

February 10, 2014

BY ELECTRONIC MAIL & OVERNIGHT DELIVERY

Chairman Robert Stein
and Members of the Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 441
Homeland Towers, LLC and New Cingular Wireless PCS, LLC ("AT&T")
Application for Certificate of Environmental Compatibility
and Public Need for a Telecommunications Tower Facility on Town Owned Property at
10 Blackville Road, Washington, CT

Dear Chairman Stein and Members of the Council:

On behalf of the Homeland Towers, LLC and New Cingular Wireless PCS, LLC ("AT&T") please find enclosed an original and 15 copies of the Applicants' post-hearing brief for the captioned Docket. Please do not hesitate to contact me should the Council or staff have any questions regarding the enclosed.

Very truly yours,


Daniel M. Laub

Enclosures

cc: Service List
Manuel Vicente, Homeland Towers
Raymond Vergati, Homeland Towers
Michele Briggs, AT&T
Consultant Team
Christopher B. Fisher, Esq.

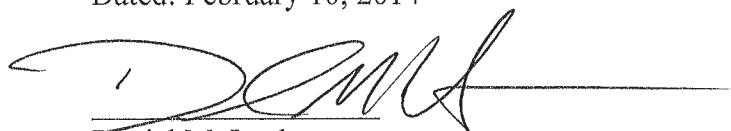
CERTIFICATE OF SERVICE

I hereby certify that on this day, an original and fifteen copies of the foregoing letter and accompanying Post-Hearing Brief were sent electronically and by overnight mail to the Connecticut Siting Council with copy to:

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Dated: February 10, 2014


Daniel M. Laub

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

HOMELAND TOWERS LLC (“HOMELAND”)
AND NEW CINGULAR WIRELESS PCS, LLC
 (“AT&T”) APPLICATION FOR CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED FOR A
TELECOMMUNICATIONS TOWER FACILITY
ON TOWN OWNED PROPERTY IN
WASHINGTON, CONNECTICUT

DOCKET NO. 441

FEBRUARY 10, 2014

APPLICANTS’
POST HEARING BRIEF

Respectfully Submitted,

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PRELIMINARY STATEMENT

Homeland Towers, LLC (“Homeland”) and New Cingular Wireless PCS, LLC (“AT&T”) (together the “Applicants”), by their attorneys Cuddy & Feder LLP, respectfully submit this post-hearing brief in support of their application (“Application”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”) in Docket No. 441. The Application addresses the public need for a new tower facility so that wireless carriers may provide their services to residents, visitors to Washington Depot and associated nearby roads and areas in the town of Washington. Throughout the proceedings in this Docket, AT&T provided data, testimony and otherwise responded to questions from the Siting Council and staff that address the public need for reliable service and new tower infrastructure in this part of the State. As set forth in detail in the Application, Homeland was able to secure a lease agreement with the Town of Washington for a small portion of the town owned property at 10 Blackville Road which is otherwise used as a town garage. The Applicants respectfully submit that the proposed location is ideal in this area of the state for a tower facility needed to serve the public and that there are no significant adverse environmental impacts associated with the facility as proposed. As such, the Applicants are requesting a Certificate for the tower facility as proposed to meet the public need for wireless services in this area of the state.

STATEMENT OF FACTS

I. AT&T’s Service Objectives & Site Search

AT&T’s radiofrequency (“RF”) engineers establish site search areas where new wireless facilities are needed to address the public’s inability to access its wireless network. In this case, AT&T experiences gaps in coverage in Washington along State and local roads and areas including the valley where Washington Depot is located. Applicants’ Ex. 1. pp. 9-11., Tab 1. AT&T’s RF engineers established a site search area (S2417) for Washington Depot based on its

documented gaps in coverage. Applicants' Ex. 1. pp. 9-11, Tab 1. In addition, AT&T's coverage gap in this area of Washington was further documented by drive-test data. Applicants' Ex. 1, Tab 1.

AT&T and all other carrier networks do not provide reliable services in Washington Depot. Applicants' Ex. 1 Tabs 1 & 2. AT&T and other carriers including Verizon and T-Mobile have been engaged in site searches in the Washington Depot area over a period of several years and the Town of Washington and various agencies including the Planning Commission, Conservation Commission and Board of Selectmen, have considered the siting of a tower at the Town garage property dating back to at least 2010. Applicants' Ex. 1 Tabs 1 & 2. The Town initiated a process whereby it reviewed information from AT&T as well as other carriers, and its own radiofrequency consultants, which confirmed the need for and lack of siting alternatives. The Town also commissioned visual and environmental studies and other information pertinent to the Town in pursuing the project.

II. Leasing and Technical Consultation with Town of Washington

Homeland Towers collaborated with Town officials on a proposal to lease land at the Town Garage and develop a tower facility for use by wireless carriers to serve the Washington Depot area. Applicants' Ex. 1 Tabs 2 and 7. That process spanning a period of years concluded in March of 2013 with a Town Meeting vote authorizing the Town to enter into a lease with Homeland Towers. Applicants' Ex. 1 Tabs 2 and 7. The Town, Homeland and wireless carriers are not aware of any alternative location in the Washington Depot part of Town which is technically viable, can be leased and would meet Town objectives and state environmental criteria for new tower sites as set forth in Section 16-50p of the General Statutes.

III. Certificate Application, Parties & Intervenor & Pre-Hearing Filings

The proposed Facility is designed as a self-supporting 135' AGL monopole tower which will reach to an overall height of approximately 140' AGL with proposed monopine "stealthing". Applicants' Ex. 3. The tower will accommodate emergency/municipal communications antennas as proposed by intervenor Litchfield County Dispatch as well as those belonging to federally licensed wireless carriers. Applicants' Ex. 3.

AT&T would install up to twelve (12) panel antennas at a centerline height of approximately 126' AGL along with additional equipment used in providing 4G LTE services. Applicants' Ex. 3. An associated equipment shelter would be installed at the tower base on a concrete pad within a compound together with provisions for a fixed diesel back-up power generator. Applicants' Ex. 3. The compound will include space for equipment of other carriers as well as equipment and a generator belonging to LCD and be enclosed by an eight (8) foot tall chain link fence. Applicants' Ex. 3.

Vehicle access to the Facility would extend from Blackville Road through an existing parking lot and existing access drive for approximately 1,455' supplemented with a new approximately 23' extension of the access drive to the proposed tower compound. Applicants' Ex 1, Tab 3. Utility connections would be run underground from an off-site utility pole on Blackville Road. Applicants' Ex 1, Tab 3.

In response to submitted petitions, the Siting Council granted intervenor status to both the Town of Washington and Litchfield County Dispatch. The Applicants submitted responses to Siting Council pre-hearing interrogatories on November 12, 2013. Applicants' Ex. 2. Representatives for the Applicants posted a sign by the roadway at the host site noticing the public of the application and hearing date with instructions on obtaining more information. Applicants' Ex.

4(d), Affidavit of Sign Posting. A field visit, balloon float and public hearing were scheduled by the Council and held at 2 Bryan Plaza in the Town of Washington on December 3, 2013 with a continued hearing held January 9, 2014 at Hearing Room 1 at 10 Franklin Square in New Britain.

IV. Public Hearing

On December 3, 2013, The Applicants raised a balloon at the Candidate location and the Siting Council conducted a viewing of each candidate. Weather conditions were favorable and the balloon was generally raised to its full height for much of the afternoon. Libertine, Tr. December 3, 2013 pm, 3:00, pp. 54-55. At the hearing, the Siting Council heard comprehensive testimony from the Applicants' panel of witnesses on the need for the facility, lack of other reasonable alternative sites and any environmental effects associated with construction of a tower at the site. A comprehensive presentation of the proposed facility was provided to the attendees at the 7:00 public hearing evening session, after which the Siting Council closed the public hearing and adjourned the evidentiary hearing to January 9, 2014. Thereafter, the Applicants responded to additional Council interrogatories confirming that the project's location in a largely disturbed area of the site along with construction practices would not have any adverse impact on wetlands, vernal pools or species generally associated therewith.

At the January 9th continued evidentiary hearing, Homeland noted that it does not own, construct or maintain shared generators as part of its tower ownership business. Vergati, Tr. January 9, 2013, 1:00pm, p. 146. Applicant Homeland did put on the record its agreement in principal to a lease amendment with the Town of Washington to incur the capital costs associated with acquiring a generator for LCD in exchange for a rent reduction. Vergati, Tr. January 9, 2013, 1:00pm, p. 146. Such a transaction would generally facilitate LCD's business interests, though

same are not the responsibility of the Applicants nor are such matters the proper subject of a Siting Council condition. The evidentiary hearing was closed on January 9, 2014.

POINT I
A PUBLIC NEED CLEARLY EXISTS
FOR A NEW TOWER FACILITY IN WASHINGTON

Pursuant to Connecticut General Statutes (“CGS”) Section 16-50p, the Council is required to find and determine as part of any Certificate application, “a public need for the proposed facility and the basis for that need”. CGS § 16-50p(a)(1). In this Docket, AT&T provided coverage analyses and expert testimony that clearly demonstrates the need for a new tower facility to provide reliable wireless services to homes, businesses and the traveling public in Washington Depot which is the center of municipal, commercial and civic life in the Town of Washington. Applicants’ Ex. 1, Tab 1. Indeed, the application materials and responses to interrogatories fully demonstrate that a tower is needed in this area at a minimum height of 140’ AGL. Applicants’ Ex. 1, Tab 1; Applicants’ Ex. 2, (Responses to Interrogatories Set I, November 12, 2013). Lower heights would simply mean less opportunities for co-location by other carriers, require potentially taller towers in other areas of the community that still experience gaps in coverage and otherwise be inconsistent with the Town’s own planning and approvals associated with this municipal improvement and LCD’s use thereof that was the subject of a comprehensive review and lease process including a Town Meeting.

Importantly, it should be noted that all evidence and even limited appearance testimony confirmed there is a public need for a new tower in this part of the State. In fact it is the lack of wireless service and demand for same by its own constituents that led the Town of Washington to take a leadership role in planning for a tower site in Washington Depot. The Applicants

submit that the public need for a new tower facility in this area to provide coverage where adequate and reliable coverage does not exist today is simply not at issue in this Docket.

POINT II

THERE ARE NO EXISTING STRUCTURES OR OTHER VIABLE ALTERNATIVE SITES FOR SITING THE PROPOSED WIRELESS FACILITY

The Applicants submitted evidence that there are no existing structures for providing reliable service to this area of Washington. The search for a site included an investigation of over several years and has included a proactive approach by the Town of Washington Selectmen, Planning Commission, Conservation Commission and other agencies to identify a viable candidate for the provision of wireless service to the area. Applicants' Ex.1, Tab 2. As demonstrated by the evidence and testimony in this Docket, no other viable alternatives for wireless facility siting were identified by the Town and it focused on the Town garage site as the ideal location for siting a new tower needed to serve the community. Applicants' Ex.1, Tab 2. It is respectfully submitted that there is no better known site for a tower needed to serve Washington Depot.

POINT III

THE CANDIDATE TOWER FACILITY PRESENTS NO SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS

Pursuant to CGS Section 16-50p, the Council is required to find and determine as part of a Certificate application any probable environmental impact of a 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. The Applicants respectfully submit that while some impacts will be associated with the proposed facility, such impacts will have no significant environmental effects on the resources listed in Section 16-50p of the General Statutes and clearly do not outweigh the public need for the facility as proposed in this Docket.

I. Potential Visual Effects

The Applicants respectfully submit that the evidence and testimony in this proceeding, as summarized below, demonstrates that visibility of the proposed facility will not result in a significant adverse visual impact. It is anticipated that the proposed facility will be visible year-round from just 170 acres or less Approximately 2.1% of the 8,053 acre Study Area. Applicants' Ex.1, Tab 5 (Visibility Analysis). As demonstrated in the Visibility Analysis, topography, vegetation, the relatively short height of the tower and the monopine camouflaging would obscure, partially or totally, views of the tower from most locations in the study area. Applicants' Ex.1, Tab 5. The proposed Facility is not located within 250 feet of a school or commercial day-care center. Applicants' Ex. 5. There is simply no known documented scenic resource that would be impacted by the tower facility. Thus, the project presents generalized visibility from a few select vantage points that are commonly associated with towers which are further mitigated by utilization of a monopine form of tower.

II. Potential Impacts to the Natural Environment

As clearly established in this Docket, impacts to the natural environment from the proposed facility are not significant.

a. Wetlands, Watercourses, and Floodplains

Two wetland areas were delineated in proximity to the proposed Facility consisting of a rip-rap armored drainage swale (Wetland 1: located \pm 540 feet south of the proposed Facility on the Subject Property) and a manmade pond feature (Wetland 2: located \pm 390 feet north both on and off the Subject Property) that is a vernal pool. Applicants' Ex. 1, Tab 4. The proposed activities, including project modifications will not result in direct or indirect adverse impacts to wetland resources. Applicants' Ex. 1, Tab 4; Applicants' Ex. 5, Attachment 4 (Memorandum from Dean

Gustafson, Senior Wetlands Scientist, All-Points Technology Corporation, P.C., providing clarification and additional information regarding the wetlands review conducted by APT.)

b. Habitat Assessment and Wildlife

As demonstrated in the record, AT&T conducted an evaluation for the candidate location and submitted the results to the Connecticut Department of Energy and Environmental Protection (“DEEP”) for review. Upon review of the nature of the property and the Natural Diversity Database, the DEEP determined that there are no extant populations of species are on or near the tower site. Applicants’ Ex. 4(b). Additional review as requested by a Council member further verified these general findings. Applicants’ Ex. 4(b).

c. Clearing, Grading and Drainage Assessment

The existing access drive and parking area would provide access to the proposed Facility. Applicants’ Ex.1, Tab 3. Some modest grading and clearing is required for the Facility in an area largely disturbed by prior Town activities on the site. Applicants’ Ex.1, Tab 3. As noted, the Facility design will incorporate all appropriate sediment and erosion control measures in accordance with the Connecticut Soil Erosion Control Guidelines, as established by the Council of Soil and Water Conservation. Applicants’ Ex. 1, p. 24, Tab 3. The Applicants respectfully submit that the proposed improvements at the proposed Facility will have a *de minimus* impact on the surrounding area and will allow for safe access to the facility.

III. Other Environmental & Neighborhood Considerations

There are no other relevant or disputed environmental factors for consideration by the Council in this Docket. A tower facility at the location proposed will comply with all public health and safety requirements. Additionally, since the Facility will be unmanned, there will be no impacts to traffic, air or water. As noted in the proceedings in this Docket, trees, topography and

camouflaging will serve to limit and obscure localized views of the tower in the nearby area. Further, there is no readily defined "neighborhood" in this part of Washington that would be impacted by the Facility. As such, the Council should find and determine that the Facility proposed by AT&T will not have any significant environmental effects that outweigh the demonstrated public need for the proposed Facility.

CONCLUSION

The Applicants, with the support of the Town of Washington and Litchfield County Dispatch, have demonstrated a public need for and lack of any significant adverse environmental effects associated with the proposed Facility presented in this Docket. AT&T's evidence and testimony established a public need for the proposed facility which is not seriously controverted. Homeland and the Town's evidence demonstrated the collaborative review and long term planning with municipal officials regarding the project, the results of which concluded that the town garage location at 10 Blackville Road is the only viable location for the siting of the needed facility to serve the Washington Depot area. While there are some limited environmental effects associated with the proposed facility, the Applicants established that the effects will not have any significant adverse impact. As such, upon any balancing of environmental effects associated with the proposed facility as required by statute, the scales quickly tip in favor of the established public need for the tower facility to serve the public. For the reasons set forth in this brief and as more fully evidenced by the record in this Docket, a Certificate should be issued for the facility proposed in Docket 441.