

<p>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 §4-181a(a).</p>	<p>} Connecticut } Siting } Council December 22, 2016</p>
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Opinion

On October 6, 2015, American Towers, LLC and New Cingular Wireless PCS, LLC, (collectively the Applicant), 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 194-foot monopole wireless telecommunications facility to be located at 351A Boston Post Road, East Lyme, Connecticut. The BHSO Community Conservancy and the Town of East Lyme participated as parties to the proceeding and pursuant to Connecticut General Statutes §22a-19, the Council granted both the Town of East Lyme and BHSO Community Conservancy Connecticut Environmental Protection Act intervenor status.

The purpose of the proposed facility is to replace an existing 150-foot monopole telecommunications facility located at 2 Scott Road in East Lyme that was approved by the Council in 1986 in Docket 67. The existing facility is located at the summit of Pond Hill, a relatively high location north of Route 1, and currently supports New Cingular Wireless PCS, LLC (AT&T) and T-Mobile. At the time of the Council’s approval, the 2 Scott Road property was largely undeveloped but has since been developed as a residential community known as The Orchards. The existing tower lease expires at the end of 2017 and AT&T, the 2 Scott Road Certificate Holder, was unsuccessful in renegotiating a new long-term lease with the landlord to further utilize the existing tower.

The United States Congress recognized a nationwide need for high quality wireless services in part through the adoption of the Federal Telecommunications Act of 1996 and directed the Federal Communications Commission (FCC) to establish a market structure for system development, and develop technical standards for network operations. Connecticut State law directs the Council to balance the need for development of proposed wireless telecommunications facilities with the need to protect the environment, including public health and safety.

For the Application, the Council conducted a public hearing in the Town of East Lyme on December 15, 2015, consisting of a public field review of the proposed 351A Boston Post Road site, a public evidentiary session and a public comment session. A continued public evidentiary session was held on January 26, 2016 at the Council’s office in New Britain. The Town and BHSO Conservancy both sought to have the proposed tower moved to another location, believing that the proposed facility was too visually intrusive to the surrounding neighborhood.

After conclusion of the hearing session, AT&T approached the owner of The Orchards for another attempt to find a suitable location within The Orchards for a telecommunication facility. On March 28, 2016, the Applicant requested the Council defer a final decision in this matter and granted the Council an extension of time to render a decision to allow the Applicant enough time to thoroughly investigate a potential alternate site located near the existing Scott Road tower. On September 14, 2016 the Applicant submitted an amendment to the application to formally present an alternate site for the proposed facility located at 2 Arbor Crossing in East Lyme. On September 29, 2016 the Council reopened Docket 463 to allow the Council to consider both sites. A second public hearing was held in the Town of East Lyme on November 1, 2016

which included a field review of the 2 Arbor Crossing site and a public evidentiary session and a public comment session.

The Council finds that the Applicant conducted a thorough search for locations suitable for a replacement telecommunications facility and is pleased that, through persistence, an Alternative Site was established for the Council to consider. Besides the two proposed sites, a total of 36 properties were examined including properties suggested by the Town, BHSO Community Conservancy, and the Council. Several properties in the Wilson Hill area, a relatively undeveloped area southeast of Route 1 and accessed by Ancient Highway, were determined to be suitable for AT&T. The Applicant initially proposed two potential tower sites in this area but ultimately had to withdraw them from consideration after receiving a significant adverse effect determination from the Mohegan Tribe as part of the federally mandated National Environmental Policy Act review process. The tribe stated that due to cultural features and the historic landscape of the Ancient Highway area, a tower in the Ancient Highway area would be detrimental to the tribe's cultural heritage. The Applicant also examined the Stone Ranch Military Reservation property, and determined that locating on the existing tower on the property would not meet coverage objectives because it is too far from Route 1, an area of wireless service need. Other locations on the Stone Ranch property were also too low in elevation to meet wireless service objectives. Furthermore, the Connecticut Military Department, the property owner, will not allow AT&T to locate on the existing tower or construct a new tower on the Stone Ranch property.

The proposed 351A Boston Post Road site consists of a 194-foot monopole facility located on a 7.2-acre flag shaped parcel that is accessed from Route 1. The parcel contains a single family residence and undeveloped woodland. The tower site is located in the wooded, eastern portion of the property and would be accessed by a new 700-foot long gravel drive that would extend from an existing paved driveway on the property. The proposed tower site is approximately 0.3 miles southeast of the existing 2 Scott Road tower. The site is on the south slope of Pond Hill, approximately 100 feet lower in ground elevation than the existing tower. Land use immediately surrounding 351A Boston Post site is developed residential with most development located to the south, along Route 1, and east, within The Orchards. The tower setback radius extends onto abutting developed residential property to the north by 94 feet and east by 152 feet.

The proposed 2 Arbor Crossing site consists of a faux silo facility located on an approximately 5.2-acre parcel within The Orchards residential development. The parcel is developed with a clubhouse, recreational areas and the existing 2 Scott Road tower. AT&T would construct a 105-foot tall faux silo with an approximate diameter of 22 to 24 feet. A 35-foot wide by 50-foot long by 35-foot high wood frame faux barn equipment building would be constructed to house ground equipment for facility tenants. Access to the site would be from a new 375-foot gravel drive extending along the pool area of the property. Adjacent land use includes developed and undeveloped residential parcels within The Orchards community.

Both proposed sites would allow AT&T to replace most of the wireless service that would be lost once the 2 Scott Road facility is decommissioned. Overall, the 2 Arbor Crossing facility recovers more of the lost service when compared to the 351A Boston Post Road site due to its location near the summit of Pond Hill. Along Route 1 east of the site, the 351A Boston Post Road site performs better than the 2 Arbor Crossing site, providing service to a 0.4 mile section of roadway where even the existing 2 Scott Road tower could not provide adequate coverage. Most of the degraded service from the 2 Arbor Crossing site would occur during leaf-on conditions when the foliage blocks some of the signal from the site. Lowering the height of either facility would compromise AT&T's effort to recover as much service as possible once the existing tower is decommissioned, especially in the Route 1 corridor, a major town road that supports residential and commercial development.

For this application, American Towers, LLC would be the Certificate Holder for the 351A Boston Post Road site whereas AT&T would be the Certificate Holder for the 2 Arbor Crossing site. Both sites would be constructed to support three other telecommunications carriers for future co-location. To prevent issues with storm related outages, both sites would feature underground utilities and a shared emergency generator for use by all tower tenants.

Development of either site would not affect any wetlands or watercourses. Stormwater controls on the 351A Boston Post Road site would be problematic due to the shallow depth to bedrock. The 2 Arbor Crossing site would tie into an existing stormwater control system within the residential development.

Development of either site would require the clearing of 0.4-acre of woodland, with more mature trees occurring on the 351A Boston Post Road site. The clearing would occur in woodland that is considered fragmented forest and would not affect any core forest blocks. The red bat, a State-listed Species of Special concern, and the northern long-eared bat, a State-listed Endangered and federally-listed Threatened Species, are known to occur in the general area of both sites, preferring mature trees for roosting. As recommended by the Department of Energy and Environmental Protection, the Council will order the Applicant to include tree clearing restrictions within the D&M Plan for the project to avoid potential impacts to populations of these bat species. No historic or cultural resources would be affected by either proposed facility.

The height of both facilities is a concern of the Council given their location adjacent to developed residential areas. The upper portions of both facilities would be visible from select areas to the east and southeast, out to a distance of a mile, especially from areas that are on hillsides that face the sites. Year-round views from distant areas to the west and southwest are effectively blocked by hilly terrain or dense tree cover.

Significant year-round views of either site would be mainly from locations within the immediate area surrounding each site. The 351A Boston Post Road 194-foot monopole is relatively tall when compared to the existing 2 Scott Road tower and is in a densely developed residential area. Several homes on the hillside above the 351A Boston Post Road site would have year-round views of a substantial portion of the tower.

Although the 2 Arbor Crossing 105-foot tall faux silo is also in a residential area, the proposed site is located adjacent to the existing 150-foot tall Scott Road tower and abuts property to the north and east that has not yet been developed into residences. Although the silo has more visual mass when viewed from nearby locations than the existing tower, it is shorter, and given that the antennas and associated mounting equipment is contained within the silo, it presents a softened visual profile rather than an abrupt, tall, metal structure with antenna platforms that protrude from the upper portion of the tower.

The proposed faux silo structure would not be a unique application in the State as a similar 108-foot tall faux silo facility was constructed in Hamden, Connecticut for use by multiple telecommunication carriers. For the proposed 2 Arbor Crossing site, the faux silo conforms to the former agriculture use of the property and, in general, agricultural land use in the surrounding area. The proposed faux barn is sized proportionally with the silo facility. Smaller structures would appear too small, thus enhancing the size of the faux silo. Landscaping and decorative fencing around the base of the facility would further enhance a pastoral landscape.

After examining the impacts of both proposed facilities, the Council finds the 2 Arbor Crossing site preferable. It would require less site work to develop, presents less of a challenge to control stormwater runoff, requires less clearing of mature trees that are favored by tree roosting bats, provides acceptable wireless service to AT&T, is located on a parcel currently used to support a telecommunications facility, and utilizes a stealth tower application that would have less of a visual impact on the surrounding area and fits in with the theme of the past agricultural use of The Orchards development. Although the cost of the 2 Arbor

Crossing facility is considerably more than the 351A Boston Post Road site, AT&T demonstrated it is willing to build the structure by designing the facility with direct input from the landowner to replace the existing facility and by signing a long-term lease.

In accordance with C.G.S. §22a-19, the Council finds that a facility at the 2 Arbor Crossing site would not cause unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state. The Council has considered all reasonable alternatives and finds that a faux silo facility at the 2 Arbor Crossing site represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the radio frequency power density levels of AT&T's and T-Mobile's antennas would be 15.4 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure, as measured at the base of the facility. This percentage is below federal standards established for the frequencies used by wireless companies. If federal 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.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, maintenance and operation of the proposed 105-foot faux silo telecommunications facility at 2 Arbor Crossing, 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 to New Cingular Wireless PCS, LLC for the construction, maintenance, and operation of a 105-foot faux silo telecommunications facility at 2 Arbor Crossing in East Lyme, Connecticut. The Council denies certification of the proposed 194-foot monopole telecommunications facility at 351A Boston Post Road.