

**In The Matter Of:**  
*American Towers, LLC and New Cingular  
Wireless PCS, LLC amended application*

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*Public Hearing  
November 1, 2016*

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*BCT Reporting LLC  
PO Box 1774  
Bristol, CT 06010  
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1 STATE OF CONNECTICUT  
2 CONNECTICUT SITING COUNCIL

3  
4 Docket No. 463A

5 American Towers, LLC and New Cingular  
6 Wireless PCS, LLC amended application for a  
7 Certificate of Environmental Compatibility and  
8 Public Need for the construction, maintenance and  
9 operation of a telecommunications facility located  
10 at 351A Boston Post Road, East Lyme, Connecticut,  
11 or for the construction, maintenance and operation  
12 of a telecommunications facility at an alternative  
13 site located at 2 Arbor Crossing, East Lyme,  
14 Connecticut, pursuant to Connecticut General  
15 Statutes Section 4-181a(a).

16  
17 Public Hearing held at the East Lyme  
18 Town Hall, Upper Meeting Room, 108 Pennsylvania  
19 Avenue, Niantic, Connecticut, on Tuesday, November  
20 1, 2016, beginning at 3:02 p.m.

21  
22 H e l d B e f o r e :

23 SENATOR JAMES J. MURPHY, Vice Chairman  
24  
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1    A p p e a r a n c e s :

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    Council Members:

4

        PHILIP T. ASHTON

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        ROBERT HANNON

6

        LARRY P. LEVESQUE, ESQ.

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        DANIEL P. LYNCH, JR.

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9

    Council Staff:

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        MELANIE A. BACHMAN, ESQ.

11

        Executive Director and

12

        Staff Attorney

13

14

        ROBERT D. MERCIER

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        Siting Analyst

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17

    For American Tower Corporation and New

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    Cingular Wireless PCS, LLC:

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        CUDDY & FEDER LLP

20

        445 Hamilton Avenue

21

        White Plains, New York 10601

22

        BY: CHRISTOPHER B. FISHER, ESQ.

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1    A p p e a r a n c e s :    (Cont'd.)

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3            For BHSO Community Conservancy:

4                    CRAIG TOOKER

5                    342 Boston Post Road

6                    East Lyme, Connecticut    06333

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1           SENATOR MURPHY: Good afternoon, ladies  
2 and gentlemen. I'd like to call to order this  
3 Tuesday, November 1, 2016 at 3 p.m., this meeting  
4 of the Connecticut Siting Council. My name is  
5 James Murphy. I'm vice chairman of the  
6 Connecticut Siting Council and chairing today in  
7 the absence of our Chairman Robin Stein who could  
8 not be with us today.

9           Other members of the Council here today  
10 are Robert Hannon, the designee of Commissioner  
11 Robert Klee of the Department of Energy and  
12 Environmental Protection; Larry Levesque, the  
13 designee for Acting Chairman John W. Betkoski,  
14 III, of the Public Utilities Regulatory Authority;  
15 Philip T. Ashton; and Daniel P. Lynch, Jr.

16           Members of the staff with us today are  
17 Melanie Bachman, our acting executive  
18 director/staff attorney, and Robert Mercier, our  
19 siting analyst.

20           This hearing is held pursuant to the  
21 provisions of Title 16 of the Connecticut General  
22 Statutes and of the Uniform Administrative  
23 Procedures Act upon an amended application from  
24 America Towers, LLC and New Cingular Wireless PCS,  
25 LLC for a Certificate of Environmental

1 Compatibility and Public Need for the  
2 construction, maintenance, and operation of a  
3 telecommunications facility located at 351A Boston  
4 Post Road, East Lyme, Connecticut or for the  
5 construction, maintenance, and operation of a  
6 telecommunications facility at an alternative site  
7 located at 2 Arbor Crossing, East Lyme,  
8 Connecticut, pursuant to the Connecticut General  
9 Statutes 4-181a(a).

10 On September the 29th, 2016, the  
11 Council, pursuant to the statute, reopened the  
12 decision originally rendered on the application to  
13 deny without prejudice to reopen this matter and  
14 to consider a new alternative location for the  
15 proposed facility.

16 As a reminder to all, off-the-record  
17 communications with a member of the Council or a  
18 member of the Council staff upon the merits of  
19 this application is prohibited by law.

20 The parties and intervenors to the  
21 proceedings are as follows: The applicant is  
22 American Towers, LLC and New Cingular Wireless  
23 PCS, LLC, represented by Christopher B. Fisher,  
24 Esquire, of Cuddy & Feder LLP.

25 Also as a party is the Town of East

1 Lyme, represented by Tracy M. Collins, Esquire, of  
2 Waller, Smith & Palmer. And Attorney Collins has  
3 already indicated to us in writing that they will  
4 not be appearing tonight, that they are pretty  
5 much in agreement with the proposal.

6 Also as a party is BHSO Community  
7 Conservancy, Craig Tooker.

8 We will proceed in accordance with the  
9 prepared agenda, copies of which are available  
10 back near the door to the rear of this room. Also  
11 available are copies of the Council's Citizens  
12 Guide to Siting Council procedures.

13 At the end of this afternoon's  
14 evidentiary session, we will recess and resume  
15 again at 7 p.m. here in this room for a public  
16 comment session. At 7 p.m. the public comment  
17 session will be reserved for the public to make  
18 brief, oral statements into the record.

19 I wish to note that for parties and  
20 intervenors, including their representatives and  
21 witnesses, are not allowed to participate in the  
22 public comment session. I also wish to note that  
23 for those that are here and for the benefit of  
24 your friends and neighbors who are unable to join  
25 us for the public comment session, that you or

1 they may send written statements to the Council  
2 within 30 days of the date hereof, and such  
3 written statements will be given the same weight  
4 as if spoken here during the hearing. If  
5 necessary, parties and intervenor presentations  
6 may be continued after the public comment session,  
7 if time remains this evening.

8 A verbatim transcript will be made of  
9 this hearing and be deposited with the Town  
10 Clerk's Office here in East Lyme for the  
11 convenience of the public.

12 I don't see any public official here  
13 who wishes to speak. Oh, First Selectman  
14 Nickerson, come forward.

15 MARK NICKERSON: Is that my  
16 introduction?

17 SENATOR MURPHY: I saw you leave before  
18 and you were gone. Go ahead.

19 MR. NICKERSON: There was some town  
20 business I had to take care of.

21 SENATOR MURPHY: That's first.

22 MR. NICKERSON: I have a thankless job  
23 but probably more thankless as your jobs. And I  
24 do appreciate that and honor that.

25 Thank you, Madam Chairperson -- Madam



1 Chairwoman -- and members of the Committee. Thank  
2 you for coming out to East Lyme. I think in  
3 walking the land has gotten us here because you  
4 came out a couple of times before. I welcome you  
5 to East Lyme.

6 I'm going to reserve many of my  
7 comments for this evening at the beginning of the  
8 public session, but I wish that you would  
9 seriously consider the proposal, the alternate  
10 proposal in front of you this evening. This  
11 represents a win-win for anyone. This represents  
12 everyone working together to come up with a  
13 solution. And, as you can see, I'm not surrounded  
14 by lawyers today, so that's a good sign, right,  
15 that we think --

16 SENATOR MURPHY: Lawyer. I'm not sure.

17 MR. NICKERSON: Well, I'm not  
18 surrounded. I know there's plenty in the room,  
19 and you're all getting paid by the hour, so I'll  
20 be short.

21 Thank you for coming. Thank you for  
22 listening. Thank you for considering this  
23 alternate proposal. We're enthused by it, our  
24 citizens are as well, and I'm very enthusiastic  
25 about the proposal. And I'll talk to you again

1 tonight.

2 SENATOR MURPHY: Thank you.

3 Before I move on, any other public  
4 official?

5 (No response.)

6 THE VICE CHAIRMAN: I guess not. Okay.  
7 I believe there's a motion for  
8 protective order which has been filed, Attorney  
9 Fisher?

10 MR. FISHER: Yes, Senator Murphy. It's  
11 simply the standard protective order we seek with  
12 respect to the financials of our underlying  
13 agreement.

14 SENATOR MURPHY: Covering the new lease  
15 to the alternate site?

16 MR. FISHER: That's correct.

17 SENATOR MURPHY: Would you care to  
18 comment?

19 MS. BACHMAN: No. Thank you, Mr.  
20 Chair.

21 MR. ASHTON: Move approval.

22 SENATOR MURPHY: Is there a second?

23 MR. HANNON: Second.

24 SENATOR MURPHY: Any discussion?

25 (No response.)

1           SENATOR MURPHY: All those in favor of  
2 approving the motion for protective order, signify  
3 by saying aye.

4           THE COUNCIL: Aye.

5           SENATOR MURPHY: Those opposed?

6           (No response.)

7           SENATOR MURPHY: The motion is passed.

8           We have a letter from the Town of East  
9 Lyme, dated October 24, 2016, indicating the Town  
10 would not be attending this hearing.

11           Does any party have any objection to  
12 the admission of the Town of East Lyme's letter in  
13 this record for the proceedings?

14           (No response.)

15           SENATOR MURPHY: Hearing none, the  
16 letter from Attorney Tracy Collins will be  
17 admitted.

18           (Town of East Lyme Exhibit III-B-3:  
19 Received in evidence - described in index.)

20           SENATOR MURPHY: I wish to call your  
21 attention to those items shown on the hearing  
22 program marked as Roman numeral I, D, Items 1  
23 through and including 77.

24           Does the applicant or any party or  
25 intervenor have any objection to the items or any

1 of the items that the Council is proposing to  
2 administratively notice?

3 (No response.)

4 SENATOR MURPHY: Hearing no objection,  
5 the Council hereby administratively notices those  
6 existing documents, statements, and comments  
7 listed, as previously mentioned.

8 Mr. Fisher, I see you have a panel with  
9 you today. Would you care to introduce us?

10 MR. FISHER: Yes. Thank you, Senator  
11 Murphy. We have some witnesses who have been  
12 previously sworn, but I think maybe if they need  
13 to be resworn, I'll defer to Staff Attorney  
14 Bachman.

15 SENATOR MURPHY: Let's do them all,  
16 just to make sure. I don't think it will be a  
17 problem down the road, but you never know.

18 MR. FISHER: Absolutely.

19 If you would just introduce yourselves?

20 MICHAEL LIBERTINE: Yes. I'm Mike  
21 Libertine with All-Points Technology.

22 CAMILO GAVIRIA: Camilo Gaviria with  
23 Centek Engineering.

24 HARRY ROCHEVILLE: Harry Rocheville  
25 with Centek Engineering.

1           MARTIN LAVIN:  Martin Lavin, C-Squared  
2   Systems.

3           DANIEL BILEZIKIAN:  Daniel Bilezikian,  
4   SAI Communications.

5           SENATOR MURPHY:  If each of the  
6   witnesses would rise, Attorney Bachman will  
7   administer the oath.

8   D A N I E L   B I L E Z I K I A N ,  
9   C A M I L O   A .   G A V I R I A ,  
10  M A R T I N   L A V I N ,  
11  M I C H A E L   L I B E R T I N E ,  
12  H A R R Y   R O C H E V I L L E ,

13           called as witnesses, being first duly sworn  
14           by Attorney Bachman, were examined and  
15           testified on their oaths as follows:

16           SENATOR MURPHY:  Attorney Fisher, you  
17   have some documents you want to verify?

18           MR. FISHER:  We do.  We have six items,  
19   in addition to the documents that are already  
20   previously in the record.  They're listed in the  
21   hearing program under Roman numeral II, B, 11  
22   through 16.  For identification purposes, they are  
23   the applicant's amended application, dated  
24   September 13th; the applicant's affidavit of  
25   publication, which is dated September 13th;

1 applicant's responses to Council interrogatories,  
2 dated October 25th; applicant's affidavit of sign  
3 posting, received by the Council on October 25th;  
4 the witnesses' resumes, who were just sworn; and  
5 then, also, you said we need a PowerPoint  
6 presentation for this evening's public comment  
7 session, which was received by the Council on  
8 October 25th.

9 I can go through the process, Senator  
10 Murphy, of asking each of the witnesses to verify  
11 the exhibits?

12 SENATOR MURPHY: Go ahead, Attorney  
13 Fisher.

14 DIRECT EXAMINATION

15 MR. FISHER: I'll ask each of you, as  
16 witnesses, did you prepare or assist in the  
17 preparation of the documents I just identified in  
18 the hearing program, Numbers 11 through 16?

19 THE WITNESS (Libertine): Mike  
20 Libertine. Yes.

21 THE WITNESS (Gaviria): Camilo Gaviria.  
22 Yes.

23 THE WITNESS (Rocheville): Harry  
24 Rocheville. Yes.

25 THE WITNESS (Lavin): Martin Lavin.

1 Yes.

2 THE WITNESS (Bilezikian): Daniel  
3 Bilezikian. Yes.

4 MR. FISHER: And in preparing for your  
5 testimony here today, did you have the opportunity  
6 to review the documents, and do you have any  
7 corrections or modifications?

8 THE WITNESS (Libertine): I've reviewed  
9 it, and I have no corrections at this time.

10 THE WITNESS (Rocheville): I've  
11 reviewed it, and I have no corrections at this  
12 time.

13 THE WITNESS (Gaviria): I have no  
14 corrections at this time either.

15 THE WITNESS (Lavin): Martin Lavin. No  
16 corrections.

17 THE WITNESS (Bilezikian): Dan  
18 Bilezikian. No corrections.

19 MR. FISHER: And are the documents that  
20 have been identified true and accurate to the best  
21 of your belief, and do you adopt them here today  
22 as your prefiled testimony?

23 THE WITNESS (Libertine): Mike  
24 Libertine. Yes.

25 THE WITNESS (Gaviria): Camilo Gaviria.

1 Yes.

2 THE WITNESS (Rocheville): Harry  
3 Rocheville. Yes.

4 THE WITNESS (Lavin): Martin Lavin.  
5 Yes.

6 THE WITNESS (Bilezikian): Dan  
7 Bilezikian. Yes.

8 MR. FISHER: I'd ask that the Council  
9 accept the documents into evidence at this time.

10 SENATOR MURPHY: Is there any objection  
11 to the admission of these documents?

12 (No response.)

13 SENATOR MURPHY: Hearing none, they are  
14 admitted.

15 (Applicant's Exhibits II-B-11 through  
16 16: Received in evidence - described in index.)

17 SENATOR MURPHY: Attorney Fisher.

18 MR. FISHER: Thank you. We're prepared  
19 for cross-examination.

20 SENATOR MURPHY: We will begin  
21 cross-examination with Mr. Mercier, staff member.

22 MR. MERCIER: Thank you.

23 CROSS-EXAMINATION

24 MR. MERCIER: Thank you. I just want  
25 to begin by just clarifying who would be



1 constructing the site and managing it once it's  
2 constructed. And I understand in the materials I  
3 believe it just says AT&T only will be  
4 constructing the alternative site. Is that  
5 correct?

6 MR. FISHER: With the Council's  
7 acceptance, Mr. Mason, who used to be with AT&T is  
8 no longer with the company. So Mr. Centek and  
9 myself are going to -- I'm sorry, Mr.  
10 Rocheville -- we're going to work on responses  
11 together, if we can, and answer fully your  
12 questions.

13 The arrangement under the agreement  
14 with the developer, it's a combination. In this  
15 particular instance AT&T is the ground lessee and  
16 would be responsible for operation and maintenance  
17 of the facility and the certificate holder. They  
18 would be also responsible for the vast majority of  
19 construction. That being said, the developer,  
20 which has been developing the site with the  
21 surrounding residential homes and community  
22 amenities, has requested that they be involved in  
23 the site and civil phases of construction and  
24 actually the barn phase as well, as I recall.

25 THE WITNESS (Rocheville): That's

1 correct, yes. The developers wanted to do the  
2 site work and construct the barn.

3 MR. MERCIER: So for this particular  
4 site, the alternate site, American Towers has no  
5 role at that location?

6 MR. FISHER: That's correct.

7 MR. MERCIER: Not even the management?

8 MR. FISHER: Not even management. It  
9 is something that at this time AT&T would be fully  
10 responsible for. That's not to the exclusion of a  
11 later arrangement, but right now it would be fully  
12 AT&T's responsibility.

13 SENATOR MURPHY: The D&M plan will be  
14 coming from AT&T?

15 MR. FISHER: Correct.

16 SENATOR MURPHY: Continue, Mr. Mercier.

17 MR. MERCIER: Thank for.

18 For the silo, itself, what's the  
19 approximate diameter?

20 THE WITNESS (Rocheville): It is  
21 approximately 22 to 24 feet. Stealth, who we got  
22 the quote from, had both options available, so  
23 that will be something that will be decided on at  
24 the D&M phase.

25 MR. MERCIER: So is this a custom-built

1 structure or is there a vendor that kind of  
2 supplies the specification, maybe as parts or  
3 something of that nature, prefabricated pieces  
4 already?

5 THE WITNESS (Rocheville): Right. A  
6 little bit of both. It's a company that  
7 constructs these type of silos all the time, so  
8 the customization would be the height, the  
9 loading, that type of thing.

10 MR. MERCIER: Now, for the silo,  
11 itself, do you have any particular cost estimate  
12 of the cost of a silo?

13 THE WITNESS (Rocheville): We got a  
14 quote from Stealth, and the quote was \$550,000 for  
15 the silo and foundation.

16 MR. MERCIER: Now, for the related barn  
17 structure, is that also a -- is that a  
18 custom-built structure or is that something that's  
19 out of a predesigned spec?

20 THE WITNESS (Rocheville): That's a  
21 custom-built shelter as well. And the current  
22 configuration of it has gone back and forth with  
23 myself and the developers a few times with the  
24 sizes they want it to be, the overall footprint,  
25 the overall height, the type of roof trusses, all

1 that type of thing. So it would all be custom  
2 built.

3 MR. MERCIER: I did notice in the  
4 initial filing, I think back on March 28, 2016, it  
5 showed it as a 44-foot wide structure and 20 feet  
6 tall, and now it has grown a little bit. What is  
7 the particular reason that it's being enlarged?

8 THE WITNESS (Rocheville): That came  
9 directly from the developers.

10 MR. MERCIER: So is the extra building  
11 space not usable for -- not necessary for AT&T and  
12 additional carriers? I guess what's the minimum  
13 size?

14 THE WITNESS (Rocheville): Technically,  
15 I guess it would be oversized for the amount of  
16 carriers they're putting in, yes.

17 MR. MERCIER: What would it be  
18 constructed of, the barn?

19 THE WITNESS (Rocheville): It would be  
20 stick built, for the most part.

21 THE WITNESS (Gaviria): Two-by  
22 material.

23 THE WITNESS (Rocheville): Mostly  
24 two-by material.

25 MR. MERCIER: Now, inside the

1 individual units, I'll call them, for additional  
2 carriers, as well as AT&T, are they cabinets  
3 inside the wood framing, or is there some type of  
4 fireproofing, like a concrete wall or something of  
5 that nature?

6 THE WITNESS (Gaviria): Each one of the  
7 rooms would be fitted out to be fireproofed all  
8 for themselves, so one wouldn't be dependent on  
9 the other.

10 MR. MERCIER: The design that's  
11 presented in the amended application that was  
12 filed with us, is that the current design, or is  
13 it still under development with the property  
14 owner?

15 THE WITNESS (Rocheville): That is a  
16 current design. I haven't heard back from him  
17 since then, so he hasn't had any further comments.

18 MR. FISHER: I could just add, for the  
19 Council, that as part of the negotiation of the  
20 ground lease agreement, we did go back and forth  
21 several times on actual exhibits and got to the  
22 point, I think, where the parties were comfortable  
23 for lease purposes recognizing that we've  
24 explained fully to the developer the process that  
25 Council has that we have to comply with.

1           At the same time, the developer has  
2 made it clear to us, both in the agreement and as  
3 part of the process, that they want to be engaged  
4 at all steps in the process. So we would  
5 expect -- I don't know what the right term would  
6 be -- but finalizing any details and tweaks as  
7 part of a development and management plan. But as  
8 far as material to the plans, they are as we've  
9 shown in the application.

10           SENATOR MURPHY: Let me ask you, when  
11 you submit a D&M plan, do you hopefully intend to  
12 have just about all of these tweaks --

13           MR. FISHER: We do. If you saw the  
14 structure of the arrangement, the developer has an  
15 incentive to work with us post any certificate and  
16 pre any D&M so that we can get that done. But I  
17 don't know that they'd be material to the actual  
18 plan. Maybe some grading details -- Harry and I  
19 were talking about that at the site -- and some of  
20 the things that were mentioned before, like storm  
21 water connections, things of that nature.

22           SENATOR MURPHY: That would probably be  
23 important. Thank you.

24           Mr. Mercier.

25           MR. MERCIER: Thank you.

1           Is the lease negotiable at this point?  
2       Say if we wanted a smaller, if the Council desired  
3       a smaller footprint for the barn, is that  
4       something that could be accommodated, or is this  
5       set in stone as the current dimensions in that  
6       filing?

7           MR. FISHER:  It's not that it's set in  
8       stone; we do have limitations in terms of our  
9       ability to present something that's not consistent  
10      with the lease.  But as far as changes, if you're  
11      envisioning the size of the structure, those are  
12      things that I think we can go back and forth with,  
13      with the property owner, if that was a condition  
14      of the Council's approval.

15          MR. MERCIER:  Is there an estimate of  
16      how much the barn that was submitted in the  
17      amended filing, how much the barn, itself, costs  
18      without the radio equipment, the structure?

19          MR. FISHER:  That may not have been  
20      included in the application.  And by way of  
21      reference, the property owner/developer is  
22      anticipated to be an AT&T contractor for that  
23      component, as part of this arrangement.  So we  
24      would be looking for, essentially, if this project  
25      goes forward, bids from him to understand the

1 actual full cost of that. We don't have that  
2 exact detail, though.

3 MR. MERCIER: Thank you. Once  
4 constructed and the facility goes operational with  
5 this alternative site and the silo, is there  
6 additional operational costs going forward as  
7 compared to a monopole; and if so, what would the  
8 additional costs be?

9 THE WITNESS (Gaviria): I don't think  
10 there's any additional costs with the stealth  
11 structure versus a monopole. The only thing that  
12 I could think of would be -- and this would be  
13 dependent on the final details from the  
14 manufacturers -- what the access to the actual  
15 antennas are, so on and so forth. If they're  
16 accessible from the inside and you can do all the  
17 work from the inside, I would think that there  
18 would be no additional costs. The only thing that  
19 would jump out would be like a flag pole with a  
20 shroud. Often during upgrades and installations  
21 they get damaged, for whatever reason, but that  
22 would be the only cost that I could foresee. But  
23 I don't think that that would be applicable here.

24 MR. MERCIER: How about the structures,  
25 themselves; does the silo have to be repainted



1 every so often? Is it an already-colored item and  
2 you order it, or is it something you have to  
3 paint?

4 THE WITNESS (Gaviria): I think they  
5 typically have two options. They have it where  
6 they would just give it to you primed, and then we  
7 would paint it on site so you can match the paint  
8 samples to whatever was discussed and agreed upon,  
9 or they actually will paint it for you if you  
10 select the color. I'm not sure. I don't think  
11 we've gotten to that level of detail as to what  
12 the developer and/or your recommendations or  
13 requirements would be in regards to that.

14 MR. MERCIER: I just had the same  
15 question with the barn, given that it's a wood  
16 frame structure -- and it's a shingle roof, I'm  
17 assuming?

18 THE WITNESS (Gaviria): Yes.

19 MR. MERCIER: -- what type of  
20 maintenance you might have to -- you have to paint  
21 it every so often, I assume?

22 THE WITNESS (Gaviria): I think that's  
23 going to have to be, you know, finalized and  
24 discussed with the developer. If I had to guess  
25 and if we have any recommendation, we'd probably

1 go with some sort of vinyl siding, which seems to  
2 be pretty general for the surrounding houses. I  
3 think most of the houses in the surrounding area  
4 in the development were vinyl, so I don't see why  
5 there would be any objection to that. So that  
6 would create a low maintenance. And then the  
7 roofing, itself, most of those are rated for 25,  
8 30 years so --

9 MR. MERCIER: Okay.

10 SENATOR MURPHY: Mr. Hannon, you had a  
11 question?

12 MR. HANNON: Yes. Thank you.

13 I'm looking at Map C-1A. Here it talks  
14 about the silo being painted gray with white trim,  
15 so you do have some specifics in some of the  
16 plans. So those are general and still to be  
17 determined?

18 MR. FISHER: The color of the silo and  
19 the barn was very specific from the developer.  
20 The materials, to the best of my recollection,  
21 were still subject of discussion. So on the plans  
22 those colors were very specific from the  
23 developer.

24 MR. HANNON: Okay. Because the barn is  
25 red with white trim.

1 MR. FISHER: Yes.

2 MR. HANNON: Okay. Thank you.

3 SENATOR MURPHY: Mr. Mercier.

4 MR. MERCIER: Thank you.

5 During the negotiation with the  
6 property owner, I'm just curious if a tree tower  
7 was discussed instead of this particular design?

8 MR. FISHER: As part of the process,  
9 Harry, myself, and Kevin Mason, who previously  
10 testified, we met with the developer and several  
11 representatives of the developer's team, and on  
12 behalf of AT&T we presented a number of options,  
13 trees, flag poles, silos, even things that we  
14 maybe couldn't even fully think of ourselves, but  
15 were asking questions.

16 So we sat down at one of their model  
17 homes, and we kind of put it all out and got  
18 feedback. And they very specifically went towards  
19 the silo as far as -- and that wasn't immediate;  
20 that was after a couple of different meetings and  
21 back and forth.

22 MR. MERCIER: Thank you.

23 Would you know if a tree tower would be  
24 a cheaper installation at this site?

25 THE WITNESS (Gaviria): Yes.

1 MR. MERCIER: Thank you.

2 THE WITNESS (Libertine): Especially if  
3 you take into consideration going to a more modest  
4 type of shelter. I think that would also have a  
5 big impact on this cost.

6 MR. MERCIER: Would reducing the barn  
7 size to what it was originally shown in the March  
8 filing, is that a significant savings, or that's  
9 just not that significant given the overall cost?

10 THE WITNESS (Gaviria): Yeah, it  
11 wouldn't be that significant.

12 MR. MERCIER: Thank you.

13 I just have a couple questions  
14 regarding some of the environmental aspects of the  
15 filing. One has to do with -- I think on page 11  
16 it mentioned outreach to the State Historic  
17 Preservation Office and some travel groups. Was  
18 there any feedback from any of those organizations  
19 that were contacted for the amended application  
20 site?

21 THE WITNESS (Libertine): Yes. And we  
22 did receive all the necessary sign-offs to  
23 complete the NEPA process so that the  
24 consultations were complete, and we were able to  
25 receive no adverse effect findings from a historic

1 and cultural perspective.

2 MR. MERCIER: Thank you.

3 In the application, I think on sheet  
4 C-1, it said no survey was done for any trees.  
5 Obviously today at the field review at the site it  
6 looked wooded. Was there any survey done for any  
7 type of impact for trees?

8 THE WITNESS (Gaviria): We had someone  
9 from our office go out there this morning,  
10 actually, because as I was preparing I noticed  
11 that. And he went and he had flagged it based off  
12 of the coordinates in the survey that was provided  
13 to us with the developer. That's how we were able  
14 to come up with the plus or minus 73 trees that  
15 would be disturbed that is 6-inch diameter.

16 MR. MERCIER: Thank you.

17 THE WITNESS (Gaviria): No problem.

18 MR. MERCIER: Was there any outreach to  
19 the Department of Energy and Environmental  
20 Protection regarding the Natural Diversity  
21 Database?

22 THE WITNESS (Libertine): We had  
23 reached out to them, as you know, for the original  
24 alternate site as part of the initial docket.  
25 There were no changes in terms of the species that

1 were originally identified under the 351A  
2 location. So we still had the same potential  
3 species in the area in terms of a few bat species  
4 and small whorled pogonia. We did do an  
5 evaluation for that and were able to find that we  
6 didn't have substantive habitat that would be  
7 required for any of those species. So similar to  
8 the other site, we're clear on those particular  
9 issues.

10 MR. MERCIER: I think DEEP had  
11 requested a clearing restriction for the original  
12 site.

13 THE WITNESS (Libertine): That's  
14 correct.

15 MR. MERCIER: For the red bat.

16 THE WITNESS (Libertine): Right.

17 MR. MERCIER: So is that something that  
18 applies to this site?

19 THE WITNESS (Libertine): Yes. We  
20 would have to adhere to a similar restriction for  
21 tree clearing in terms of a seasonal restriction.

22 MR. MERCIER: Now, the plant species,  
23 do you know offhand what their habitat requirement  
24 is; is that a woodland species?

25 THE WITNESS (Libertine): It can be

1 found in wooded areas, but it's more of an acidic  
2 environment, which we don't really have those type  
3 of soils here to support that. You find that a  
4 little bit closer to the coast.

5 MR. MERCIER: Thank you.

6 On sheet C-1 there's extensive  
7 plantings along the access road, I think about --  
8 probably there's about almost 50 -- probably 45  
9 evergreens along the entire access route. What's  
10 the particular purpose for those plantings? It  
11 seems to me it just screens the clubhouse rather  
12 than the new site.

13 MR. FISHER: I think Harry and I would  
14 both look at that as that was a negotiation point  
15 that the developer put into the plan, not  
16 something that we feel is important for  
17 environmental reasons in the docket.

18 MR. MERCIER: Okay. Those are 8-foot  
19 trees, I suppose. Are you doing 8-foot spruces or  
20 something of that nature?

21 THE WITNESS (Rocheville): Right. Yes.

22 THE WITNESS (Libertine): And certainly  
23 from a visibility standpoint they're not going to  
24 be a substantive screening mechanism. I agree. I  
25 think it was more from the owner's perspective.

1           MR. MERCIER: Now, in regards to  
2 wireless service, looking at the data that was  
3 provided in the original application and the data  
4 that was provided in the interrogatories for the  
5 amended application, this site performs slightly  
6 better than the 351A Boston Post Road site. Is  
7 that correct?

8           THE WITNESS (Lavin): In an overall  
9 sense, yes. It does have that little gap on one  
10 of our main objectives; 351A Boston Post Road  
11 covered that stretch there by the lake, this one.  
12 This is it. And it picks up quite a lot to the  
13 southwest.

14          MR. MERCIER: And where was that  
15 particular area you're talking about?

16          THE WITNESS (Lavin): On the plots it's  
17 by the lake in the middle there, somewhere  
18 underneath the site there, going to the east.

19          MR. MERCIER: Is it on Route 1, along  
20 Route 1?

21          THE WITNESS (Lavin): Yes.

22          MR. MERCIER: Okay. And what's the  
23 length of the gap that would open up for this  
24 particular site?

25          THE WITNESS (Lavin): Between a quarter



1 mile and half a mile.

2 MR. MERCIER: I'm sorry?

3 THE WITNESS (Lavin): Between a quarter  
4 mile and half a mile. There's some spot there  
5 that even the current site misses.

6 MR. MERCIER: Okay. So the 351A  
7 proposed site would have covered that?

8 THE WITNESS (Lavin): It did better on  
9 -- it didn't completely fill it but it filled in  
10 more.

11 MR. MERCIER: Are there other problem  
12 areas that would remain if the alternative site  
13 was constructed?

14 THE WITNESS (Lavin): It doesn't -- the  
15 plot -- there's remaining coverage that isn't  
16 regained to the north and to the west and Scott  
17 Road isn't all covered. There are some things  
18 that this new site doesn't regain after the --  
19 that the old site did cover.

20 MR. MERCIER: Right. And that's also  
21 true with 351A?

22 THE WITNESS (Lavin): Yes. That's even  
23 more so to the west, and more so a problem with  
24 351A.

25 MR. MERCIER: At the field review today

1 we talked a little bit about some drainage  
2 features for the site. Would you repeat that  
3 information as to how the drainage from the -- I  
4 guess I'll call it the compound structure area  
5 would -- how the drainage would run off there and  
6 also on the access road?

7 THE WITNESS (Rocheville): Yes. So  
8 right to the south of the compound we're going to  
9 have a little depressed area on the top of the  
10 slope to drain all runoff from the roof, anything  
11 from the parking area over to the swale, and then  
12 a swale on the west side of the access drive. And  
13 then that swale will lead all the way down to a  
14 future catch basin that will tie into the  
15 development's stormwater management system, which  
16 is being constructed right now. You could see out  
17 there, there wasn't any subgrade things done yet.

18 MR. MERCIER: And the access road right  
19 now is proposed to be gravel?

20 THE WITNESS (Rocheville): That's  
21 correct, 12-foot wide gravel.

22 MR. MERCIER: If a residential  
23 structure is built to the east, do you think that  
24 would be a paved road as a shared road, or is  
25 that --

1           MR. FISHER: I think that was  
2 specifically brought up in our discussions that in  
3 the future when a home is built there that it  
4 likely would become paved, and that would be part  
5 of the developer's development of that lot. And  
6 so that area would then become a common access  
7 drive for our purposes.

8           MR. MERCIER: Would the paving require  
9 additional improvements to the swale, or would it  
10 be sized appropriately, or is that something the  
11 contractor or the builder would have to take care  
12 of?

13          MR. FISHER: Yes, in the future.

14          THE WITNESS (Rocheville): That would  
15 be something the builder has to take care of in  
16 the future.

17          MR. MERCIER: Thank you. I have no  
18 other questions at this time.

19          SENATOR MURPHY: Thank you, Mr.  
20 Mercier.

21          Mr. Ashton -- go ahead, Larry. Mr.  
22 Levesque.

23          MR. LEVESQUE: How about a generator,  
24 are you sharing the generator with the other  
25 carriers?

1 THE WITNESS (Rocheville): Yes.

2 MR. LEVESQUE: So one for all of them?

3 THE WITNESS (Rocheville): Yes, that's  
4 the idea right now.

5 MR. LEVESQUE: Could you tell us what  
6 was the date that the common interest association  
7 was declared by the developer?

8 MR. FISHER: I don't know the answer to  
9 that question. I could ask the developer but the  
10 negotiations were through developer's counsel, and  
11 it had to be presented not just to the developer  
12 but also the association. Actually there's two  
13 signatures. But I do not know when it was formed  
14 and really any of its bylaws or purposes.

15 MR. LEVESQUE: Do you have any idea  
16 about, was it three, four, five years, when the  
17 first home was sold?

18 MR. FISHER: It's certainly a few years  
19 ago when one of the first homes were sold. What I  
20 understand of this particular development is that  
21 they're approaching it in phases, and they're just  
22 undertaking the next phase, which is part of the  
23 road that's being constructed. So it's certainly  
24 been in existence for a couple of years now, as  
25 far as I know.

1           MR. LEVESQUE: Who's the president of  
2 the association?

3           MR. FISHER: I'll have to look. Hang  
4 on one second. I don't want to misspeak but it's  
5 signed as the landlord of The Orchards at East  
6 Lyme, Inc., which I believe is the entity that is  
7 the homeowners association. It is signed by  
8 Giancarlo D'Angelo as president, in August of this  
9 year.

10          MR. LEVESQUE: Does that person work  
11 for the developer?

12          MR. FISHER: I don't know.

13          MR. LEVESQUE: You don't know if it's a  
14 homeowner there?

15          MR. FISHER: I don't know. The  
16 developer had a number of different  
17 representatives, but the homeowners were involved.  
18 I never engaged with the homeowners directly.  
19 That was all done through the developer.

20          MR. LEVESQUE: Do you have a resolution  
21 from them approving --

22          MR. FISHER: They signed the lease and  
23 then, yes, as part of the process the developer  
24 secured resolutions.

25          MR. LEVESQUE: Okay. Thank you.

1           MR. ASHTON: Okay. I'm looking at  
2 drawing C1-A. And the thing that strikes me is  
3 that there's a lot of filling, but I don't see any  
4 cutting. Does that mean you're going to import  
5 fill into that site?

6           THE WITNESS (Rocheville): We were  
7 actually talking about that at the site today.  
8 When we got out there, it didn't look quite like  
9 our survey shows that they provided us with. So  
10 we're actually talking about definitely balancing  
11 that cut and fill at the D&M phase and at least  
12 taking a good 4 feet of the fill out of there.

13          MR. ASHTON: I'm sorry, your voice  
14 traveled.

15          THE WITNESS (Rocheville): For the  
16 development and management plan, we did notice  
17 that out there today, that basically on the west  
18 part of the barn, that's the high point, and it's  
19 pretty mellow after that point, so --

20          MR. ASHTON: I understand that. But  
21 that drawing shows what I read as a lot of fill.  
22 Is that correct?

23          THE WITNESS (Rocheville): That's  
24 correct. And that is in part the fact that the  
25 landlord didn't want a retaining wall either, so

1 he tried to pull the high point, but we are going  
2 to go back and look at that and balance that out.

3 MR. ASHTON: Okay. And if I heard the  
4 testimony earlier this afternoon, the developer --  
5 I forget what his name is --

6 THE WITNESS (Rocheville): Carrier.

7 MR. ASHTON: -- is responsible  
8 essentially for the civil structures, excluding  
9 the silo. Is that fair to say?

10 THE WITNESS (Rocheville): I'd say  
11 that's fair.

12 MR. ASHTON: This is his proposal?

13 THE WITNESS (Rocheville): No, this is  
14 our grading design that we've worked, that we've  
15 coordinated with him throughout the whole process  
16 is the best way to put it.

17 MR. ASHTON: So the developer has  
18 bought into the fill regimen that you would  
19 propose on the site. Is that correct?

20 THE WITNESS (Rocheville): Yes. He's  
21 seen the plans and approved them.

22 MR. ASHTON: And is he going to be the  
23 one who imports the fill from whatever source?

24 THE WITNESS (Rocheville): Yes, he  
25 would be the one importing the fill.

1 MR. ASHTON: Now, I'm looking at this  
2 site. The biggest surprise I had was the  
3 difference in elevation between the existing site  
4 and the site here. And your antenna is going to  
5 be 100 foot lower or something like that. What  
6 does that do to coverage?

7 THE WITNESS (Lavin): We lose --

8 MR. ASHTON: You've got to speak up.

9 THE WITNESS (Lavin): Compared to the  
10 original site, we lose coverage on the west and  
11 the north. We don't fully regain --

12 MR. ASHTON: The south and east look  
13 like it might be all right.

14 THE WITNESS (Lavin): Yes. It doesn't  
15 work as well on Boston Post Road, but it's not --

16 MR. ASHTON: Okay. What do you do then  
17 to make up for the lost coverage on the north and  
18 the west?

19 THE WITNESS (Lavin): We assess after  
20 we build it to see how badly any gap turns out to  
21 be.

22 MR. ASHTON: You're going to have 463B?

23 THE WITNESS (Lavin): We don't have  
24 anything on the pipeline yet. We have to assess  
25 just how --



1           MR. ASHTON: I'm dead serious. Is this  
2 going to force another site?

3           THE WITNESS (Lavin): We think this one  
4 will be adequate for our needs in this area.  
5 We'll have to assess how it turns out, an  
6 as-built.

7           MR. ASHTON: You haven't looked at all?

8           THE WITNESS (Lavin): We don't have  
9 anything in the pipeline.

10          MR. ASHTON: That's not my question.  
11 My question is: You haven't looked at where  
12 specifically this proposed site loses the coverage  
13 that you now have and what you've got to do to  
14 make up for it. There's an economic value to  
15 that, surely.

16          THE WITNESS (Lavin): We have  
17 identified that one stretch of road. It's likely  
18 to be seasonal. Most of the loss is due to  
19 foliage, so in the winter there probably wouldn't  
20 be a gap. We have to see when we build it if it  
21 really is a gap and whether it's worth addressing.

22          MR. ASHTON: You've got to do  
23 something. You're going to have some angry  
24 customers.

25          MR. FISHER: If I might, too, I know

1 this came up when we were having conversations  
2 with the town as part of the consultation process.  
3 And as Mr. Lavin was saying, there's nothing  
4 planned. But there's already poor AT&T coverage  
5 to the north, and there was already in the future,  
6 if you were planning something, you know you have  
7 to build something there anyway in the future.  
8 There's just nothing in budget or planned at all,  
9 so I think that went into the thinking as far as  
10 how you replace this site. Ideally we wouldn't be  
11 replacing the site. We would just leave the tower  
12 that's there.

13 SENATOR MURPHY: Let me ask you, did  
14 you have anything to the north where you lose  
15 where you could change your antenna configurations  
16 to cover part of this where it's not covering now  
17 and do a better job in the future?

18 THE WITNESS (Lavin): There is nothing  
19 to the north there.

20 SENATOR MURPHY: There's nothing.

21 THE WITNESS (Lavin): Nothing, no. And  
22 I'm pretty sure all of these sites are stretched  
23 out as far as they can be.

24 MR. ASHTON: 453B.

25 SENATOR MURPHY: I guess, though, they

1 are going to wait and see how bad it is before  
2 they do it.

3 THE WITNESS (Lavin): The major  
4 anticipated potential problem is that loss of  
5 coverage straight east of the site, about an inch  
6 east on the plots themselves, if it does  
7 materialize or doesn't; if it does, how large is  
8 it and how deep is it, is it 10 dBd, 20 dBd, 30  
9 dBd, or is it just 5 and you drive through it  
10 quickly, and people make it through without any  
11 trouble, that the environmental disturbance and  
12 the costs aren't --

13 SENATOR MURPHY: I think Mr. Lynch has  
14 a question, a follow-up here.

15 MR. LYNCH: Here's a follow-up, Mr.  
16 Lavin. Is there any way to cover these  
17 inefficiency -- I forget what side we're going  
18 to -- that you could use a smaller tower or a  
19 facility that's on top of a building or a number  
20 of them instead of actually going back and looking  
21 at a new tower?

22 THE WITNESS (Lavin): I don't think --  
23 it would be very hard to believe this is a new  
24 tower problem. It's, at most, I think, half a  
25 mile long. The first thing we look for is, if we

1 decided to move into this area, something on top  
2 of a telephone pole, some very small, limited  
3 facility. It's a minimal hole, so the facility to  
4 address it would be correspondingly small.

5 MR. LYNCH: That's what I was  
6 wondering. Thank you.

7 SENATOR MURPHY: Mr. Ashton.

8 MR. ASHTON: I'm very reluctant to step  
9 in between you and the developer. If the  
10 developer is happy and you're happy at this point,  
11 you know, that kind of cuts the wind out of my  
12 sails. I make a comment that the neat procession  
13 of landscaping that you show there is not quite my  
14 ticket. I like to see landscaping that breaks up  
15 rather than focuses attention. I think that  
16 focuses attention. I would like if Mr. Libertine  
17 would also yell bloody murder but, I'm not going  
18 to make a big fuss out of it if the developer is  
19 happy.

20 THE WITNESS (Libertine): I won't yell  
21 bloody murder, but I will certainly echo your  
22 sentiments. I think if the intent -- and I wasn't  
23 part of those discussions -- but if the intent --  
24 and I see the note on 1A, which says to screen the  
25 shelter -- it's going to be a beautiful shelter.

1 I'm not sure why you would want to screen that in  
2 the first place.

3 MR. FISHER: And we're happy to take  
4 suggestions to help us refine our expenses. The  
5 linear row of evergreens there really, in my  
6 opinion, was the fact that there was going to be a  
7 shared driveway on the other side, and there was  
8 going to be a future house. And that really is to  
9 benefit that homeowner from the tennis court and  
10 the pool, if anything.

11 MR. ASHTON: I have nothing further,  
12 Mr. Chairman.

13 SENATOR MURPHY: Before we move to  
14 Mr. Hannon and while we're on it, the survey  
15 that's not currently accurate on the cut and the  
16 fill, is that your survey or a survey provided to  
17 you by the landowner?

18 THE WITNESS (Rocheville): It was  
19 provided to us by the landlord.

20 SENATOR MURPHY: That's what I figured.  
21 Mr. Hannon.

22 MR. HANNON: Thank you, Mr. Chairman.

23 I have some very basic questions.  
24 Looking at map C-2, one of the things I'm just  
25 curious about -- I think I know the answer, but

1 I'm not positive -- is what kind of structure are  
2 these antennae going to be mounted on?

3 THE WITNESS (Gaviria): So I'm not too  
4 familiar with most of these silos. I think I've  
5 dealt with one other one. That other particular  
6 one had a monopole inside, but that doesn't  
7 necessarily mean that that's the only way that  
8 that's achievable. I know that we've done some  
9 other stealth structures that are more built like  
10 a building as opposed to a monopole where they  
11 have different levels, and there was just regular  
12 stairs to walk up to each different levels of the  
13 antennae. So that's a very good possibility,  
14 especially with a 24-foot diameter, that that  
15 could be built that way.

16 So I'm not 100 percent sure how this  
17 particular one is going to be designed until we  
18 get the actual manufacturer into the design stages  
19 and they give us a little bit more feedback as to  
20 what they're proposing.

21 MR. HANNON: Part of the reason I'm  
22 asking that is because one of the things we  
23 typically hear, "What about that 20-foot extension  
24 on the towers?" How does this type of structure  
25 lend itself to an expansion?

1           THE WITNESS (Gaviria): I'm not sure  
2 that it does. I think that this is going to be  
3 capped out at 105.

4           MR. FISHER: I think from my point of  
5 view as the attorney, I'm familiar about 6409.  
6 This has a very specific purpose to it. It's a  
7 stealth structure. So not even withstanding the  
8 fact that the landlord, we would need approvals  
9 from, which would be very difficult to get, I'm  
10 not --

11           SENATOR MURPHY: I'm surprised it's not  
12 --

13           MR. FISHER: And without prejudicing a  
14 future argument I might have to make, I'm not  
15 sure, because of the nature of the structure, that  
16 we would be dealing with 6409. We'd be dealing  
17 with a more typical petition that we had in the  
18 past before 6409 on whether that made sense, and  
19 we would have certain discretion because it's a  
20 stealth structure and it has a unique purpose to  
21 it.

22           MR. HANNON: Just based on history --

23           MR. FISHER: You just negotiated me  
24 into it. I can't get a 6409 extension on this.  
25 But I really believe the order, itself -- and

1 Staff Attorney Bachman can maybe comment on  
2 this -- talks about, specifically, conditions that  
3 are in approvals. And if there is a visual  
4 aesthetic component that's in a condition of an  
5 approval, if the extension would counteract that  
6 in some way, it's not necessarily an eligible  
7 facility anymore.

8 MR. HANNON: Okay.

9 MR. LYNCH: Just to follow up,  
10 Mr. Fisher, I had the same question as Mr. Hannon.  
11 Now, the FCC actually -- correct me if I'm wrong,  
12 not being an attorney -- you know, allows a new  
13 carrier, a hypothetical new carrier to go, you  
14 know, 10 percent of the height, which you take it  
15 up from your 95 up to 105. So you're capped at  
16 105 or you have to build a new dome to allow the  
17 new -- or, as you said earlier, you have the  
18 visual impact.

19 MR. FISHER: So let's deal with the 10  
20 or 20-foot extension hypothetical. If for  
21 whatever reason we could get landlord approval and  
22 we're going to do a 10-foot extension of this --  
23 and I'm using Camilo's example that there's a  
24 monopole inside that we could actually extend  
25 it -- we'd have to take the cap off, structurally



1 do whatever was necessary to do a silo, rebuild it  
2 at 115. My belief is that that would be a  
3 straight petition to the Council, not necessarily  
4 a 6409, depending on how you interpret are you  
5 completely within the prior condition of approval,  
6 so looking to my fellow attorney for interpretive  
7 guidance. But I think that would be the process,  
8 if that was something that we could even achieve

9 MR. LYNCH: Thank you. We'll hopefully  
10 not have to get there.

11 MR. FISHER: And that was why the  
12 structure was designed obviously for shared use by  
13 multiple carriers.

14 MR. HANNON: Another question. This is  
15 just curiosity more than anything else. In map  
16 C-1 and C-1A you show a pool. On the first page  
17 after tab 3, the aerial photos, there's no pool.  
18 Can you tell me when that photo was taken?

19 THE WITNESS (Libertine): Mr. Fisher  
20 and I conferred on this, and we came to the  
21 conclusion that it's an aerial photo from circa  
22 2012, prior to the pool being constructed.

23 MR. HANNON: You mentioned earlier that  
24 you are going with a shared generator. But can  
25 you explain the size and the type of fuel it would

1 use?

2 THE WITNESS (Gaviria): Right now we're  
3 assuming that it's going to be the same as it was  
4 proposed under the original petition. And we have  
5 it sized as an 80-kilowatt diesel generator.

6 MR. HANNON: And I'm assuming double  
7 walled?

8 THE WITNESS (Gaviria): Yes.

9 MR. HANNON: And then the only other  
10 question I have -- and I'm just trying to verify  
11 this, and this may change a little bit -- but I  
12 think the slopes that are being proposed at the  
13 south side of the barn, between the barn and the  
14 pool, it's like a two-to-one slope, so I'm  
15 assuming that there will be a mesh fabric used in  
16 that area. But I think you also said at the site  
17 that that's going to be a rip-rap scenario. So  
18 rather than going in and planting grass or  
19 whatever there, this is going to be a rip-rap  
20 embankment?

21 THE WITNESS (Rocheville): Yes, that's  
22 correct. And once again, from the developer, he  
23 wanted a rip-rap slope to match the slope that he  
24 has from the tennis courts to the pool. I don't  
25 know if you guys saw out there, but between the

1 pool and the tennis courts, he also has a modified  
2 rip-rap slope between the two, so just for  
3 consistency.

4 MR. HANNON: I believe that does it for  
5 me. Thank you.

6 SENATOR MURPHY: Thank you.

7 Mr. Lynch.

8 MR. LYNCH: Thank you, Mr. Chairman. I  
9 only had three questions and two of them have been  
10 answered, one by Mr. Mercier and one with  
11 Mr. Hannon here. But is there anyone here that  
12 actually represents AT&T on the panel?

13 MR. FISHER: Not with us here this  
14 afternoon, Mr. Lynch. And that's just because  
15 Mr. Mason is no longer with the company.

16 MR. LYNCH: Because the question I did  
17 have -- and there's no need to ask it because I  
18 don't want a Late-File; I want to get this thing  
19 over with -- but it involves the two recent  
20 purchases by AT&T of Direct TV -- and maybe  
21 Mr. Lavin can speak to this -- and, you know,  
22 Turner and HBO. You spent close to \$100 billion.  
23 Will that change the focus of what AT&T is doing,  
24 changing from wireless to internet services to,  
25 you know, cable services? That was my question.

1 I said, Mr. Mercier, I don't want a Late-File, so  
2 we'll drop it right now.

3 MR. FISHER: No. I was just struggling  
4 because the AT&T person would say I can't answer  
5 that question because there's pending mergers and  
6 they can't comment on it, which is probably what  
7 they would say. But I don't even know if I can  
8 hazard an opinion that would count for much, but I  
9 think what you're seeing -- because it goes not  
10 just AT&T, it goes to other wireless carriers as  
11 well -- that it's not just about delivering  
12 services; it's contact as well. So that's what  
13 you're seeing.

14 MR. LYNCH: Well, you can relay this  
15 message to AT&T. Good luck with CNN. Ratings are  
16 going in the tanks.

17 Thank you, Mr. Chairman.

18 SENATOR MURPHY: Thank you.

19 Mr. Libertine, in reading this, I'd  
20 like to ask you, is 105-foot structure with the  
21 pole the way it is, is that about the maximum  
22 height you could do in this area for a silo? I  
23 mean, we all know that the coverage may be a  
24 little bit better than the previous time we  
25 gathered here, but still it's not nearly as good

1 as what's going to be taken down.

2 THE WITNESS (Libertine): And certainly  
3 from the perspective of --

4 SENATOR MURPHY: I'm talking about now,  
5 from a visibility point.

6 THE WITNESS (Libertine): Right. Yes,  
7 certainly, I guess to answer your question the  
8 easiest way, I always look at context and what we  
9 have here. And I think the -- my first point I  
10 want to get across, I do commend the property  
11 owner and the landlord here, because they came up  
12 with I think what we collectively came up with,  
13 which was to create a solution that does have  
14 context from a historical perspective that was an  
15 old working farm, apple orchard. So that makes  
16 sense.

17 But to your point, you start pushing  
18 anything above 105 feet, it's going to look a  
19 little bit out of scale. I think you could  
20 probably do another 10 feet. At this point it's  
21 already pushed. From my perspective, it's pushed  
22 it probably beyond a little bit of a limit where  
23 you say, wow, that's a pretty tall structure. If  
24 it was 80 feet, you could probably make the  
25 argument that, you drive by and say that could be

1 a working silo. I think when you look at this,  
2 certainly if you have any experience in the  
3 industry, you're probably going to say there's  
4 something up with that.

5 I would say you could probably go  
6 another 10 feet and probably not do much more  
7 diminishment, but beyond that, yeah, then I think  
8 we're really starting to push the envelope to the  
9 point where it really becomes, it really sticks  
10 out.

11 SENATOR MURPHY: And in your opinion,  
12 the size of the structure, the building, does it  
13 fit in well or would a smaller one, which  
14 originally came in, fit in better or better it's  
15 not?

16 THE WITNESS (Libertine): I think  
17 scale-wise, this supporting structure, the barn,  
18 actually works. I think you can certainly go with  
19 the original, which was slightly smaller. So I  
20 don't think it's out of scale by any means. It is  
21 a large structure; there's no question about it.  
22 And I'm not sure all of it's necessary from a  
23 communications standpoint, but I don't think it's  
24 out of scale. I think it works pretty well with  
25 this particular size silo, particularly in the

1 case where we have a silo that's 20 to 24-feet  
2 wide. We had it at 20 feet, so it could be -- I  
3 don't think it would be that perceptible from most  
4 of the photos that we presented here. But yes, I  
5 think it's relatively proportional.

6 SENATOR MURPHY: Thank you.

7 And in regards to his response about  
8 you could maybe squeeze another 10 feet up,  
9 Mr. Lavin, what if anything does that do for your  
10 coverage?

11 THE WITNESS (Lavin): I think it would  
12 enhance it, not enough to make any problems we  
13 might encounter go away. I don't think it's on a  
14 scale of 10 feet --

15 MR. ASHTON: Could you raise your  
16 voice?

17 THE WITNESS (Lavin): Yes. I'm sorry.  
18 I think it's a lot more than 10 feet that we need  
19 to make it come back to being like the --

20 SENATOR MURPHY: So it's really not  
21 worth the effort of tangling with the landlord of  
22 what you get for 10 feet?

23 THE WITNESS (Lavin): I don't think 10  
24 provides enough to justify the tangling.

25 SENATOR MURPHY: Mr. Mercier.

1           MR. MERCIER: Thank you.

2           I just have a couple questions about  
3 visibility, Mr. Libertine. Do you have any sense  
4 of between the two proposed sites here, the 351A  
5 and the 2 Arbor Crossing site, can you just  
6 describe for contrast the visibility impact of  
7 each of those?

8           THE WITNESS (Libertine): Sure.

9 There's really two factors here that go into when  
10 you kind of try to do a comparison between this  
11 site and 351A. One is the fact that we've got two  
12 different types of structures. So just from a  
13 characteristic standpoint in terms of what you're  
14 looking at, I think the -- if I can use the  
15 word -- "softness" for 105-foot structure -- I do  
16 think that that is certainly from an aesthetic  
17 standpoint a much more appropriate structure in  
18 this type of location.

19           The challenge here was the fact that  
20 we've got ground elevation that is significantly  
21 different. So at the top of the hill, you've got  
22 a very prominent feature at the top of a fairly  
23 prominent hill in the middle of town. Dropping it  
24 down requires a higher height, obviously. When I  
25 look at both, it was somewhat surprising to me



1 that even though we were at a lower elevation and  
2 kind of almost the same height from an antenna  
3 standpoint, that the 351A site had substantially  
4 more visibility than what we're getting at the top  
5 of the hill. And that's primarily a function of  
6 the fact that at the top of the hill, where we  
7 have a much taller tower structure, that's being  
8 reduced.

9           And what I found was that I think we  
10 prepared -- let me just get that number for you --  
11 in terms of what we presented for photographs, it  
12 kind of jumped out at me that out of the 32  
13 photographs that we provided, which did give a  
14 fair representation of the entire area, out of  
15 those -- 20 of those photos actually depict the  
16 existing facility today. Of those, 20 where you  
17 can see the facility, nearly half, you do not see  
18 the new facility. So that kind of is almost in  
19 line with what I saw when I compared. So I won't  
20 say it's half the visibility overall, but it's  
21 approaching that in terms of comparing where we  
22 are now versus where we were at 351A.

23           So when I compared the overall  
24 footprint and the type of structure we're looking  
25 at, I was much more comfortable with this

1 particular proposal because I think it is better  
2 for the community in terms of aesthetics, purely  
3 on an aesthetic standpoint.

4 MR. MERCIER: What would be the impact,  
5 if any, of visibility of the new alternate site on  
6 the residence that's lower down Plum Hill, I  
7 believe, you know, some of those that were offset  
8 off Boston Post Road, such as 351A, 351B Boston  
9 Post Road? I think she was an intervenor.

10 THE WITNESS (Libertine): Right. From  
11 my experience being on that property and looking  
12 back towards -- this does not, we did not evaluate  
13 those particular properties for the balloon float  
14 that we did for this. But when we were looking at  
15 the 351A Boston Post Road site, I was on that  
16 property and the neighbor's property several  
17 times, both leaf-on and leaf-off, and I can say  
18 that they do not see the existing tower from those  
19 sites even in the wintertime. So I'm confident  
20 that you're not going to see this silo.

21 So I think from their standpoint it's  
22 certainly going to be a much better option, maybe  
23 not for the potential landlord at 351A but  
24 certainly everyone else should be pretty happy.  
25 They're tucked in pretty well below that ridge

1 line, so you don't have the direct line of sight  
2 going up the hill, just based on topography. And  
3 then when you throw the trees in there as well,  
4 there's just not a direct line of sight to be able  
5 to see it.

6 MR. MERCIER: Thank you.

7 Can you please describe the balloon fly  
8 that happened in the field today?

9 THE WITNESS (Libertine): Sure. We've  
10 had a balloon up since about 10 minutes to 8 this  
11 morning. We're using a standard -- in this case,  
12 actually, we're using a 5-foot diameter balloon  
13 that's probably inflated to about 4 1/2 feet  
14 diameter, a red weather balloon. It's tethered to  
15 105 feet, so the bottom of the balloon represents,  
16 essentially, the top of the silo.

17 And we've had very good weather. We  
18 had, obviously, great visibility all day for  
19 several miles. It was fairly calm this morning.  
20 About 20 minutes or so before the site walk, winds  
21 did start to pick up a bit, and you probably  
22 noticed the balloon was bouncing around a bit  
23 during the site walk. But they're probably in  
24 about the 8 mile-an-hour range, tops. So it's a  
25 fairly successful day. We'll have the balloon up

1 till 6 p.m., as noticed.

2 MR. MERCIER: Thank you.

3 At the field review there was some  
4 discussion of potentially a homeowners association  
5 that might have had some outreach from the  
6 property owner or from AT&T, itself. Could that  
7 information be repeated?

8 MR. FISHER: So as part of the process  
9 of our negotiations with the property  
10 owner/developer, I was not privy to their direct  
11 conversations with the homeowners association, but  
12 I do know that there were presentations made  
13 throughout the process of our negotiations  
14 presented to the homeowners association which  
15 ratified the lease agreement and approved it and  
16 signed it, as well, so that we could present it as  
17 an alternative.

18 SENATOR MURPHY: Did they indicate to  
19 you in writing that the homeowners had ratified  
20 it?

21 MR. FISHER: Yes, they did.

22 SENATOR MURPHY: Could you send us a  
23 copy of that, if you haven't already?

24 MR. FISHER: Yes. I will ask for a  
25 copy of all the resolutions.

1           SENATOR MURPHY: Thank you.

2           MR. MERCIER: Just out of curiosity,  
3 were these visual simulations provided to the  
4 owners so they could present them to the  
5 homeowners association?

6           MR. FISHER: I'm not sure that the  
7 photo simulations were, but the drawings and a lot  
8 of the examples along the way certainly were.

9           THE WITNESS (Libertine): My  
10 recollection is that that decision may have been  
11 made to accept the silo facility, and then we went  
12 out and evaluated visibility. So I'm not sure  
13 that the timing was such that they had opportunity  
14 to see it.

15          MR. MERCIER: Thank you. I have no  
16 other questions.

17          SENATOR MURPHY: Mr. Lynch.

18          MR. LYNCH: Mr. Libertine, down in  
19 Hamden at the agricultural station they have a  
20 silo that's a telecommunications facility. Do you  
21 know the dimensions, height and width, of that  
22 facility?

23          THE WITNESS (Libertine): I don't have  
24 the specific dimensions on that. I know that the  
25 Council's database, I believe, has the height.

1 I'm not sure about the actual diameter on that.

2 So I'm sorry. I'd be guessing.

3 MR. LYNCH: I was just wondering,  
4 comparing the two, but thank you.

5 THE WITNESS (Libertine): You're  
6 welcome.

7 SENATOR MURPHY: Any other member of  
8 the Council?

9 MR. FISHER: Senator Murphy, can I  
10 offer one other additional comment?

11 SENATOR MURPHY: Sure.

12 MR. FISHER: We obviously sought a  
13 protective order on the financials. And it's not  
14 often, at least lately, that we have alternatives.  
15 I did also want to put in the record not just the  
16 significant difference in capital costs, but there  
17 is a long-term operational increase in costs. I  
18 wouldn't disclose the numbers, but the numbers  
19 include about a 50 percent different in the rent,  
20 different escalations.

21 So the reason I offer that is that it's  
22 pretty clear that this would not be AT&T's  
23 preference from a capital cost and operational  
24 cost, but it is pleased to present it as an  
25 alternative because of the community interest and

1 obviously the application it generated.

2 SENATOR MURPHY: Thank you.

3 Other cross-examination?

4 The Town is not going to appear.

5 Mr. Tooker, you can use the table over  
6 here. There's a microphone. You have to push it.  
7 When the green light comes on, it means you're the  
8 star for the moment.

9 CRAIG TOOKER: Just for a brief moment.

10 Craig Tooker representing the BHSO Conservancy  
11 Group. We have no objections, no questions for  
12 the alternative site.

13 SENATOR MURPHY: Thank you, Mr. Tooker.  
14 That makes it kind of easy.

15 Anybody else have anything before I --  
16 did you have a question?

17 MS. BACHMAN: Do you have any questions  
18 for Mr. Tooker?

19 MR. MERCIER: I can ask a question,  
20 yes. Thank you.

21 Mr. Tooker, I forgot your address, if  
22 you can please provide that?

23 MR. TOOKER: Sure. I have two  
24 residences impacted in that area. I have a  
25 residence -- my primary residence is 342, and then

1 I also have 345 Boston Post Road, which actually  
2 abutted the previous application site.

3 MR. MERCIER: Did you attempt to view  
4 the balloon from either of your properties today?

5 MR. TOOKER: I did. I spent about an  
6 hour driving around town. Our group is really  
7 made up of about 30 people that had interest and  
8 objection in the original. About three-quarters,  
9 maybe two-thirds to three-quarters of those people  
10 actually live in The Orchards. So I tried to  
11 drive around kind of to all sides, the side  
12 streets, The Orchards, and take a look from those  
13 locations.

14 MR. MERCIER: Were you able to see the  
15 balloon from your properties?

16 MR. TOOKER: I was not.

17 MR. MERCIER: Okay. The residence at  
18 351B, I believe she was part of your group?

19 MR. TOOKER: Actually Rick Perry was  
20 here. That's his house.

21 RICHARD PERRY: Yes.

22 MR. TOOKER: He couldn't see it either.  
23 We spoke prior.

24 MR. MERCIER: Thank you. My other  
25 question was: Was it visible from his property.



1 MR. TOOKER: No.

2 MR. MERCIER: Okay. I have no other  
3 questions.

4 MR. FISHER: Just a couple for me. I  
5 just have a couple of questions.

6 SENATOR MURPHY: Go ahead, Mr. Fisher.

7 MR. FISHER: Mr. Tooker, we were out at  
8 the site visit earlier today, and you heard  
9 earlier some questions about the homeowners  
10 association at The Orchards. Can you just confirm  
11 that it's generally well known within the  
12 homeowners association and those who currently  
13 live here of this proposal and what's being  
14 proposed based on your own communications with  
15 that group?

16 MR. TOOKER: Sure. Our core group of  
17 people that have essentially met through this  
18 whole process is made up of Rick, myself, and four  
19 others, three of which are actually residents of  
20 The Orchards. We met just last week again, and  
21 they confirmed to me that in the proposal earlier  
22 this year when they got together, there was a  
23 meeting held up at The Orchards where the  
24 landowner presented to the community. I don't  
25 believe there was color pictures or anything,

1 because I don't believe that existed at the time,  
2 but they saw all site drawings and everything like  
3 that. Amongst them, those few that we meet with,  
4 they have no opposition. And of course that  
5 doesn't speak for the whole community out there.

6 I have not heard anything

7 MR. FISHER: Thank you. I appreciate  
8 it.

9 SENATOR MURPHY: While we have him,  
10 anybody else?

11 (No response.)

12 SENATOR MURPHY: Thank you, very much,  
13 Mr. Tooker. We appreciate it.

14 Anybody else have anything?

15 (No response.)

16 SENATOR MURPHY: If not, we'll recess  
17 until 7 p.m. for the public session.

18 (Whereupon, the witnesses were excused,  
19 and the above proceedings were adjourned at 4:11  
20 p.m.)

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CERTIFICATE

I hereby certify that the foregoing 65 pages are a complete and accurate computer-aided transcription of my original stenotype notes taken of the Siting Council Meeting in Re: DOCKET NO. 463A, AMERICAN TOWERS, LLC AND NEW CINGULAR WIRELESS PCS, LLC AMENDED APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A TELECOMMUNICATIONS FACILITY LOCATED AT 351A BOSTON POST ROAD, EAST LYME, CONNECTICUT OR FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A TELECOMMUNICATIONS FACILITY AT AN ALTERNATIVE SITE LOCATED AT 2 ARBOR CROSSING, EAST LYME, CONNECTICUT, PURSUANT TO CONNECTICUT GENERAL STATUTES SECTION 4-181a(a), which was held before SENATOR JAMES J. MURPHY, Vice Chairman, at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut, on November 1, 2016.

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Lisa L. Warner, L.S.R., 061

Court Reporter

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I N D E X

WITNESSES DANIEL BILEZIKIAN PAGE 13

CAMILO A. GAVIRIA

MARTIN LAVIN

MICHAEL LIBERTINE

HARRY ROCHEVILLE

EXAMINERS:

Mr. Fisher

Mr. Mercier

Mr. Levesque

Mr. Ashton

Mr. Hannon

Mr. Lynch

Senator Murphy

APPLICANT'S EXHIBITS

(Received in evidence)

EXHIBIT	DESCRIPTION	PAGE
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II-B-11	Applicant's amended	15
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application, dated 9/13/16

II-B-12	Applicant's affidavit of	15
---------	--------------------------	----

publication on amended application,

dated 9/13/16

1 I n d e x: (Cont'd.)

2

3 EXHIBIT DESCRIPTION PAGE

4 II-B-13 Applicant's responses to 15

5 Council interrogatories, dated

6 10/25/16

7 II-B-14 Applicant's affidavit of sign 15

8 posting, received 10/15/16

9 II-B-15 Witness resumes, received 15

10 10/25/16

11 a. Dan Bilezikian

12 b. Camilo A. Gaviria

13 c. Harry Rocheville

14 d. Martin Lavin

15 e. Michael Libertine

16 II-B-16 Applicant's PowerPoint 15

17 presentation for 11/1/16 public

18 comment session, received

19 10/25/16

20 TOWN OF EAST LYME EXHIBITS

21 (Received in evidence)

22 EXHIBIT DESCRIPTION PAGE

23 III-B-3 Town of East Lyme's letter 10

24 of no objection, dated 10/24/16

25