

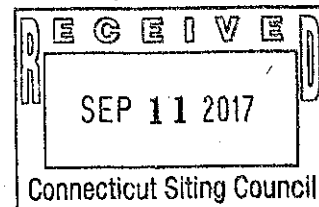
MURTHA

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September 11, 2017

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

Attorney Melanie Bachman
Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051



Re: Docket No. 471 – Post-Hearing Brief from Ms. Patricia Sorrentino

Dear Attorney Bachman:

Enclosed please find an original and fifteen copies of the post-hearing brief with corresponding attachments directed to the Council in this Docket on behalf of Ms. Patricia Sorrentino.

Based on the revised schedule, briefs are due on or before September 14, 2017.

Please feel free to contact the undersigned if you have any questions concerning this submission.

Thank you for your consideration.

Respectfully submitted,

By:


Bridget D'Angelo, Esq.
Attorney for Patricia Sorrentino

cc: Service List – Docket No. 471

Burt Cohen, Esq.

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

APPLICATION OF CELLCO	:	DOCKET NO. 471
PARTNERSHIP D/B/A VERIZON	:	
WIRELESS FOR A CERTIFICATE OF	:	
ENVIRONMENTAL	:	
COMPATIBILITY AND PUBLIC	:	
NEED FOR THE CONSTRUCTION,	:	September 11, 2017
MAINTENANCE AND OPERATION	:	
OF A TELECOMMUNICATIONS	:	
FACILITY IN HAMDEN,	:	
CONNECTICUT	:	

PATRICIA SORRENTINO'S POST-HEARING BRIEF

I. INTRODUCTION.

On March 3, 2017, Cellco Partnership d/b/a Verizon Wireless (“Verizon” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (“Application”) for a certificate of environmental compatibility and public need (“Certificate”) for the construction, maintenance and operation of a wireless telecommunications facility (“Facility”) at 208 Kirk Road in Hamden, Connecticut (the “Property”).¹ The Property is owned by Ms. Patricia Sorrentino’s neighbors, Joseph Vignola and Denise Courtmanche Vignola (collectively the “Owner”).² Ms. Patricia Sorrentino (“Ms. Sorrentino”) has lived at 46 Country Club Lane since 1986, nearly 31 years.³ The initial proposed location of the Facility described in the Application (the “Proposed Site”) was a mere two hundred seventy (270) feet from the residence of Ms. Sorrentino. Although the proposed site was overwhelmingly opposed by a number of

¹ Application of Cellco Partnership d/b/a Verizon Wireless...Hamden CT (March 3, 2017) at Page i.

² Id.

³ April 25, 2017 Pre-filed Testimony of Ms. Patricia Sorrentino.

Hamden residents and by the Town of Hamden, Ms. Sorrentino was the only participant who took the time to participate fully throughout this Docket as a party.⁴ Furthermore, Ms. Sorrentino has been very proactive in assisting the Council in this Docket at her own expense and offering both written and oral testimony and making herself available for cross examination.

The record overwhelmingly demonstrates that the Applicant focused on the original proposed site by piggy-backing on an earlier agreement between the Owner and AT&T for a tower site, which was ultimately abandoned.⁵ Maps from Verizon's Application, attached hereto as Exhibit A and Exhibit B, show repeated references to a proposed monopine tower and AT&T fuel powered generators.⁶ As demonstrated by Exhibit A and Exhibit B, the Applicant failed to invest time to carefully update the attachments in its own Application. Therefore, the Council must prohibit Verizon from installing propane fuel generators anywhere on the Property. Contrary to what Verizon submitted in its original application, Verizon has subsequently flip-flopped its position to now prefer a traditional monopole.⁷

Based on the aerial view depicted in Attachment 1 of the Applicant's April 24, 2017 Responses and the site visit on May 2, 2017 it became indisputably apparent that the Proposed

⁴ During a public meeting held on March 16, 2017, pursuant to Connecticut General Statutes § 16-50n and 4-177z, the Council granted party status to Ms. Patricia Sorrentino in Docket No. 471.

⁵ In fact, the Applicant actually provided the Council AT&T exhibits in its original application in this proceeding. See Applicant's Application, Tab 17, Maps L-2 and L-3. The Council should view this as substantial evidence that Verizon's "site search" was not as robust as the Applicant attempted to portray it in this proceeding.

⁶ Applicant's Application, Tab 17, Maps L-2 and L-3.

⁷ Question No. 44 of Applicant's August 3, 2017 Responses to Connecticut Siting Council Pre-Hearing directly contradicts the Applicant's original application (see Exhibits A and B) by now asserting a preference for a traditional monopole tower.

Site was unacceptable due to, among other reasons, its close proximity to residential housing.⁸ The Proposed Site also presented not insubstantial safety issues in placing a tower in the midst of a residential neighborhood based on fuel storage issues and the potential for adverse weather conditions causing damage to the facility and attached telecommunications antenna and equipment, all of which could adversely impact nearby residences and particularly Ms. Sorrentino's residence.⁹

It became readily apparent to all, including the Applicant, at the May 2nd proceedings, that another site was required if the Council were to seriously consider issuing a Certificate to the Applicant.¹⁰ Accordingly, the Applicant immediately thereafter introduced three (3) alternative sites, each of which is discussed below.¹¹

II. ALTERNATIVE SITE ONE

Alternative Site One is entirely unacceptable based on its close proximity to Ms. Sorrentino's residential home along with all of the potential related safety issues raised with the original Proposed Site.¹² Alternative Site One is extremely close to the initial Proposed Site (175 feet to the northeast of the Proposed Site¹³) and was clearly visible to Ms. Sorrentino on the day of the balloon test.¹⁴ The Applicant proposed a 150-foot tall monopole tower at Alternative Site One, which is twenty (20) feet higher than the 120-foot tall tower that would be installed at Alternative Site Two.¹⁵ The Applicant also proposed to install up to twelve (12) antennas at the

⁸ Applicant's April 24, 2017 Response to Question 10 indicates that the initial proposed site was only 220 feet from Ms. Sorrentino's property line and 270 feet from her home.

⁹ Further, given the proximity to a golf course and neighborhood use of the wooded area, the proposed site was not consistent with the legislative findings and purposes enunciated in Conn. Gen. Stat. § 16-50g.

¹⁰ See, e.g., Applicant's July 13, 2017 Post-Hearing Brief, Page 3 (Applicant indicating that the record supports the three (3) alternative site locations).

¹¹ Id. at Page 1.

top of the tower extending to a height of 153 feet AGL, which is thirty (30) feet higher than the height of 123 feet AGL for Alternative Site Two.¹⁶ After the installation of the twelve (12) antennas on Alternative Site One, the 153 feet AGL height would almost match the 160-foot tall Proposed Site tower height. Therefore, Alternative Site One is so substantially similar to the Proposed Site, including the same problematic proximity issues cited above, that Alternative Site Two is a much better alternative.

III. ALTERNATIVE SITE TWO

If the Council determines that the Facility is necessary¹⁷, then Ms. Sorrentino respectfully requests the Council to focus on Alternative Site Two as the Facility location. Of the three (3) Alternate Sites proposed, Alternate Site Two would have the shortest access driveway, would require the removal of fewer large trees, and would require less significant grading to construct the access driveway and facility compound.¹⁸ Alternative Site Two also allows for the shortest

¹² See Applicant's May 23, 2017 Responses to Connecticut Siting Council Pre-Hearing Questions, Existing Photo 2 (Country Club Drive).

¹³ Applicant's July 13, 2017 Post-Hearing Brief, Page 2.

¹⁴ Ms. Sorrentino's testimony, June 13, 2017 Hearing Transcript, Page 98.

¹⁵ Applicant's July 13, 2017 Post-Hearing Brief, Page 2.

¹⁶ Id.

¹⁷ June 13, 2017 Hearing Transcript, Page 24 at lines 1-3, the necessity of the tower is questionable given Mr. Laredo's testimony regarding the .75 drop call rate, which conflicts with Rootmetrics study showing that call failure rates below 2% are considered "Excellent" (June 6, 2017 Supplemental Pre-filed Testimony of Ms. Patricia Sorrentino, page 29 of Rootmetrics study).

¹⁸ Applicant's July 13, 2017 Post-Hearing Brief, Page 3.

tower at one hundred twenty (120) feet.¹⁹ The Applicant testified at the June 13, 2017 hearing that Alternative Site Two would be acceptable.²⁰

Ms. Sorrentino has testified that Alternative Site Two is an optimal location for the Facility.²¹ Given the substantial ecological and neighborhood benefits of this location, Alternative Site Two is the preferred location for the Facility based on its proximity to residential homes and the overall advantages that the location offers.

IV. ALTERNATIVE SITE THREE

Respectfully, it must be stated that the Council did not sufficiently explore Alternative Site Three, ostensibly due to unsubstantiated representations of speculative use of that area by the Owner.²² Disruption to the neighborhood would have been significantly diminished by Alternative Site Three, an option that unfortunately the Council elected not to explore.²³ Ms. Sorrentino's ability to cross-examine the Applicant on its testimony about Alternate Site 3 was restricted, as well.²⁴ The Applicant intentionally failed to include Alternative Site Three in its technical memorandum summarizing the visual impacts of the proposed sites despite their

¹⁹ Id.

²⁰ Mr. Libertine's Testimony, June 13, 2017 Hearing Transcript, Page 17; see also, Question No. 44 of August 3, 2017 Applicant's Responses to Connecticut Siting Council Pre-Hearing Questions.

²¹ See, e.g. July 7, 2017 Sorrentino Letter Regarding Recommendations, Preferences and Site Concealment Measures.

²² Question No. 33 of May 23, 2017 Applicant's Responses to Connecticut Siting Council Pre-Hearing Questions.

²³ Ruling by Chairman Stein, June 13, 2017 Hearing Transcript, Page 84. It should also be noted that the Owner never offered any testimony to support the Applicant's representations about the "future use" of the area around Alternate Site 3, nor did the Applicant offer any expert testimony about the representations of the soil quality to substantiate the Owner's alleged statement of purported future use.

²⁴ Question No. 33 of May 23, 2017 Applicant's Responses to Connecticut Siting Council Pre-Hearing Questions; see also Mr. Libertine's testimony, June 13, 2017 Hearing Transcript, Page 82 (indicating that neither an analysis nor an engineering drawing set was prepared for alternative site three).

own witness's testimony that Alternative Site Three is technically feasible.²⁵ Out of the three options to which the Council has limited itself, Alternative Site Two represents the only acceptable option.

Access to Alternative Sites Two and Three would also be readily available from the private road off Kirk Road, which is already utilized for commercial purposes by the Owner.²⁶ Specifically, the Owner has an existing woodcutting business, which encourages commercial traffic on the Owner's private driveway.²⁷ The Applicant has repeatedly endorsed access through Country Club Drive without adequately considering the residents perspectives regarding this drastic increase in commercial activity on their quiet private residential neighborhood cul de sac.²⁸ It is indisputable that access from Kirk Road would be less disruptive to the residential character of the neighborhood. Irrespective of the Alternative Site selected, Ms. Sorrentino respectfully requests that the Council's final decision require the Applicant to locate its access road at the end of Kirk Road, rather than from the cul de sac of Country Club Drive.

V. CONCLUSION

The indisputable evidence in the record of Docket No. 471 demonstrates that Alternative Site Three would have been the best site for the Facility but Ms. Sorrentino testified that she is willing to accept Alternative Site Two if the Council were to approve the construction of a tower in this area. Both the initial Proposed Site and Alternative Site One are not appropriate sites based on the record in this proceeding.

²⁵ Mr. Libertine's testimony, June 13, 2017 Hearing Transcript, Pages 20-21.

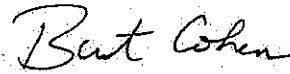
²⁶ Ms. Sorrentino's Testimony, June 13, 2017 Hearing Transcript, Page 107.

²⁷ Mr. Libertine's Testimony, June 13, 2017 Hearing Transcript, Page 79.

²⁸ See, e.g. Mr. Weinpahl's Testimony, June 13, 2017 Hearing Transcript, Page 81.

Finally, Ms. Sorrentino appreciates the thoughtful consideration and courtesy provided by the Council members and staff in this proceeding. Her active participation and genuine credibility, along with her ongoing dialogue with other neighbors who participated in the public testimony hearing on May 2nd, demonstrate that her perspectives should be heavily credited in any decision rendered in this Docket.

Respectfully submitted,
MS. PATRICIA SORRENTINO

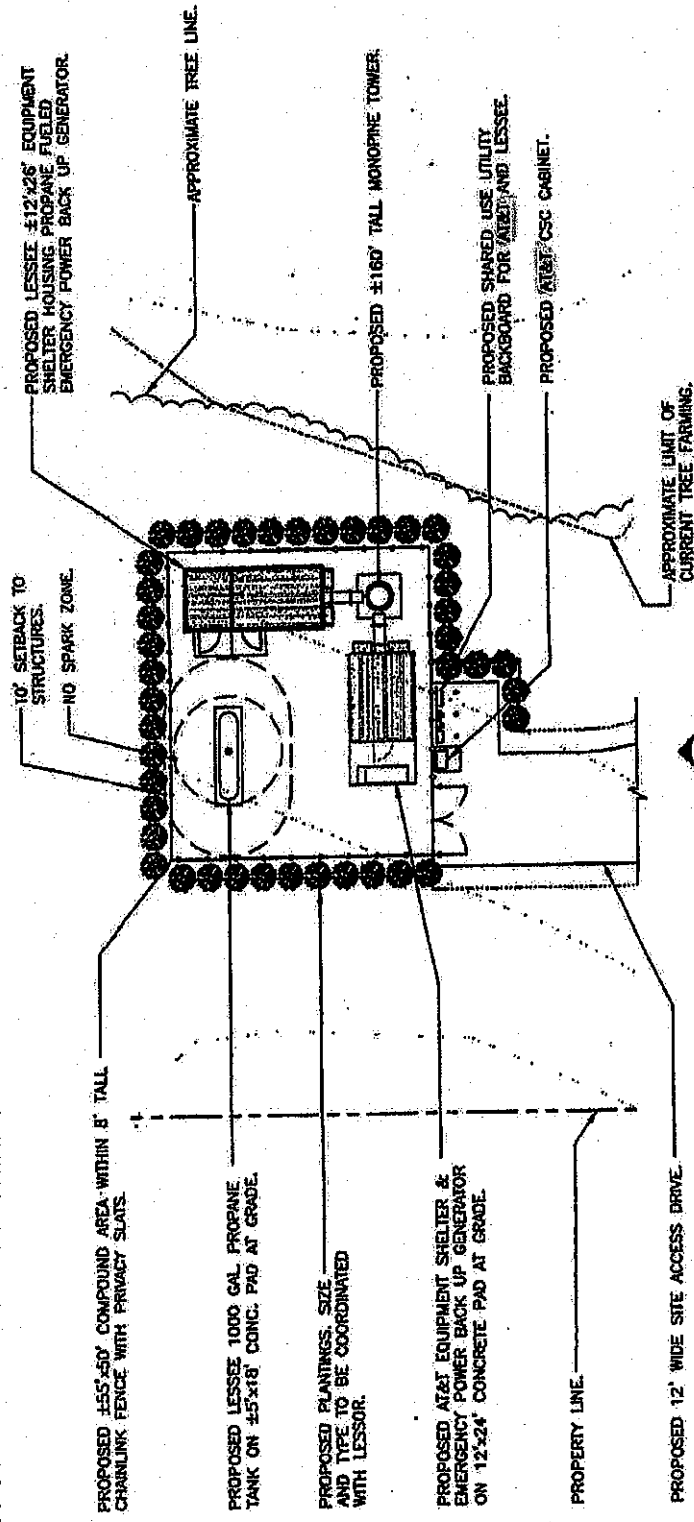


By _____
Burton B. Cohen
Bridget D'Angelo
Attorneys for Ms. Patricia Sorrentino

Exhibit A

LEASE EXHIBIT

THIS LEASE PLAN IS DIAGNOSTIC IN NATURE AND IS INTENDED TO PROVIDE GENERAL INFORMATION REGARDING THE LOCATION AND SIZE OF THE PROPOSED WIRELESS COMMUNICATION FACILITY. THE SITE LAYOUT WILL BE FINALIZED UPON COMPLETION OF SITE SURVEY AND FACILITY DESIGN.



PROPOSED LESSEE ±12'x26' EQUIPMENT SHELTER HOUSING PROpane FUELED EMERGENCY POWER BACK UP GENERATOR.

APPROXIMATE TREE LINE.

PROPOSED ±160' TALL MONOPINE TOWER.

PROPOSED SHARED USE UTILITY BACKBOARD FOR WIRE AND LESSEE. PROPOSED AT&T CSC CABINET.

APPROXIMATE LIMIT OF CURRENT TREE FARMING.

10' SETBACK TO STRUCTURES. NO SPARK ZONE.

PROPOSED ±55'x50' COMPOUND AREA WITHIN 8' TALL CHAINLINK FENCE WITH PRIVACY SLATS.

PROPOSED LESSEE 1000 GAL. PROPANE TANK ON ±5'x18' CONC. PAD AT GRADE.

PROPOSED PLANTINGS, SIZE AND TYPE TO BE COORDINATED WITH LESSOR.

PROPOSED AT&T EQUIPMENT SHELTER & EMERGENCY POWER BACK UP GENERATOR ON 12'x24' CONCRETE PAD AT GRADE.

PROPERTY LINE.

PROPOSED 12' WIDE SITE ACCESS DRIVE.



PARTIAL SITE PLAN
SCALE: 1" = 20'



<p>UNITEL Engineering 200 RIVER ROAD HAMDEN, CT 06514</p>		<p>DATE: _____ DRAWN BY: _____ CHECKED BY: _____</p>	<p>L-2</p>
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Exhibit B

<p>UNITER Engineering & Architecture www.uniter.com 1000 Main Street, Hamden, CT 06514</p>		<p>CLIENT HAMDEN 8 (OPTION 2) 208 NERK ROAD HAMDEN, CT 06514</p>	<p>PROJECT L-3</p>
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