

To: CT Siting Council, Attn. M. Bachman, Executive Director Town of Westport, Town Attorney Ira Bloom, Participant

Cc: David Ball, Esq., Atty for the Applicant

From: Donald L. Bergmann, Intervenor

Re: DOCKET #510

- a. Proprietary Nature of Lease Rent Information
- b. Comments to Responses of Applicant Provided by Atty. David Ball to Interrogatories of the CT Siting Council

August 4, 2022

Please advise if the following is not acceptable as to format and deliverables. Fifteen copies will be provided by postal mail.

I am submitting the below to the CT Siting Council and the Town of Westport and the CT Siting Council with the hope that the points raised will be raised again, possibly expanded upon, by the Town of Westport and will in some form addressed by the Siting Council. I am sure the Siting Council has its procedures. However, after all these years of Siting Council hearings, it may be time to expand the scope of the efforts of the Siting Council and Staff if the below justifies such an expansion.

My comments are not definitive and reflect knowledge shortcomings. My hope is the Siting Council Staff, including if needed, third party consultants, will do all that makes sense to address all issues technical and certain factual issues, especially to confirm, reject or modify facts or beliefs asserted by the Applicant that are crucial to the application, yet possibly subject to differing analyses.

My below comments are in the sequence of the interrogatories. The numbers tie into the numbers in the response. Not all numbers are referenced.

First, however, the lease with the owners of 92 Greens Farms Rd.

Lease/Proprietary Rental Information- Protective Order

I do not know what the Siting Council will determine. Certainly, it is correct to have a copy of this lease. I believe it is also desirable for there to be no redactions. The only reason for the Applicant to be unwilling to let the public know how much it will pay to be permitted to construct a 124 feet cell tower and related fencing and other items on this private residential lot is to keep the costs to the Applicant as low as possible. The Applicant would like no one else to learn of what it will pay. Otherwise, that information could become known throughout the State, and other property owners would better be able to secure a fair or a larger rental payment. That is simply not a desirable outcome. It flies in the face of the kinds of openness that this process should seek. I do not suggest that the Applicant and the carriers must disclose their respective financial arrangements with carriers, though my guess is that becomes public knowledge by reason of the regulation of public utilities. In addition, the carriers, unlike private citizens, are "big boys", very sophisticated and know well how to maximize their profits. None of that pertains to an individual. While I personally detest the fact that the property owners, Pradiv and Sharana Mahash, are prepared to desecrate this area of Westport in order to be paid to allow a cell tower on their property, I also think it is very wrong for the Applicant to try to keep that information private in order to be able to minimize its rental costs.

I recommend that the Siting Council deny this application for confidentiality. If the Applicant does not like that outcome, it can bring a legal action. In the long term that would be a good thing since it would provide for a neutral CT Court to determine the proper outcome.

COMMENTS ON APPLIANT'S RESPONSES TO SITING COUNCIL'S INTERROGATORIES

4. Public Meeting February 8, 2022 Response

a. The Council's interest in the number of people attending this public meeting suggests that the strength of the opposition to this site has relevance to the Council, is both new to me and notable. Almost no one in Westport supports this residential site.

b. February 8th was a school vacation week in Westport. Many people were away. Also, the visual showing of the height of the cell tower using balloons was not as scheduled.

c. The asserted acknowledgement by First Selectwoman Tooker of a coverage gap needs to be re-addressed by the Town since most information is anecdotal, with little to nothing in writing in support of this site.

d. I e mailed Atty Ball following the meeting on February 11th and raised a number of points and requested certain information. Atty. Ball has failed even to respond to that e mail.

e. Emergency Need Assertion- I would like to learn if normal cell phone service improves, deteriorates or remains the same when there is a general power outage? My guess is that cell phone service that might have been sporadic during normal circumstances improves during power outages because of the absence of competing services.

f. Mitigation measures will of course be proposed by the Applicant. Those are relevant, but the best mitigation as to this ugly tower in a pristine neighborhood will be a site other than 92 Greens Farms Rd.

g. Radio Frequencies as "Conservative" - The fact that the Applicant references more than just the Federal standard, i.e. the Applicant characterizes that standard as "conservative" highlights what we all know. The waves emanating from cell towers can impact health, especially young children and babies. Also, if one was to read the findings as to cell towers over the past 20 or so years, it would be clear that the beliefs and assumptions that prevailed when the Federal siting law was enacted have changed, with most experts acknowledging that problems can arise. The Siting Council under the law is directed to ignore this reality. If I was on the Siting Council, that would bother my conscience.

h. The discussion of alternative sites makes no reference to the ongoing efforts of the Town and the CT DOT to generate a site along the CT DOT railroad right of way.

i. The discussion of past actions makes little reference to the 2014 effort for this same site. Why it was abandoned and what was the then supporting information seems relevant to this application.

7-16, 25 and 26 and 31, 32, 35 and 36 – The responses to these many questions reflect a great deal of factual and scientific information. That information comes from the Applicant. Much of it is important and if not completely accurate could impact the analysis of the Siting Council. As mentioned in my opening statement, I ask/hope that the Staff of the Siting Council generates or obtains independent analysis as to aspects of the statements made, certainly those that are particularly relevant. As to all the technical references, I am sure that Staff is familiar with much of what is stated. My question is whether or not Staff is sufficiently familiar to preclude the importance of independent verification.

15. Dishes are referenced as not" envisioned, yet later dishes appear to be contemplated.

10. Camouflage pertains to how the cell tower will look to all Westporters and visitors to our beaches. While the Applicant's response makes sense, the question highlights the reality of this ugly tower looming over the trees in this pristine gateway to Westport's beaches.

18. Height – The Applicant indicates that it may or could have the cell tower 30 feet higher than its proposed 124 feet. This is of course outrageous. I am confident the Siting Council will not tolerate any additional height. My guess is the Applicant has brought this up almost as a negotiating device to make 124 feet seem less bad.

19. Fence – No chain link fences should ever be allowed. All fencing should be tasteful. Westport mandates that the "good side" of all fences must face outward. I hope that the Siting Council does not

abuse its power to ignore all local zoning regulations by allowing the “bad side” of a fence to be exposed to the public.

27. As to the 5 G discussion, I am confused since it has been my understanding that cell towers will not be used for 5G once that technology is addressed. That fact, assuming it is true, is relevant to the appealing and accurate characterization of cell towers as dinosaurs, i.e. soon to become extinct. This response provides differing information. Clarity and preciseness are required.

30. “Significant Coverage Gap” is used in a manner that completely miss characterizes the coverage issues in this area of Westport. I am confident this issue will be crucial to the Siting Council. I am also confident that the Siting Council will come to agree with the contention of those opposed to this location for this cell tower that the primary reason, probably the hugely primary commercial reason for this cell tower, is to address cars speeding along I-95 for an approximate distance of two to two and one-half miles.

33. High Speed Service/Streaming - The Applicant declares that
“voice dropping is not a measure of substantial service”.

In essence, the Applicant highlights the overwhelming reason for this cell tower, I-95. All I can say, and all I hope the Siting Council will conclude is that this site, in this neighborhood should not be defiled for “streaming”, particularly when so much ties back to I-95.

34. Streets – The listing of streets, including my own, Sherwood Dr., is impressive. However, it just a list and probably does not reflect real life experiences. Cell phone service is available to all homes on the listed streets, though there may be a few instances where good service can only be obtained through Cable Vision. As importantly, my guess is that all of this coverage information, all of the streets listed, reflect modeling techniques, not actual reality. One of the members of the RTM, Peter Gold, made this point during a public session. This reality applies to many residents, especially for those who have shopped around for carriers other than AT&T.

45. First Net Public Safety

a. This topic needs further clarification, including as to why it is brought up and whether or not it relates only to AT&T. For example, it could be a marketing vehicle with little near term relevance.

b. The assertions as to emergency service need to be explored and developed further. Note that some of the worst power outages have occurred in the past twenty years and there have been no reported injuries of which I am aware resulting from an inability to secure emergency attention. Westport’s Police, Fire and EMS Departments, along with its Executive Leadership and other public service bodies do an incredibly successful job during all emergencies, whether in the form of power outages or otherwise.

c. Certain cell service carriers have expanded, possibly improved, service by adding small power units on telephone poles. This has been undertaken without fanfare or difficulty within the area affected by this proposed cell tower.

CONCLUDING COMMENT

The interrogatories submitted by the Siting Council suggests to me that the Council, at least at this time Staff, are concerned with this site location and also concerned with the issue of need, particularly the fact that the need, if any, occurs for two minutes as cars speed along I –95, between towers. I hope I am spot on. For this site, this application, the Siting Council can and should deny this application for this site, 92 Greens Farms Rd. on the basis that the benefits, minimal at best, are outweighed by the aesthetic harm that it will impose on so many within this lovely area of this lovely Town, Westport CT.

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