



STATE OF CONNECTICUT  
*CONNECTICUT SITING COUNCIL*

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**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

September 27, 2021

TO: Service List, dated May 6, 2021

FROM: Melanie Bachman, Executive Director *MAB*

RE: **DOCKET NO. 500** – Arx Wireless Infrastructure, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 1061-1063 Boston Post Road, Milford, Connecticut

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In accordance with Conn. Gen. Stat. § 4-181a (c), which provides that an agency “may, without further proceedings, modify a final decision to correct any clerical error...,” the Connecticut Siting Council hereby corrects clerical errors in the Findings of Fact, Opinion, and Decision and Order. Please see the enclosed errata sheets in connection with the above-referenced proceeding.

Please remove the old pages and insert the corrected ones.

MAB/IN/laf

**LIST OF PARTIES AND INTERVENORS**  
**SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
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<b>Intervenor (Approved 4/22/21)</b>	<input checked="" type="checkbox"/> E-mail	Cellco Partnership d/b/a Verizon Wireless	Kenneth C. Baldwin, Esq. Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 Phone (860) 275-8200 <a href="mailto:kbaldwin@rc.com">kbaldwin@rc.com</a>
<b>Intervenor (Approved 4/22/21)</b>	<input checked="" type="checkbox"/> E-mail	New Cingular Wireless PCS, LLC	Kristen Motel, Esq. Lucia Chiochio, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 <sup>th</sup> Floor White Plains, New York 10601 Phone (914) 761-1300 <a href="mailto:kmotel@cuddyfeder.com">kmotel@cuddyfeder.com</a> <a href="mailto:lchiochio@cuddyfeder.com">lchiochio@cuddyfeder.com</a>
<b>Party (Approved 5/6/21)</b>	<input checked="" type="checkbox"/> E-mail	City of Milford	John W. Knuff, Esq. Jeffrey P. Nichols, Esq. Hurwitz, Sagarin, Slossberg & Knuff, LLC 147 North Broad Street Milford, CT 06460 Telephone: (203) 877-8000 Fax: (203) 878-9800 <a href="mailto:jknuff@hssklaw.com">jknuff@hssklaw.com</a> <a href="mailto:jnichols@hssklaw.com">jnichols@hssklaw.com</a>

This errata sheet corrects the title on Page 1. Page 1 previously read: Draft Findings of Fact:

<b>DOCKET NO. 500</b> – Arx Wireless Infrastructure, LLC	}	Connecticut
application for a Certificate of Environmental Compatibility	}	
and Public Need for the construction, maintenance, and	}	Siting
operation of a telecommunications facility located at 1061-	}	
1063 Boston Post Road, Milford, Connecticut.	}	Council

September 23, 2021

## **Findings of Fact**

### **Introduction**

1. Arx Wireless Infrastructure, LLC (Arx or Applicant), in accordance with provisions of Connecticut General Statutes (C.G.S.) § 16-50g, et seq, applied to the Connecticut Siting Council (Council) on March 30, 2021, for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 115-foot monopole wireless telecommunications facility at 1061-1063 Boston Post Road, Milford, Connecticut. (Applicant 1, pp. 5, 7)
2. Arx is a Delaware limited liability company with an office located at 110 Washington Avenue, North Haven, Connecticut. Arx constructs and owns wireless telecommunications facilities throughout the United States. Arx would construct, maintain and own the proposed facility and would be the Certificate Holder. (Applicant 1, p. 5)
3. The parties in this proceeding are Arx and the City of Milford (City). The Intervenors in this proceeding are Cellco Partnership d/b/a Verizon Wireless (Cellco) and New Cingular Wireless PCS, LLC (AT&T). (Record; Transcript 1, June 15, 2021, 2 p.m. (Tr. 1), pp. 3, 6)
4. Cellco and AT&T are licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service in the State of Connecticut. (Cellco 1, Petition to Intervene, p. 1; AT&T 1, Request to Intervene, p. 1)
5. The purpose of the proposed facility is to replace Cellco's, and AT&T's existing facilities located on the roof of the Howard Johnson Hotel (Hotel) which is to be demolished as part of a redevelopment project that stalled in 2019. The timeline for the demolition of the Hotel building remains unknown to date. (Applicant 1, pp. 2, 8, 16; Cellco 2, response 7; Tr. 1, pp. 34-35, 69; Tr.3, p. 155; Tr. 3, pp. 198-199; Council Administrative Notice Item Nos. 36, 40, 42)
6. Pursuant to C.G.S. § 16-50l (b), the applicant provided public notice of the filing of the application that was published in the New Haven Register on March 24, and March 26, 2021. (Applicant 1, p. 6; Attachment C)
7. Pursuant to C.G.S. § 16-50l (b), notice of the application was provided to all abutting property owners by certified mail on March 24, 2021. A certified mail receipt from one abutting property owner was not received and Arx hand-delivered notice to the property owner—on June 8, 2021. (Applicant 1, p. 7, Attachment D; Applicant 10, Response 1)
8. On March 29, 2021, the Applicant provided notice to all federal, state and local officials and agencies listed in C.G.S. § 16-50l (b). (Applicant 1, p. 6; Attachment B)

### **Procedural Matters**

9. On March 10, 2020, Governor Lamont issued a Declaration of Public Health and Civil Preparedness Emergencies, proclaiming a state of emergency throughout the state as a result of the COVID-19 pandemic. (Council Administrative Notice Item No. 52).

This errata sheet corrects the title on Page 1. Page 1 previously read: Draft Opinion:

<b>DOCKET NO. 500</b> – Arx Wireless Infrastructure, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 1061-1063 Boston Post Road, Milford, Connecticut.	}	Connecticut
	}	Siting
	}	Council

September 23, 2021

### Opinion

On March 30, 2021, Arx Wireless Infrastructure, LLC, (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 wireless telecommunications facility at 1061-1063 Boston Post Road, Milford, Connecticut. The purpose of the proposed facility is to replace Cellco Partnership d/b/a Verizon Wireless' (Cellco) and New Cingular Wireless PCS, LLC's (AT&T) existing facilities located on the roof of the Howard Johnson Hotel (Hotel) which is to be demolished as part of a redevelopment project. Cellco and AT&T are intervenors to the proceeding. The City of Milford (City) is a party to the proceeding.

The United States Congress recognized a nationwide need for high quality wireless services 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. The FCC preempts state or local regulation on matters that are exclusively within the jurisdiction and authority of the FCC, including, but not limited to, network operations and radio frequency emissions. Preservation of state or local authority extends only to placement, construction and modifications of telecommunications facilities based on matters not directly regulated by the FCC, such as environmental impacts. The Council's statutory charge is to balance the need for development of proposed wireless telecommunications facilities with the need to protect the environment.

Arx constructs and owns tower facilities throughout the United States. Arx would construct, maintain and own the proposed facility and would be the Certificate Holder. AT&T and Cellco are licensed by the FCC to provide personal wireless communications service throughout the state and would lease space on the proposed tower for their telecommunications equipment.

Cellco currently deploys its wireless service within the 700 MHz and the 2100 MHz frequency bands from its existing wireless telecommunication facility on the roof of the Hotel located at 1052 Boston Post Road. Cellco's existing facility consists of a 40-foot flagpole and associated equipment with antennas at the 76-foot and 82-foot levels.

AT&T currently deploys its wireless service within the 700 MHz, 850 MHz, 1900 MHz, 2100 MHz and 2300 MHz frequency bands from its existing wireless telecommunication facility attached to the Hotel building. AT&T's existing facility consists of antennas and associated equipment at the 58-foot level.

The Hotel has been shut down for about a year and the existing building is marked for demolition as part of a redevelopment project that stalled in 2019. The timeline for demolition of the Hotel building remains unknown to date. The height of the new Hotel building planned for the redevelopment project would not satisfy the carriers coverage objectives.

Demolition of the Hotel would require Cellco and AT&T to decommission their existing facilities. Decommissioning the existing facilities at the Hotel would cause a service disruption and loss of coverage

This errata sheet corrects the title on Page 1. Page 1 previously read: Draft Decision and Order:

**DOCKET NO. 500** – Arx Wireless Infrastructure, LLC application for a } Connecticut  
Certificate of Environmental Compatibility and Public Need for the }  
construction, maintenance, and operation of a telecommunications facility } Siting  
located at 1061-1063 Boston Post Road, Milford, Connecticut. } Council

September 23, 2021

### Decision and Order

Pursuant to Connecticut General Statutes §16-50p, and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, maintenance, and operation of a telecommunications facility, including effects on the natural environment, ecological balance, public health and safety, scenic, historic, and recreational values, agriculture, forests and parks, air and water purity, and fish, aquaculture and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes §16-50k, be issued to Arx Wireless Infrastructure, LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility at the proposed location at 1061-1063 Boston Post Road, Milford, Connecticut.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a monopole at a height of 115 feet above ground level to provide the proposed wireless services, sufficient to accommodate the antennas of Cellco Partnership d/b/a Verizon Wireless, New Cingular Wireless PCS, LLC d/b/a AT&T, and other entities, both public and private. The height of the tower may be extended after the date of this Decision and Order pursuant to regulations of the Federal Communications Commission.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be submitted to and approved by the Council prior to the commencement of facility construction and shall include:
  - a) A certified letter from a wireless telecommunications carrier with a firm commitment to install associated wireless equipment at the facility upon completion of construction;
  - b) final site plan(s) for development of the facility that employ the governing standard in the State of Connecticut for tower design in accordance with the currently adopted International Building Code and include specifications for the tower, tower foundation, antennas and equipment compound including, but not limited to, fence design, ground equipment, access road, utility installation and emergency backup power;
  - c) the tower shall be designed with a yield point to ensure that the tower setback radius remains within the boundaries of the subject property;
  - d) construction plans for site clearing, grading, water drainage and stormwater control, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended;
  - e) Species Protection Plan, including but not limited to provisions to conduct all construction work/activities between April 1 and October 30, during the active months of the Eastern Box Turtle (*Terrapene c. carolina*);