

<p><b>DOCKET NO. 442</b> – New Cingular Wireless PCS, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 284 New Canaan Avenue, Norwalk, Connecticut.</p>	<p>} } }</p>	<p>Connecticut  Siting  Council  May 29, 2014</p>
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**Opinion**

On September 23, 2013, New Cingular Wireless PCS, LLC (AT&T) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a wireless telecommunications facility located at 284 New Canaan Avenue in the City of Norwalk, Connecticut. The property on which the proposed facility would be located is owned by the State of Connecticut and is used as the Connecticut National Guard Armory. AT&T’s objective in locating a facility at this location is to provide coverage to the Route 15 (Merritt Parkway) area of Norwalk and New Canaan. Cellco Partnership d/b/a Verizon Wireless (Cellco) participated as an intervenor in this proceeding to demonstrate a need for this facility.

The Connecticut National Guard Armory property is an 11.5-acre parcel located on the north side of the Merritt Parkway at the Exit 38 interchange. The property is partially developed with several buildings and associated parking areas, generally on the south half of the property. The remainder of the property consists of woodland and wooded wetlands.

AT&T would lease a 50-foot by 80-foot area in a maintained lawn area at the north edge of the parking lot. Within its lease area, AT&T would construct two 140-foot monopoles within a 50-foot by 80-foot fenced compound. The towers would be located approximately 60 feet apart with all panel antennas and associated tower-mounted equipment located behind an RF transparent casing. The casing would be uniform in appearance with no protrusions. The top of the monopoles would be able to accommodate whip antennas which are typically used for emergency communications; however, to date, no emergency service entity has expressed interest in this site.

Each monopole would be designed to accommodate three panel antennas at five tower levels. AT&T would install three panel antennas at both the 137-foot and 127-foot levels of the west monopole. AT&T would also utilize the 117-foot level for tower-mounted amplifiers, leaving two additional tower levels for future collocation at 107 and 97 feet. Cellco proposes to install three panel antennas at both the 117-foot and 107-foot levels of the east monopole, leaving the 137-foot, 127-foot and 97-foot levels of the tower available for possible future collocation by other telecommunication carriers. Cellco would require a tower with an outer diameter of 56 inches to fit their remote radio heads and a related cable box at these levels. A tower with an outer diameter of less than 56 inches would cause Cellco to require a third tower level at 97 feet to fit their cable box.

The proposed facility would be accessible over existing driveways and parking areas on the property. The compound access gate would open directly into the existing parking lot. The interior compound area would be surfaced with gravel. Utility service to the compound would be installed overhead from New Canaan Avenue using five new wood poles along the edge of the property driveway. The utility line would transition to underground approximately 100 feet from the compound.

The lease agreement between the Connecticut National Guard (Licensor) and AT&T contains an Emergency Generator Rider that grants AT&T the right to install a 50-kilowatt supplemental generator to provide emergency electrical capacity to its equipment during the license term. AT&T's right to install the generator is subject to the Licensor's approval. Both AT&T and Cellco would install their own 50 kW diesel emergency power generators within the compound.

The proposed two-tower facility would be visible year-round above the tree canopy from approximately 7.6 acres within a two-mile radius of the proposed site, with most visibility occurring from spot areas within a quarter-mile of the site. Approximately four homes within a quarter-mile would have year-round views of portions of the facility. Another 22 residences within a half-mile of the site would have leaf-off views of portions of the facility. Seasonal and year-round views would be mitigated to some extent by the proposed brown finish on the monopoles, helping the facility to blend into the wooded canopy that is prevalent throughout the area. Views from the Merritt Parkway would be limited, with the west tower visible for approximately 300 feet from the northbound side of the Merritt Parkway in the area of Interchange 38, and with both towers visible from the Exit 38 southbound exit ramp.

Development of the site would require the trimming of some trees along the north edge of the compound. A few diseased or dead trees along the woodland edge would be removed to prevent tree-fall impacts to the site. Previously disturbed wetlands are located north, east and west of the site. Once constructed the compound would be approximately 52-54 feet from the closest wetland edge. During construction, site disturbance could come as close as 42 feet to the wetland edge and within the City of Norwalk's 50-foot wetland buffer. AT&T would examine ways to reduce disturbance to the buffer areas as part of their Development and Management Plan submittal. A review of the DEEP Natural Diversity Database indicates there are no records of state or federal endangered, threatened, or species of special concern in the project area.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the worst-case combined radio frequency power density levels of the proposed AT&T and Cellco on the proposed tower have been calculated to amount to 19.8 percent of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. If federal or state standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. Regarding potential harm to wildlife from radio emission; this, like the matter of potential hazard to human health, is a matter of federal jurisdiction. The Council's role is to ensure that the tower meets federal permissible exposure limits.

After reviewing the record in this proceeding, the Council concludes that there is a need for wireless coverage and capacity relief in these areas of Norwalk and New Canaan, and that it would be served by the proposed facility. Since 1999, AT&T has searched for a site to provide coverage in this area, but given more recent technological advancements and the gradual transition of service priorities from voice to data, the site now proposed is needed to provide both coverage and capacity, relieving stress on adjacent AT&T sites. The fact that Cellco also seeks to locate on this tower further demonstrates the need for this site.

Having determined need, the Council now must consider the facility's design, which has had a long, complicated history occasioning considerable debate. After several preliminary searches by AT&T, the City of Norwalk proposed the Armory property as a potential location for a facility, RF engineers concluded the site was viable, AT&T secured a lease and began its environmental due diligence with a NEPA review, as mandated by the FCC. Under the NEPA process, site plans, including tower design, were submitted to SHPO for comment in 2003. Since the proposed site is adjacent to the Merritt Parkway, designated as a National Scenic Byway and listed on the National Register of Historic Places, SHPO was concerned about the project's visibility, and in December 2003 found the project as then proposed—a 150-foot monopole with externally-mounted antennas—would have an adverse effect on the Merritt Parkway. SHPO's design priority, apparently shared with the Merritt Parkway Conservancy, a citizens advisory group with whom SHPO consulted privately, was that the antennas should be concealed. There the matter rested for several years until AT&T redesigned the facility, based on SHPO's priority, to consist of two monopoles, each 140 feet high, with antennas mounted internally, and eventually, on April 7, 2013, SHPO issued a new letter, this time finding no adverse effect.

Next, AT&T submitted an application containing the two-tower design to the Council for approval. Having received the application on September 23, 2013, the Council has been hard-put to reconcile its own statutory mandate for collocation, which involves balancing environmental concerns against the unnecessary proliferation of towers, increased costs, and other inefficiencies, with SHPO's new determination. From the Council's point of view, the needs of AT&T, Cellco, and even other carriers who might want to collocate in the future could be met by a single tower. The height might vary depending on whether the antennas are to be mounted outside or inside, but in either case the visual impact of a single tower would be less than that of two—first, since any height difference would be insignificant, by FCC standards; and second, since the technical specifications for antennas and ancillary equipment are rapidly increasing the girth of towers with antennas mounted inside.

On January 23, 2014, the Council expressed these concerns and voted to reopen the evidentiary record for this docket to obtain more information from SHPO. On February 10, 2014, the Council Chair and Acting Executive Director held a meeting with SHPO to discuss various aspects of the SHPO review process for telecommunications sites, including this tower. AT&T also met with SHPO on March 20, 2014 to discuss the possibility of a single 130-foot monopole with platform-mounted antennas at this site, given the limited visibility of such a structure. The matter concluded when SHPO issued a letter to AT&T on March 27, 2014 reaffirming their 2010 determination that a tower with platform-mounted antennas would have an adverse impact on the Merritt Parkway, and further, that two 140-foot monopoles with internally-mounted antennas, painted to match adjacent materials, would not have an adverse effect. The Council acknowledges the special sensitivity of the Merritt Parkway as a scenic resource and SHPO's jurisdiction under NEPA, while noting that the extended duration of AT&T's federal and state applications, normally coordinated, seems to have caused divergence in this case.

Continuing to be ambivalent about the prospect of having two towers at this location, the Council nevertheless finds the two-tower design necessary to provide needed services to the area even though the two-tower design is aesthetically and technologically inferior to that of a traditional monopole. The proposed site is conducive for siting a telecommunications facility given its location on a relatively large parcel and the generally wooded nature of the surrounding area. The nearby buildings, adjacent woods, and the Merritt Parkway itself serve as a buffer to residences in the vicinity. The Council will order that the outer diameter of the monopoles not exceed 56 inches, a sufficient width to accommodate the antennas and related equipment of AT&T and Cellco.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, maintenance and operation of the proposed telecommunications facility, 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 application. Therefore, the Council will issue a Certificate for the construction, maintenance, and operation of the proposed telecommunications facility at 284 New Canaan Avenue, Norwalk, Connecticut.