

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**RE: APPLICATION OF SBA TOWERS II LLC DOCKET NO. 396
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 49 BRAINERD ROAD,
NIANTIC (EAST LYME), CONNECTICUT**

Date: July 26, 2010

MOTION TO RE-OPEN EVIDENTIARY HEARING

The applicant, SBA Towers II LLC ("SBA") hereby moves to re-open the evidentiary hearing on docket 396. During this proceedings, SBA and the intervening carriers, New Cingular Wireless PCS, LLC ("AT&T") and Cellco Partnership d/b/a Verizon Wireless ("Verizon") established the need for a new facility in this area of East Lyme. In addition, SBA presented unrefuted testimony regarding the minimal environmental impacts of its proposed facility. At the Council's initial deliberations on July 15, 2010, the Council's straw vote indicated an approval of a location on the subject property different from that proposed in SBA's original application. Subsequent to the July 15, 2010 deliberations, SBA personnel have further investigated this location and have determined that the location will, in all likelihood, cause direct wetlands impact. Therefore, SBA moves to re-open the evidentiary hearing for the limited purpose of presenting evidence of this wetlands impact.

BACKGROUND

SBA, in accordance with the provisions of Connecticut General Statutes ("CGS") §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the RCSA, applied to the Connecticut Siting Council ("Council") on December 7, 2009 for a Certificate of

Environmental Compatibility and Public Need (“Certificate”). SBA proposed to construct a 170-foot steel monopole telecommunications facility in the northern portion of a 51 acre parcel of land owned by Christopher Samuelsen known as 49 Brainerd Road in East Lyme, Assessor’s ID 7.4-21 of the East Lyme Tax Assessor’s Records (the “Property”). During the three days of public hearings held to review this application, three different alternative locations on the Property were discussed and considered: (1) Option 1 (also known as Russell Brown’s Option 1); (2) Option 2 (also known as Russell Brown’s Option 2); and (3) the SBA Hybrid Option. Russell Brown’s Option 1 was proposed to be 500 feet to the south of the location proposed in the application. Russell Brown’s Option 2 was proposed to be 144 feet to the south of the location proposed in the application. The SBA hybrid location was approximately in the middle of these two locations—approximately 300 feet to the south of the location proposed in the Application. *See* SBA late file exhibit, Micro-Aerial Photograph submitted on May 6, 2010 for a graphic depiction, also attached hereto as Exhibit A.

During the evidentiary hearing, AT&T and Verizon both indicated that any of these three alternates would fulfill their respective coverage needs at the same height as those proposed at the original location. *See* 3/23/10 Tr. at 91, 139. SBA presented evidence that while the visual impact of any of these three locations would be comparable to the proposed Facility, option 1 would have a greater wetland impact than any of the other options and would also impact an existing well on the Property. *See* 3/23/10 Tr. at 33-34; 4/22/10 Tr. at 97. SBA presented further evidence that the re-location of the proposed Facility from the original location to any of these three alternate locations

would reduce the visibility of the proposed Facility from the immediate neighbors. *See* 3/23/10 Tr. at 30-33.

The Council held initial deliberations on this docket on July 15, 2010. During those deliberations, the Council preliminarily determined to approve Option 1 – the location approximately 500 feet to the south of the location approved in the Application. Subsequent to the July 15, 2010 deliberations, SBA personnel visited to Property to assess Option 1. During that visit, it was determined that Option 1 would not only have more wetlands impact than any of the other locations, as already included in the record of this docket, but will also have direct wetlands impact. *See* Wetlands Report dated July 26, 2010 attached hereto as Exhibit B.

ARGUMENT


Based on this new information concerning the direct wetlands impact if Option 1 is approved and constructed, SBA respectfully moves to re-open the evidentiary portion of this docket for the limited purpose of including the report dated July 26, 2010 in the record. SBA believes that this information is necessary for the Council to consider the full array of the environmental impacts of Option 1. Therefore, SBA moves to re-open the evidentiary hearing for the limited purpose of discussing the wetlands impacts at Option 1 so that: 1) SBA can include this documentary evidence demonstrating the wetlands impact on Option 1; 2) Council staff may issue additional interrogatories to SBA concerning this wetlands impact; 3) the Council and any parties and intervenors may conduct further cross-examination of SBA witnesses concerning this wetlands impact if deemed necessary.

Based on this new information as well as the extensive evidence and testimony already in the record, SBA believes that approval of the SBA Hybrid Option will not only serve to fill the carriers' existing coverage gaps in this area, but will also minimize the environmental impacts, including the visual impacts to the immediate neighbors on Brainerd Road.

CONCLUSION

Based on the foregoing, SBA moves to re-open the evidentiary hearing on Docket 396 for the limited purpose of presenting evidence concerning the direct wetlands impact of this alternative location on the Property.

Respectfully Submitted,

By: 
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Certification

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

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Carrie L. Larson

EXHIBIT A



Base Map Source: 2004 aerial photograph with 1-foot resolution.

**Proposed Site Location and
Potential Alternate Site Locations
49 Brainerd Road
East Lyme, Connecticut**

- Legend**
- Proposed Site Location
 - ★ Potential Alternate Site Locations on 49 Brainerd Road
 - Parcel Boundary - 49 Brainerd Road
 - East Lyme Parcel Boundaries

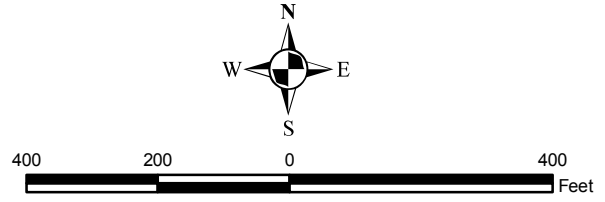


EXHIBIT B



Vanasse Hangen Brustlin, Inc.

54 Tuttle Place
Middletown, Connecticut 06457
860 632-1500
FAX 860 632-7879

Memorandum

To: Ms. Hollis M. Redding
SBA Towers II LLC
One Research Drive, Suite 200 C
Westborough, MA 01581

Date: July 26, 2010

Project No.: 40999.30

From: Dean Gustafson
Professional Soil Scientist

Re: Preliminary Wetland Impact Analysis
500 Foot Alternative Location
East Lyme - Site No. CT11794
49 Brainerd Road
Niantic (East Lyme), Connecticut

Vanasse Hangen Brustlin, Inc. (VHB) previously completed on-site investigations to determine if wetlands and/or watercourses are located on the above-referenced Site. At the request of SBA Towers II LLC, VHB reinspected the subject property on July 23, 2010 to evaluate wetland constraints at an alternate location for the proposed wireless telecommunications facility (Facility) located approximately 500 feet south of the originally proposed location. VHB was provided with Site Plan prepared by CHA, noted as drawing EX-1, as attached.

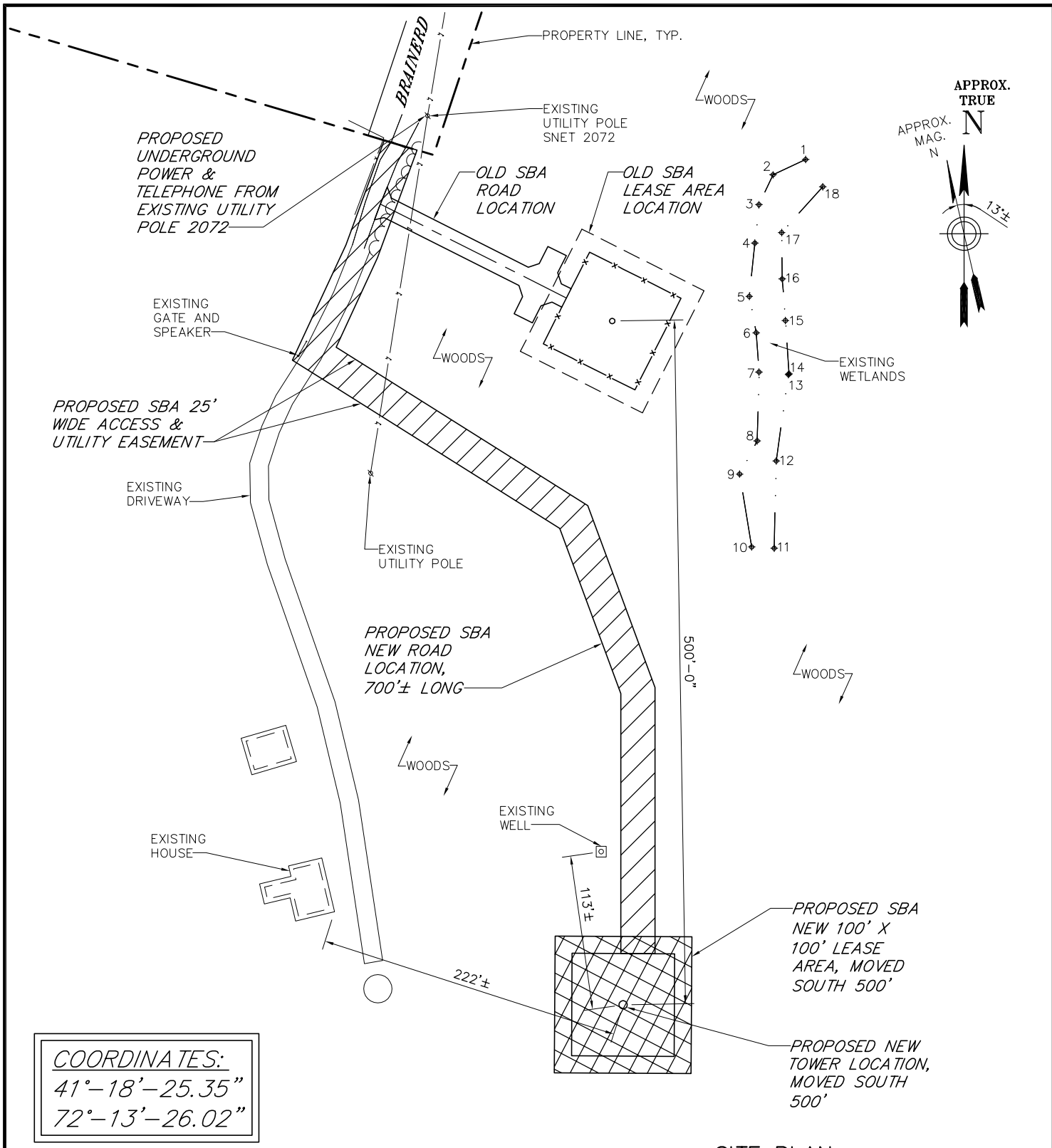
One wetland system was previously identified and delineated by VHB on July 29, 2009 in the east-central portion of the subject property in proximity to the proposed SBA Towers II LLC project. This wetland is characterized as a palustrine forested inland wetland bordering along a seasonal intermittent watercourse. The headwaters to this relatively narrow wetland corridor starts on adjoining residential properties to the north. This wetland system is located approximately 48 feet east of the northeast corner of the originally proposed SBA Towers II LLC tower facility, noted as "Old SBA Lease Area Location" on the attached CHA Site Plan.

The delineation of the western boundary of this wetland system was extended on July 23, 2010 from wetland flag (WF) 10 with flag series WF 10-1 to 10-18, approximately 100 feet south of the alternate Facility location (500 feet south of the original Facility location). Refer to attached Wetland Sketch Map, dated 07/23/10. The wetland boundary shifts to the west as the wetland system expands considerably in width from the section delineated in proximity to the original Facility location. The proposed new Facility location was flagged in the field by CHA approximately 113 feet south of a water supply well that services the subject property residence. Based on field measurements to estimate the location of the newly delineated wetland boundary in proximity to the proposed Facility, the wetland boundary would extend approximately 8 to 10 feet into the eastern side of the proposed 75-foot by 75-foot compound. Although VHB recommends that survey of the proposed alternate location be performed to confirm locations of the proposed compound in relationship to nearby wetlands, this preliminary analysis reveals that direct wetland impacts would result from the proposed alternate Facility. It is estimated that approximately 500 square feet to 1,000 square

feet of wetlands would be permanently filled as a result of development of this alternate Facility location.

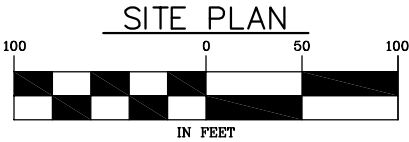
In order to avoid direct wetland impacts, VHB recommends that an alternate location be considered. A "hybrid" alternate site location was considered during the Connecticut Siting Council's hearings on this proposed Facility, approximately 300 feet south of the original Facility. It appears that a Facility could be constructed at this hybrid location without directly impacting wetlands by allowing a buffer of approximately 30 feet, similar to the original Facility.

Enclosures



COORDINATES:
 41°-18'-25.35"
 72°-13'-26.02"

NOTE:
 PROPOSED SBA INSTALLATION SHOWN IS ONLY APPROXIMATE. EXACT LOCATIONS AND DETAILS WILL BE DETERMINED BY FINAL ENGINEERING DESIGN.



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1 OF 1
 REV 0
 EX-1

