment of emergency services would enable faster delivery of emergency care, resulting in reduced fatalities and severity of injuries. With each year since passage of the 911 Act, additional

anecdotal evidence supports the public safety value of improved wireless communications in aiding lost, ill or injured individuals such as motorists, hikers and boaters.

As an outgrowth of the 911 Act, the FCC mandated that wireless carriers provide enhanced 911 services (“E911”) as part of their communications networks. These services ultimately allow 911 public safety dispatchers to identify a wireless caller’s geographical location within several hundred feet. The proposed Facility will become an integral component of AT&T and Verizon’s E911 network in this area of the state upon construction of the Facility. As other wireless carriers expand their service in the Barkhamsted area through the proposed Facility, E911 services will experience additional improvement.

C. Technological Alternatives

The FCC licenses granted to wireless carriers authorize them to provide cellular and PCS services in this area of the State through deployment of a network of wireless transmitting sites. The proposed Facility is a necessary component of AT&T’s wireless network. The proposed Facility will also allow other wireless carriers, including Verizon, to provide services in this area.

Repeaters, microcell transmitters, distributed antenna systems and other types of transmitting technologies are not a practicable or feasible means to providing service within the sizeable coverage gap in this area. Terrain variations and tree cover in this area of Barkhamsted and the surrounding area, as well as other practical factors limit the use of such technologies and preclude their implementation as alternatives to the proposed Facility. The Applicant submits that there are no equally effective technological alternatives to construction of a new tower Facility for providing reliable personal wireless services in this area of Connecticut.

IV. Site Selection and Tower Sharing

A. Site Selection

A search area is an area where a coverage and/or capacity problem exists within a carrier's network and where a new wireless facility is needed to provide service to the public. In general, wireless carriers and developers attempt to identify any existing towers or other structures of adequate height in a site search area and the surrounding environs which might accommodate the height and structural requirements for a wireless facility. SBA conducted the site search in this area and determined that there were no wireless communications towers or other suitable towers or tall structures that would provide coverage for this area of Barkhamsted.

The specific site search which resulted in selection of the proposed site is explained in the Site Search Summary and Rejected Sites Map, both attached hereto as Exhibit G. Initially, SBA seeks to identify any existing towers or other structures of adequate height in a site search area and the surrounding environs that may accommodate a wireless facility. There are nine towers within four miles of the proposed site. All existing towers within a four mile radius of the proposed Site are included in the table listed as "Surrounding Site Information" and corresponding map attached hereto as Exhibit H. There are no existing structures in the area of adequate height to fill the carriers' existing coverage gaps in this area.

Once it was determined that a new tower facility was required, SBA searched for properties upon which a tower could be located while at the same time minimizing any potential environmental impact to the extent practicable and feasible. The site selection narrative and map of rejected sites, attached hereto as Exhibit G, provides a complete explanation of SBA's methodology and actual search for potential sites in Barkhamsted and depicts the locations reviewed during SBA's search and the reasons for elimination from consideration of all but the proposed Site.

B. Tower Sharing

To promote the sharing of wireless facilities in the Barkhamsted area, SBA proposes to construct a Facility that can accommodate AT&T, Verizon and two additional antenna platforms and equipment for the wireless carriers in the Connecticut marketplace. Municipal public safety antennas also could be accommodated. Details of the design are included in Exhibit B. As is its normal practice, SBA has expressed its willingness to provide, free of charge, space on the proposed monopole for the Town of Barkhamsted's public safety communications antennas.

V. Facility Design

SBA would lease a 70 foot by 70 foot leased area within the approximately 36-acre Property. The proposed Facility would at a minimum require the construction of a 170 foot high self-supporting monopole. AT&T would install six panel antennas on a platform at the 167' AGL centerline and place its equipment cabinets on concrete pads within a 70 foot by 70 foot equipment compound. Verizon has expressed an interest in locating an antenna array at the 157' AGL centerline. The compound would be enclosed by a security fence, 8 feet in height. The monopole, foundation and equipment compound will be designed to accommodate the facilities of all wireless carriers active in the Connecticut marketplace. SBA also would make space available, free of charge, for the Town of Barkhamsted public safety communications.

Vehicular access to the facility would extend from Gavitt Road over a gravel drive approximately 1,700 feet to the equipment compound. SBA will run utility service underground from existing utility service on Gavitt Road to the compound. Exhibit B contains plans, descriptions and other relevant information for the Site. Exhibit I contains a Visual Resource Evaluation of the Site. Exhibit J contains a wetlands impact report and Exhibit K contains correspondence from both the State Historic Preservation Office and the Department of Environmental Protection. In summary, that information reveals that:

- The Property is classified in the RA-2 residential district;
- While there are wetlands in the vicinity of the access driveway, there will be no direct or indirect impact to those wetlands;
- The Property is currently undeveloped with no development plans in the near future;
- Moderate grading will be required for the construction of the proposed access drive and equipment compound;
- Moderate clearing would be required for development of the proposed new access drive and compound area including the removal of twenty-five (25) trees 6" in diameter or greater;
- The proposed Facility will have no effect on historic or architectural resources; and
- The proposed Facility will have no impact on water flow, water quality, or air quality and will comply with relevant noise regulations.

VI. Environmental Compatibility

Pursuant to CGS Section 16-50p, the Council is required to find and to determine as part of the Application process any probable environmental impact of the facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forest and parks, air and water purity and fish and wildlife. As demonstrated in this Application and the accompanying Attachments and documentation, the proposed Facility will have no significant adverse environmental impacts.

A. Visual Assessment

The visual impact of the proposed Facility is limited and would vary from different locations around the tower depending upon factors such as vegetation, topography, distance from the towers, and the location of structures around the towers. Exhibit I contains a computer-based,

predictive viewshed model which depicts the potential impact of the proposed Facility from surrounding views for the Site as well as a Visual Resource Evaluation.

SBA retained Vanasse Hangen Brustlin (“VHB”) to prepare the Visual Resource Evaluation. On July 28, 2009, VHB conducted a balloon test at 170 feet AGL at the proposed Site in order to evaluate the potential viewshed associated with the proposed Facility. VHB sought to determine the visibility impact of the Facility, accounting for local, state and federal historic, hiking and recreational sites within the study area, as well as within a two-mile radius of the proposed Site (“Study Area”).

The Visual Resources Evaluation demonstrates that the Facility will be as inconspicuous as possible. The topography and the mature vegetation in the vicinity of the Site will significantly limit the visual impact of the proposed Facility.

The existing vegetation in the area of the proposed Site is mature, mixed deciduous hardwood species with an average estimated height of 65 feet. Based on the viewshed analysis contained in Exhibit I, areas from which the proposed Site will be at least partially visible comprise only thirteen acres, which is less than one half of one percent of the entire Study Area. The visibility of the tower at the proposed Site will be minimized due largely to the topography and mature vegetation found within the Study Area. The Facility at the proposed Site will be visible above the tree canopy from portions of Shannon Drive and Legeyt Road. Overall, four residences will have partial year round views of the Facility and two additional residences will have partial, seasonal views of the Facility.

The Property itself provides a vegetative buffer around the Site and will serve to greatly reduce any potential visual impact of the proposed Facility, including the equipment compound.

These Visual Resources demonstrate that, even from most of the areas where the Facility will be visible, the tower is unobtrusive. Accordingly, the proposed Facility will not result in an unacceptable adverse visual impact.

As the Visual Resources confirm, the location of the proposed Facility at the proposed Site will not have a significant visual impact on the surrounding area. In addition, the Visual Resources confirm that the location of the proposed Facility at the proposed Site will not have a significant visual impact on any hiking or recreational sites, scenic highways or historic sites. Specifically, there will be no views from the Tunxis Trail, which is located between one and two miles to the west of the proposed Facility.

Weather permitting, the Applicant will raise a balloon with a diameter of at least three (3) feet at the proposed Site on the day of the Council's first hearing session on this Application, or at a time otherwise specified by the Council.

B. Solicitation of State Agency Comments

SBA has submitted a request for review and comment for the proposed Site to the State Historic Preservation Office ("SHPO") and Department of Environmental Protection ("DEP"). The SHPO office has confirmed that the development of the proposed Facility will have no adverse effect on historic resources. The DEP has noted the potential presence of a State threatened species, the northern spring salamander. As can be seen in the report included in Exhibit J, SBA is committed to conduct a survey for the presence of this species during the recommended time (spring, 2010) and is committed to utilizing the proposed action plan to ensure that the construction of the proposed Facility will have no impact on this species.

C. MPE Limits/Power Density Analysis

In August 1996, the FCC adopted a standard for exposure to Radio Frequency ("RF") emissions from telecommunications facilities like those proposed in this Application. To ensure

compliance with applicable standards, AT&T performed maximum power density calculations for the proposed Facility assuming that the antennas were pointed at the base of the tower and all channels were operating simultaneously. The resulting power density for AT&T operations at the Site would be 5.4% of the applicable MPE standards. A copy of the power density calculations and report are attached hereto as Exhibit L.

D. Other Environmental Factors

The proposed Facility would be unmanned, requiring infrequent monthly maintenance visits by each carrier that will last approximately one hour. AT&T and Verizon's equipment at the Facility would be monitored 24 hours a day, 7 days a week from a remote location. The proposed Facility would not require a water supply or wastewater utilities. No outdoor storage or solid waste receptacles will be needed, and the proposed Facility will not create or emit any smoke, gas, dust or other air contaminants, noise, odors or vibrations. The construction and operation of the proposed Facility will have no significant impact on the air, water, or noise quality.

SBA has commenced an evaluation of the Site in accordance with the FCC's regulations implementing the National Environmental Policy Act of 1969 ("NEPA"). Based upon preliminary review, the Site has not been identified as a wilderness area. No National Parks, National Forests, National Parkways or Scenic Rivers, State Forest, State Designated Scenic Rivers or State Gamelands are located in the vicinity of the Site. The Site is not located in or adjacent to any areas identified as a federal wildlife preserve. Further, no federally regulated wetlands or watercourses will be impacted by the proposed Facility. As such, and based on the information contained in other reports included in this Application, the Site is expected to be categorically excluded from any requirement for further environmental review by the FCC in accordance with NEPA and no permit is required by that agency prior to construction of the proposed Facility. See 47 C.F.R. §§ 1.1306(b) and 1.1307(a).

VII. Consistency with the Town of Barkhamsted's Land Use Regulations

Pursuant to the Council's Application Guide, included in this section is a narrative summary of the consistency of the project with the local municipality's zoning and wetland regulations and plan of conservation and development. A description of the zoning classification of each Site and the planned and existing uses of the proposed site locations are also detailed in this section.

A. Barkhamsted's Plan of Conservation and Development

The current Barkhamsted Plan of Conservation and Development was adopted on May 10, 2007 (the "Plan"). The Plan does not address telecommunications or telecommunications facilities.

B. Barkhamsted's Zoning Regulations and Zoning Classification

The Property is zoned RA-2. Section 193-62 of the Barkhamsted Zoning Regulations (the "Regulations") reference wireless communications facilities. Section 193-62 references a separate folder. In follow-up consultation with the Town, it was determined that the Town does not have any wireless telecommunications facilities Regulations due to the preemptive jurisdiction of the Council.

C. Planned and Existing Land Uses

The Site is located in the northern portion of the Property. The Property is currently undeveloped and the owner has conducted some clearing, including clearing the area of the proposed access road. The area surrounding the Property is largely either unused forest land or owned by the MDC or developed as residential uses. The closest residence to the Site is 940 feet to the southeast. Consultation with municipal officials and observations did not indicate any known or planned changes in surrounding land uses.

D. Barkhamsted's Inland Wetlands and Watercourses Regulations

The Barkhamsted Inland Wetlands and Watercourses Regulations ("Wetlands Regulations") regulate certain activities conducted in or adjacent to "wetlands" as defined therein. "Regulated Activity" is defined as "any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, alteration or pollution, of such wetlands or watercourses. . ." See Bulk Filing, Inland Wetlands and Watercourses Regulations, Section 2.1. The Wetlands Regulations do not contain a specific upland review area.

According to the site survey, field investigations and wetlands delineation report conducted at the Site, there are wetlands approximately 7 feet from the access driveway. As noted in the wetlands impact report attached hereto as Exhibit J, the Facility will have no direct impact on those wetlands resources. As noted in that report and in accordance with the Connecticut Soil Erosion Control Guidelines, as established by the Council of Soil and Water Conservation, soil erosion control measures and other best management practices will be established and maintained throughout the construction of the proposed Facility to ensure no temporary impact to those wetlands as well.

VIII. Consultations with Local, State and Federal Officials

A. Local Consultations

CGS Section 16-50/(e) requires an applicant to consult with the local municipality in which a proposed facility may be located and with any adjoining municipality having a boundary of 2,500 feet from the proposed facility concerning the proposed and alternate sites of the facility.

On June 30, 2009, SBA submitted a technical report to the First Selectman of the Town of Barkhamsted. The technical report, a copy of which is being bulk filed with this Application, included specifics about each proposed location and addressed the public need for the facility, the site selection process and the environmental effects of the proposed Facility. Representatives of

SBA met with the First Selectman of Barkhamsted, Mr. Donald Stein, along with Debbie Brydon, from the Barkhamsted Building Department and other town officials on July 15, 2009 to discuss the proposed Facility. Copies of correspondence regarding the proposed Facility with the Town of Barkhamsted are included herein at Exhibit M.

B. Consultations with State Officials

As noted in Section VI.B of this Application, SBA consulted with the SHPO and DEP concerning the propose Facility. Copies of the correspondence from SHPO and DEP are attached hereto as Exhibit K.

C. Consultation with Federal Agencies

SBA has received a determination from the Federal Aviation Administration (“FAA”) for the Facility, a copy of which is attached at Exhibit N. The results indicate the proposed Facility would not require FAA registration, let alone FAA review as a potential air navigation obstruction or hazard. As such, no FAA lighting or marking would be required for the tower proposed in this Application.

Wireless carriers’ FCC licenses permits carriers to modify its network by building wireless facilities within its licensed area without prior approval from the FCC provided that a proposed facility does not fall within one of the “listed” categories requiring review under NEPA. The “listed” categories, included in 47 CFR §1.1307, are activities that may affect wilderness areas, wilderness preserves, endangered or threatened species, critical habitats, National Register historic districts, sites, buildings, structures or objects, Indian religious sites, flood plains and federal wetlands. As noted in Section VI.D of this Application, SBA has commenced a review for the Site and expects to receive a determination that the Site does not fall under any of the NEPA “listed” categories of 47 CFR §1.1307. Therefore, the proposed Facility should not require review by the FCC pursuant to NEPA.

IX. Estimated Cost and Schedule

A. Overall Estimated Cost

SBA's total estimated cost of construction, exclusive of AT&T's installation and equipment costs for the proposed Facility is \$227,300. This estimate includes:

- (1) Tower and foundation costs (including installation) of approximately \$77,000;
- (2) Site development costs of approximately \$97,000;
- (3) Utility installation costs of approximately \$53,300.

B. Overall Scheduling

Site preparation and engineering will commence immediately following Council approval of SBA's Development and Management ("D&M") Plan and is expected to be completed within three (3) to four (4) weeks. Installation of the monopole, antennas and associated equipment is expected to take an additional two (2) weeks. The duration of the total construction schedule is approximately six (6) weeks. Facility integration and system testing is expected to require an additional two (2) weeks after the construction is completed.

X. Conclusion

This Application and the accompanying materials and documentation clearly demonstrate that a public need exists in the Town of Barkhamsted for improved wireless services and that the proposed Facility will have any substantial adverse environmental effects. SBA therefore respectfully submits that the public need for the proposed facility outweighs any potential environmental effects resulting from the construction of the proposed Facility, and that the Council should grant a Certificate of Environmental Compatibility and Public Need to SBA for a proposed wireless telecommunication facility in the Town of Barkhamsted.

Respectfully Submitted,

By:  _____

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