



STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

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**VIA ELECTRONIC MAIL & CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

January 6, 2023

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RE: **DOCKET NO. 510** – New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut.

Dear Attorneys Ball, Chiocchio, Motel and Pires:

By its Decision and Order dated January 5, 2023, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut.

Enclosed are the Council's Certificate, Findings of Fact, Opinion, and Decision and Order.

Sincerely,

Melanie A. Bachman  
Executive Director

MAB/IN/lm

Enclosures (4)

c: Service List dated July 21, 2022  
State Documents Librarian ([csl.cda@ct.gov](mailto:csl.cda@ct.gov))



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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**CERTIFICATE  
OF  
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED  
DOCKET NO. 510**

Pursuant to General Statutes § 16-50k, as amended, the Connecticut Siting Council hereby issues a Certificate of Environmental Compatibility and Public Need to New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC for the construction, maintenance, and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut. This Certificate is issued in accordance with and subject to the terms and conditions set forth in the Decision and Order of the Council on January 5, 2023.



By order of the Council,

A handwritten signature in black ink, appearing to read "Melanie A. Bachman".

\_\_\_\_\_  
Melanie A. Bachman, Executive Director

January 5, 2023

**STATE OF CONNECTICUT** )

: ss. **Southington, Connecticut**      **January 6, 2023**

**COUNTY OF HARTFORD** )

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

**ATTEST:**



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Melanie A. Bachman  
Executive Director  
Connecticut Siting Council

**STATE OF CONNECTICUT** )

: ss. **New Britain, Connecticut**      **January 6, 2023**

**COUNTY OF HARTFORD** )

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 510 has been forwarded by Certified First Class Return Receipt Requested mail, on January 6, 2023, to all parties and intervenors of record as listed on the attached service list, dated July 21, 2022.

**ATTEST:**



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Lisa A. Mathews  
Office Assistant  
Connecticut Siting Council

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

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<b>Applicants</b>	<input checked="" type="checkbox"/> E-mail	New Cingular Wireless PCS, LLC (AT&T) and Tarpon Towers II, LLC	<p>Lucia Chiocchio, Esq. Kristen Motel, Esq. 445 Hamilton Avenue, 14th Floor White Plains, New York 10601 Phone (914) 761-1300 <a href="mailto:lchiocchio@cuddyfeder.com">lchiocchio@cuddyfeder.com</a> <a href="mailto:kmotel@cuddyfeder.com">kmotel@cuddyfeder.com</a></p> <p>David A. Ball, Esq. Philip C. Pires, Esq. Cohen and Wolf, P.C. 1115 Broad Street Bridgeport, CT 06604 Phone (203) 368-0211 <a href="mailto:dball@cohenandwolf.com">dball@cohenandwolf.com</a> <a href="mailto:ppires@cohenandwolf.com">ppires@cohenandwolf.com</a></p>
<b>Intevenor</b> (granted 06/23/22)	<input checked="" type="checkbox"/> E-mail	Cellco Partnership d/b/a Verizon Wireless	<p>Kenneth C. Baldwin, Esq. Robinson &amp; Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 Phone (860) 275-8200 <a href="mailto:kbaldwin@rc.com">kbaldwin@rc.com</a></p>
<b>Party</b> (granted 07/07/22)	<input checked="" type="checkbox"/> E-mail	Town of Westport	<p>Ira W. Bloom, Esq. Berchem Moses PC 1221 Post Road East Westport, CT 06880 <a href="mailto:ibloom@berchemmoses.com">ibloom@berchemmoses.com</a></p> <p>Nicholas R. Bamonte, Esq. Berchem Moses PC 1221 Post Road East Westport, CT 06880 <a href="mailto:nbamonte@berchemmoses.com">nbamonte@berchemmoses.com</a></p>

<b>Status Granted</b>	<b>Document Service</b>	<b>Status Holder (name, address &amp; phone number)</b>	<b>Representative (name, address &amp; phone number)</b>
<b>Intervenor</b> (granted 07/21/22)	<input checked="" type="checkbox"/> E-mail	Donald L. Bergmann 32 Sherwood Drive Westport, CT 06880 Phone: (203) 226 8712 <a href="mailto:donlbergmann@sbcglobal.net">donlbergmann@sbcglobal.net</a>	

**DOCKET NO. 510** – New Cingular Wireless PCS, LLC d/b/a AT&T } Connecticut  
and Tarpon Towers II, LLC application for a Certificate of }  
Environmental Compatibility and Public Need for the construction, } Siting  
maintenance, and operation of a telecommunications facility located at }  
92 Greens Farms Road, Westport, Connecticut. } Council

January 5, 2023

**Findings of Fact**

**Introduction**

1. Tarpon Towers II, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T (Applicants), in accordance with provisions of Connecticut General Statutes (C.G.S.) § 16-50g, *et seq.*, applied to the Connecticut Siting Council (Council) on May 26, 2022, for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 124-foot monopole wireless telecommunications facility at 92 Greens Farms Road, Westport, Connecticut (refer to Figures 1 and 2). (Applicants 1, pp. 1-2)
2. Tarpon Towers II, LLC (TT) is a Delaware limited liability company with an office at 8916 77<sup>th</sup> Terrace East, Suite 103, Lakewood Ranch, Florida. TT currently owns and/or operates numerous tower facilities in Connecticut. (Applicants 1, p. 5)
3. New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T) is a Delaware limited liability company with an office at 84 Deerfield Lane, Meriden, Connecticut. AT&T is licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service to Connecticut. (Applicants 1, p. 5)
4. TT and AT&T would construct, maintain and operate the proposed facility and would be joint Certificate Holders. (Applicants 1, p. 5)
5. The parties to this proceeding are Applicants and the Town of Westport (Town). (Record)
6. The Intervenor to this proceeding are Cellco Partnership d/b/a Verizon Wireless (Cellco) and Donald Bergmann (Bergmann). (Record)
7. Pursuant to C.G.S. §4-177a(d), the Council limited Bergmann’s participation as an intervenor to the specific statutory criteria for the application under the Public Utility Environmental Standards Act (PUESA). (Record; Council Meeting Minutes of July 21, 2022)
8. There are no Connecticut Environmental Protection Act (CEPA) Intervenor in this proceeding. (Record)
9. The purpose of the proposed facility is to provide reliable wireless communications services for AT&T and Cellco customers and address significant coverage deficiencies in AT&T’s and Cellco’s networks in portions of southwest Westport. (Applicants 1, p. 17, Attachment E; Cellco 1, p 1; Applicants 4, response 28; Transcript 1 – August 9, 2022 - 2:00 p.m. [Tr. 1], p. 96)
10. Under C.G.S. §16-50p(b), there is a presumption of public need for personal wireless services and the Council is limited to consideration of a specific need for any proposed facility to be used to provide such services to the public. (C.G.S. §16-50p(b) (2021))

11. Also under C.G.S. §16-50p(b), the Council must examine whether the proposed facility may be shared with any public or private entity that provides service to the public if the shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, and may impose reasonable conditions as it deems necessary to promote the immediate and shared use of telecommunications facilities and avoid the unnecessary proliferation of such facilities consistent with the state tower sharing policy. (C.G.S. §16-50p(b) (2021); C.G.S. §16-50aa (2021))
12. Pursuant to C.G.S. § 16-50l (b), Applicants provided public notice of the filing of the application that was published in the Westport News on May 13 and May 20, 2022. (Applicants 2)
13. Pursuant to C.G.S. § 16-50l (b), notice of the application was provided to all abutting property owners by certified mail on May 18, 2022. (Applicants 1 p. 7, Attachment D; Applicants 4, response 1)
14. On May 26, 2022, Applicants provided notice to all federal, state and local officials and agencies listed in C.G.S. § 16-50l (b). (Applicants 1, p. 7, Attachment B)

### **Procedural Matters**

15. 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. 55)
16. On March 12, 2020, Governor Lamont issued Executive Order No. (EO) 7 ordering a prohibition of large gatherings, among other orders and directives. (Council Administrative Notice Item No. 55)
17. On March 14, 2020, and as subsequently extended, Governor Lamont issued EO 7B ordering suspension of in-person open meeting requirements of all public agencies under C.G.S. §1-225. (Council Administrative Notice Item No. 55)
18. Public Act (PA) 22-3 took effect on April 30, 2022. It permits public agencies to hold remote meetings under the Freedom of Information Act (FOIA) and the Uniform Administrative Procedure Act. FOIA defines “meeting” in relevant part as “any hearing or other proceeding of a public agency.” (Council Administrative Notice Item No. 55; C.G.S. §1-200, *et seq.* (2021))
19. PA 22-3 allows public agencies to hold remote meetings provided that:
  - a) The public has the ability to view or listen to each meeting or proceeding in real-time, by telephone, video, or other technology;
  - b) Any such meeting or proceeding is recorded or transcribed and such recording or transcript shall be posted on the agency’s website within seven (7) days of the meeting or proceeding;
  - c) The required notice and agenda for each meeting or proceeding is posted on the agency’s website and shall include information on how the meeting will be conducted and how the public can access it any materials relevant to matters on the agenda shall be submitted to the agency and posted on the agency’s website for public inspection prior to, during and after the meeting; and
  - d) All speakers taking part in any such meeting shall clearly state their name and title before speaking on each occasion they speak.(Council Administrative Notice Item No. 55)



20. Upon receipt of the application, the Council sent a letter to the Town on June 2, 2022, as notification that the application was received and is being processed, in accordance with C.G.S. § 16-50gg. (Record)
21. On June 21, 2022, pursuant to C.G.S. § 16-50gg, the Town submitted correspondence to the Council with a recommendation to consider an alternative site at a Connecticut Department of Transportation (DOT)-owned parcel located on Hales Road along the railroad and Interstate 95 (I-95). (Record; Town 2)
22. Local zoning regulations do not apply to facilities under the exclusive jurisdiction of the Council. Pursuant to C.G.S. §16-50x, the Council has exclusive jurisdiction over telecommunications facilities throughout the state. It shall consider any location preferences provided by the host municipality under C.G.S. §16-50gg as the Council shall deem appropriate. (C.G.S. §16-50x (2021))
23. During a regular Council meeting on June 23, 2022, the application was deemed complete pursuant to Regulations of Connecticut State Agencies (R.C.S.A.) § 16-50l-1a and the public hearing schedule was approved by the Council. (Record; Tr. 1, pp. 8-9)
24. Pursuant to C.G.S. § 16-50m, on June 24, 2022, the Council sent a letter to the Town to provide notification of the scheduled public hearing via Zoom conferencing and to invite the municipality to participate. (Record)
25. Pursuant to C.G.S. § 16-50m, the Council published legal notice of the date and time of the remote public hearing via Zoom conferencing in the Westport News on June 24, 2022. (Record; Tr. 1, p. 6)
26. The Council's Hearing Notice did not refer to a public field review of the proposed site. Field reviews are neither required by statute nor an integral part of the public hearing process. The purpose of a field review is an investigative tool to acquaint members of a reviewing commission with the subject property. (Record; *Manor Development Corp. v. Conservation Comm. of Simsbury*, 180 Conn. 692, 701 (1980); *Grimes v. Conservation Comm. of Litchfield*, 243 Conn. 266, 278 (1997))
27. On July 8, 2022, in lieu of an in-person field review of the proposed site, the Council requested that Applicants submit photographic documentation of site-specific features into the record intended to serve as a "virtual" field review of the site. On August 1, 2022, Applicants submitted such information in response to the Council's interrogatories. (Record; Applicants 4, Response 48)
28. During a regular meeting held on July 21, 2022, the Council struck items (ii) and (iv) from Bergmann's June 30, 2022 Request for Intervenor Status and struck items (2) and (8) from Bergmann's June 22, 2022 Pre-Filed Testimony as those items relate to prohibited ex parte communications and matters irrelevant to the Council's review of the application. (Record; Bergmann 1 and 2; Council Meeting Minutes of July 21, 2022)
29. On August 1, 2022, pursuant to C.G.S. §16-50o and in response to the Council's interrogatories, Applicants filed a Motion for Protective Order related to the disclosure of the monthly rent and financial terms contained within the lease agreement for the proposed site. On August 4, 2022, Bergmann objected to Applicants' Motion for Protective Order. (Applicants 4; Bergmann 4)
30. On August 10, 2022, the Council issued a Protective Order related to the disclosure of the monthly rent and financial terms contained within the lease agreement for the proposed site, pursuant to

- C.G.S. §1-210(b) and consistent with the Conclusions of Law adopted in Council Docket 366. (Record; Applicants 9)
31. Pursuant to C.G.S. §16-50p(g), the Council shall in no way be limited by Applicants already having acquired land or an interest therein for the purpose of constructing the proposed facility. (C.G.S. §16-50p(g) (2021); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))
  32. The Council's evaluation criteria under C.G.S. §16-50p does not include the consideration of property ownership or property values nor is the Council otherwise obligated to take into account the status of property ownership or property values. (Tr. 2, p. 9; Tr. 3, p. 6; C.G.S. §16-50p (2021); *Westport v. Conn. Siting Council*, 47 Conn. Supp. 382 (2001); *Goldfisher v. Conn. Siting Council*, 95 Conn. App. 193 (2006))
  33. On July 13, 2022, the Council held a remote pre-hearing conference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists and filing of pre-hearing interrogatories. Procedures for the remote public hearing via Zoom conferencing were also discussed. (Council Pre-Hearing Conference and Remote Hearing Procedure Memoranda, dated July 6, 2022)
  34. In compliance with R.C.S.A. § 16-50j-21, Applicants installed a four-foot by six-foot sign along Greens Farms Road in the vicinity of the access drive for the proposed site on July 27, 2022. The sign presented information regarding the proposed telecommunications facility and the Council's public hearing. (Applicants 3; Tr. 1, p. 6; Record)
  35. Pursuant to C.G.S. § 16-50m, the Council gave due notice of a remote public hearing to be held on August 9, 2022, beginning with the evidentiary session at 2:00 p.m. and continuing with the public comment session at 6:30 p.m. via Zoom conferencing. The Council provided information for video/computer access or audio only telephone access. (Council's Hearing Notice dated June 24, 2022; Tr. 1, p. 1; Tr. 2, p. 1)
  36. The 6:30 p.m. public comment session afforded interested persons the opportunity to provide oral limited appearance statements. Interested persons were also afforded an opportunity to provide written limited appearance statements at any time up to 30 days after the close of the evidentiary record. Limited appearance statements in this proceeding, whether oral or written, were not provided under oath nor subject to cross examination. (Tr. 1, pp. 7-8; C.G.S. §16-50n(f) (2021))
  37. During the public comment session of the Council's hearing held on August 9, 2022, seven persons made oral limited appearance statements about the proposed facility. (Tr. 2, pp. 12-34)
  38. The Council continued the remote evidentiary hearing session via Zoom conferencing on September 22, 2022 beginning at 2:00 p.m. (Council's Continued Hearing Memoranda dated August 10, 2022; Tr. 2)
  39. In compliance with PA 22-3:
    - a) The public had the ability to view and listen to the remote public hearings in real-time, by computer, smartphone, tablet or telephone;
    - b) The remote public hearings were recorded and transcribed, and such recordings and transcripts were posted on the Council's website on August 9, 2022 and August 31, 2022; and September 22, 2022 and October 11, 2022; respectively;
    - c) The Hearing Notice, Hearing Program, Citizens Guide for Siting Council Procedures and Instructions for Public Access to the Remote Hearings were posted on the Council's website;

- d) Prior to, during and after the remote public hearings, the record of the proceeding has been, and remains, available on the Council's website for public inspection; and
  - e) The Council, parties and intervenors provided their information for identification purposes during the remote public hearings.  
(Hearing Notice dated June 24, 2022; Tr. 1; Tr. 2; Record)
40. The purpose of discovery is to provide the Council, parties and intervenors access to all relevant information in an efficient and timely manner to ensure that a complete and accurate record is compiled. (R.C.S.A. §16-50j-22a)
41. In an administrative proceeding, irrelevant, immaterial or unduly repetitious evidence shall be excluded, and an agency has the right to believe or disbelieve the evidence presented by any witness, even an expert, in whole or in part. (C.G.S. §4-178 (2021); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25).
42. Pursuant to C.G.S. §16-50n(f), at the conclusion of the hearing session held on September 22, 2022, the Council closed the evidentiary record for Docket 510 and established October 22, 2022 as the deadline for public comments and the submission of briefs and proposed findings of fact. (Record)
43. On October 19, 2022, Bergmann submitted a post-hearing brief. On October 21, 2022, Applicants and Cellco submitted post-hearing briefs. On October 25, 2022, the Town submitted a post-hearing brief. (Record)
44. Constitutional principles permit an administrative agency to organize its hearing schedule so as to balance its interest in reasonable, orderly and non-repetitive proceedings against the risk of erroneous deprivation of a private interest. It is not unconstitutional for the Council, in good faith, to balance its statutory time constraints against the desire of a party, intervenor or CEPA intervenor for more time to present their objections to a proposal. (*Concerned Citizens of Sterling v. Conn. Siting Council*, 215 Conn. 474 (1990); *Pet v. Dept. of Public Health*, 228 Conn. 651 (1994); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014))

#### **State Agency Comment**

45. Pursuant to C.G.S. § 16-50j (g), on May 16, 2022, the following state agencies were solicited by the Council to submit written comments regarding the proposed facility: Department of Energy and Environmental Protection (DEEP); Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Agriculture (DOAg); DOT; Connecticut Airport Authority (CAA); Department of Emergency Services and Public Protection (DESPP); and State Historic Preservation Office (SHPO). (Record)
46. No state agencies responded with comment on the application. (Record)
47. While the Council is obligated to consult with and solicit comments from state agencies by statute, the Council is not required to abide by the comments from state agencies. (*Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007)).

### **Municipal Consultation**

48. Pursuant to C.G.S. § 16-50l(f), TT commenced the 90-day pre-application municipal consultation process on August 31, 2021 by submitting a Technical Report to the Town First Selectman regarding the proposed facility. (Applicants 1, p. 2, 40; Attachment M; bulk filing)
49. On September 24, 2021, Applicants met with Town officials to discuss the proposed facility. The Town voiced concerns regarding the proposed site at 92 Greens Farms Road and recommended the following alternative sites: a commercial property located at 55 Greens Farms Road, the Assumption Cemetery located at 57 Greens Farms Road and the DOT- owned property located on Hales Road. (Applicants 1, pp. 40-43; Attachment F; Attachment M; Tr. 1, p 70; Town 6, response 2; Town 6, response 3)
50. On October 14, 2021, Applicants, a representative of 55 Greens Farms Road and Town officials met at 55 Greens Farms Road to identify and discuss possible tower locations. Two potential tower locations were identified. (Applicants 1, p. 41; Attachment F)
51. Following the meeting, Applicants were able to confirm that both locations would satisfy their coverage objectives. On December 21, 2021, the property owner indicated that the only location it was willing to lease for a tower site was at the rear of the property. (Applicants 1, p. 41; Attachment F)
52. A Wetlands Inspection Report for the 55 Greens Farms Road parcel identified numerous wetlands in close proximity to the tower site location proposed by the property owner. An additional location identified by TT would require filling nearby wetlands to create an access road for the site and removing several trees to develop the site. Other alternative locations on the 55 Greens Farms Road parcel were rejected by the property owner. (Applicants 1, p. 41; Attachment F; Tr.1, p. 106)
53. On January 28, 2022, the Town's Conservation Commission and Applicants conducted a site evaluation of 55 Greens Farms Road and 92 Greens Farms Road for possible additional tower locations. (Applicants 1, p. 42; Tr.1 p. 106)
54. On January 31, 2022, the Town's Conservation Commission held a special meeting to discuss the proposed site and potential alternative sites at 55 Greens Farms Road. During the meeting, Applicants indicated that a facility site in the location available for lease at 55 Greens Farms Road would have significant direct impact on proximate wetlands whereas the proposed facility site at 92 Greens Farms Road would have no direct wetland impacts. (Applicants 1, p. 42, Attachment F, L; Tr.1, pp 105-107)
55. On February 2, 2022, the property owner of 55 Greens Farms Road notified Applicants that it was no longer interested in a lease agreement for a tower facility on the parcel. (Applicants 1, p 41; Attachment F; Tr.1, p 106)
56. On February 8, 2022, at the request of the Town, Applicants participated in a Public Information Meeting (PIM) at Town Hall that was attended by Town officials and residents. At the PIM, due to the unavailability of a facility location at 55 Greens Farms Road, Applicants presented a summary of the proposed site at 92 Greens Farms Road. In addition to concerns expressed by the Town about

the siting of a tower on a residential parcel, 10 residents expressed concerns that included but were not limited to, health effects from radio frequency emissions, diminished property values, visibility and alternatives. (Applicants 1, pp 40-44 Applicants 4, response 4)

57. After the PIM, the Town suggested alternative locations for the proposed tower facility in addition to Assumption Cemetery and the DOT-owned parcel on Hales Road, including:
- a) **197 Compo Road South**. This property hosts a substation that is owned by Eversource; and
  - b) **200 Nyala Farms** – This property hosts an office complex.
- (Applicants 1, pp. 42-44, Attachment M)

### **Public Need for Service**

58. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
59. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states and has established design standards to ensure technical integrity and nationwide compatibility among all systems. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
60. Section 253 of the Telecommunications Act of 1996 prohibits any state or local statute or regulation, or other state or local legal requirement from prohibiting or having the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
61. Section 704 of the Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services and from prohibiting or having the effect of prohibiting the provision of personal wireless services. This section also requires state or local governments to act on applications within a reasonable period of time and to make any denial of an application in writing supported by substantial evidence in a written record. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
62. Section 704 of the Telecommunications Act of 1996 also prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions, which include effects on human health and wildlife, to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
63. Section 706 of the Telecommunications Act of 1996 requires each state commission with regulatory jurisdiction over telecommunications services to encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans, including elementary and secondary schools, by utilizing regulating methods that promote competition in the local telecommunications market and remove barriers to infrastructure investment. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
64. In December 2009, President Barack Obama recognized cell phone towers as critical infrastructure vital to the United States. The Department of Homeland Security, in collaboration with other

- federal stakeholders, state, local, and tribal governments, and private sector partners, has developed the National Infrastructure Protection Plan (NIPP) to establish a framework for securing resources and maintaining resilience from all hazards during an event or emergency. (Council Administrative Notice Item No. 11 –Presidential Proclamation 8460, Critical Infrastructure Protection)
65. In February 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act (also referred to as the Spectrum Act) to advance wireless broadband service for both public safety and commercial users. The Act established the First Responder Network Authority (FirstNet) to oversee the construction and operation of a nationwide public safety wireless broadband network. Section 6409 of the Act contributes to the twin goals of commercial and public safety wireless broadband deployment through several measures that promote rapid deployment of the network facilities needed for the provision of broadband wireless services. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012)
  66. In June 2012, President Barack Obama issued an Executive Order to accelerate broadband infrastructure deployment declaring that broadband access is a crucial resource essential to the nation’s global competitiveness, driving job creation, promoting innovation, expanding markets for American businesses and affording public safety agencies the opportunity for greater levels of effectiveness and interoperability. (Council Administrative Notice Item No. 12 – Presidential Executive Order 13616, Accelerating Broadband Infrastructure Development; Council Administrative Notice Item No. 23 – FCC Wireless Infrastructure Report and Order)
  67. The Town’s Plan of Conservation and Development (POCD) identifies wireless services as a benefit to community development and recommends improvements to wireless services that are compatible with community character, such as stealth installations. A resident survey indicated 62% of respondents support improvements to wireless services in Town. (Applicants 1, p. 30; Town Plan of Conservation and Development [POCD], p 126)
  68. Pursuant to Section 6409(a) of the Spectrum Act, a state or local government may not deny and shall approve any request for collocation, removal or replacement of equipment on an existing wireless tower provided that this does not constitute a substantial change in the physical dimensions of the tower. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012; Council Administrative Notice Item No. 23 – FCC Wireless Infrastructure Report and Order)
  69. In June 2020, the FCC issued a declaratory ruling that heights of existing towers located outside of the public right-of-way could increase by up to 20 feet plus the height of a new antenna without constituting a substantial change in the physical dimensions of a tower. (Council Administrative Notice Item No. 27)
  70. In November 2020, the FCC issued an order that ground excavation or deployment up to 30 feet in any direction beyond the site boundary of existing towers located outside of the public right-of-way does not constitute a substantial change in the physical dimensions of a tower (Council Administrative Notice Item No. 28)
  71. According to state policy, if the Council finds that a request for shared use of a facility by a municipality or other person, firm, corporation or public agency is technically, legally, environmentally and economically feasible, and the Council finds that the request for shared use of a facility meets public safety concerns, the Council shall issue an order approving such shared use to avoid the unnecessary proliferation of towers in the state. (C.G.S. §16-50aa (2021))

72. On June 24, 2022, the Council sent correspondence to other telecommunications carriers not intervening in the proceeding requesting that carriers interested in locating on the proposed facility in the foreseeable future to notify the Council by August 2, 2022. No carriers responded to the Council's solicitation. (Record)
73. The facility would be designed to accommodate four wireless carriers and local emergency service providers and municipal antennas. TT has agreements with AT&T and Cellco to locate equipment at the site. (Applicants 1, pp.1, 2, 35, Attachment G)
74. In response to Council interrogatories, TT indicated that Dish Wireless has expressed interest in collocating on the tower, but has not executed a lease agreement. TT also indicated that T-Mobile had expressed interest in the past but has not responded to invitations to collocate on the tower if it is approved. (Applicants 4, response 23; Tr. 1, pp. 46-47)
75. As of August 1, 2022, the Town had not expressed an interest in co-locating emergency services antennas on the proposed facility. (Applicants 4, response 23; Tr. 1, pp. 46-47)

#### **AT&T's Existing and Proposed Wireless Services**

76. AT&T has a significant coverage deficiency in its wireless communications network in portions of southwestern Westport along Town roads and I-95. The coverage deficiency was confirmed by coverage modeling and drive testing. (Applicants 1, pp 16-17, Attachment E p.5; Applicants 11, response 1 and 3)
77. Roads in the area without adequate service include, but are not limited to, Greens Farms Road, Hillspoint Road and I-95. (Applicants 1, pp 8, 17, Attachment 4, Attachment E p.3)
78. AT&T proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3550 MHz frequencies at the site. All frequencies are capable of supporting 5G services. (Applicants 1, Attachment E, Attachment J; Applicants 4, response 25, 27; Tr. 1, p 86,)
79. AT&T designs its network using a -93 dBm signal level threshold for reliable in-vehicle service and -83 dBm for reliable in-building service. (Applicants 1, Attachment E; Applicants 4, response 31)
80. The 700 MHz frequency provides the largest area of service and therefore defines the coverage footprint of the AT&T wireless network. Other higher frequencies (850 MHz, 1900 MHz, 2100 MHz) used in AT&T's network provide smaller coverage footprints and are used to provide additional capacity to the system, reducing the customer load on the 700 MHz system, thereby increasing the data speeds available to users that only have 700 MHz coverage. (Applicants 1, p 17, Attachment E, p. 5; Applicants 4, response 28; Tr.1 p. 86)
81. AT&T currently operates eleven facilities within four miles of the proposed site. As a result of distance and the geographical terrain none of these facilities are able to provide adequate coverage and improve network reliability to the proposed service area (refer to Figure 3). (Applicants 1, pp 2, 3, 8, 16-19, Attachments E, F; Applicants 4, responses 33, 34, 35)
82. AT&T began its search for a site in southwest Westport in December of 2018. The search area was centered at 57 Greens Farms Road and had a search radius of approximately 0.25 miles. (Applicants 1, p 19, Applicants 4, response 5; Tr. 1, p 53)

83. In response to the Town's recommendation to explore an alternative tower site at 55 Greens Farms Road, AT&T was able to confirm that a tower site at this location would satisfy its wireless coverage goals. (Applicants 1, p. 41, Attachment E)
84. AT&T's proposed installation at the 120-foot level of the proposed tower would provide a 700 MHz coverage footprint of 1.23 square miles at -83 dBm and 1.02 square miles at -93 dBm. Within the -93 dBm footprint, 1.6 miles of main roads and 8.3 miles of secondary roads would have reliable service (refer to Figures 4 & 5). (Applicants 13, response 1)
85. AT&T's installation would provide approximately 0.4 miles of new in-vehicle coverage along I-95. (Applicants 4, response 34)
86. In addition to providing reliable service to the surrounding area, the proposed site would also provide capacity relief to AT&T's existing 344 Strawberry Hill Avenue site in Norwalk (Alpha sector) located 2.4 miles west of the proposed site. (Applicants 1, Attachment E; Applicants 4, responses 36 and 37; Applicants 11, response 4)
87. Lowering the height of AT&T's proposed antennas would reduce the coverage footprint particularly with respect to FirstNet services. (Applicants 1, Attachment E; Applicants 4, response 29)
88. Flush-mounted antennas would require AT&T to occupy three levels of the tower. This would increase the height of the tower by 20 feet to accommodate the proposed equipment and limit collocation opportunities for additional tenants. (Applicants 4, response 38)

#### **Cellco's Existing and Proposed Wireless Services**

89. Cellco has a significant coverage deficiency in its wireless communications network in portions of southwestern Westport along Town roads and I-95. (Applicants 1, pp. 18-19; Cellco 1; Cellco 2, response 13, 14, 16; Cellco 3, Attachment 2; Tr. 2, pp. 67-68)
90. Roads in the area without adequate service include, but are not limited to, Greens Farms Road, Hillspoint Road, the Metro North Railroad and I-95. (Applicants 1, Attachment E; Cellco 2, response 16)
91. Cellco proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz and 3700 MHz frequencies at the site. The 850 MHz, 2100 MHz, and 3700 MHz frequencies are capable of supporting 5G services. (Cellco 2, response 23, Attachment 1)
92. Cellco designs its network using a -95 dB Reference Signal Received Power (RSRP) standard for reliable in-vehicle service and -85 dB RSRP standard for reliable in-building service. (Cellco 2, response 11)
93. Cellco currently operates ten facilities within a two mile radius of the proposed site. None of these facilities are able to provide adequate coverage to the proposed service area (refer to Figure 6). (Cellco 2, response 18; Cellco 3, Attachment 2)
94. Cellco issued a search ring for a site in southwest Westport in the first quarter of 2016. Due to Cellco's awareness of TT's lease agreement at the proposed site, Cellco centered its search ring at 92 Greens Farms Road. Since this location met Cellco's objectives, no other properties were investigated. (Cellco 2, response 9)



95. In response to the Town's recommendation to explore an alternative tower site at 55 Greens Farms Road, Cellco was able to confirm that a tower site at this location would satisfy its wireless coverage goals. (Cellco 2, response 9; Applicants 1, p. 41, Attachment E).
96. Cellco's proposed installation at the 108-foot level of the proposed tower would provide a 700 MHz coverage footprint of 1.54 square miles at -85 dB RSRP and 3.36 square miles at -95 dB RSRP. (refer to Figure 7). (Cellco 2, response 14)
97. Cellco's installation would provide reliable in-vehicle service to 2.6 miles of I-95, 2.6 miles of Greens Farms Road, 2.5 miles of the Metro North Railroad and 1.7 miles of Hillspoint Road. (Cellco 2, response 14)
98. In addition to providing reliable service to the surrounding area, the proposed site would also provide capacity relief to Cellco's existing Westport CT facility (Beta sector) located 1.9 miles north of the proposed site at 880 Post Road East. This site provides services primarily to Cellco users along I-95) (Cellco 2, responses 18-19)
99. Lowering the height of Cellco's proposed antennas would reduce the coverage footprint, particularly with respect to the higher frequencies (1900 MHz, 2100 MHz). (Cellco 2, response 20)
100. Flush-mounted antennas would preclude Cellco's proposed antenna configuration that improves overall capacity of a site. This would result in decreased capacity. (Cellco 2, response 21)

### Site Selection

101. TT began searching for a site in the southwest Westport area in 2011. TT entered into a lease agreement with the property owner for 92 Greens Farms Road in 2013. (Applicants 4, response 6; Tr. 2, pp. 18-20)
102. There are no existing towers, buildings, utility poles or other structures within the search area that would meet coverage objectives for AT&T and Cellco due to distances between existing sites, intervening topography and customer demand. (Applicants 1, Attachment RF; Applicants 11, p. 1)
103. Applicants investigated 10 sites (refer to Figure 8) within the search area as follows:
  - a) **92 Greens Farms Road, Westport** (the proposed site): a 1.99 acre parcel zoned single family residential that TT selected as the proposed site and entered into a lease agreement with the property owner.
  - b) **102 Greens Farms Road, Westport**: a 2.15 acre parcel zoned single family residential. TT's lease offer was rejected by the property owner;
  - c) **55 Greens Farms Road, Westport**: a 21.93 acre parcel zoned Design Development District. The property owner initially agreed to lease a particular location on the property near wetlands. On February 2, 2022 the property owner notified TT that it was no longer interested in a potential lease;

- d) **300 Sherwood Island Connector, Westport:** an 8.62 acre Town-owned parcel zoned single family residential. A tower at this location would not satisfy AT&T and Cellco's wireless network coverage objectives;
- e) **Greens Farms Road, Westport** (Parcel No. 10256): a 3.45 acre Assumption Cemetery parcel zoned single family residential. On March 1, 2022 the property owner notified TT that it was not interested in a potential lease;
- f) **Greens Farms Road, Westport** (Parcel No. 10258): a 7.64 acre Assumption Cemetery parcel zoned single family residential. On March 1, 2022 the property owner notified TT that it was not interested in a potential lease;
- g) **197 Compo Road South, Westport:** a 0.27 acre Eversource-owned parcel zoned single family residential that hosts an electric substation. On March 2, 2022, Eversource notified TT that there was insufficient space for the facility on its property;
- h) **Hales Road, Westport (Parcel No. 10275):** an 8.0 acre DOT-owned parcel zoned single family residential within the Metro North Railroad right-of-way (ROW). On May 5, 2022, DOT indicated to the Town that it was not interested in a potential lease;
- i) **Hales Road, Westport (Parcel No. 10276):** a 6.3 acre DOT-owned parcel zoned single family residential within the Metro North Railroad ROW. DOT indicated that it was not interested in a potential lease; and
- j) **200 Nyala Farms, Westport:** a 50.42 acre parcel zoned Designated Design District (DD4). A tower site at this location would not meet AT&T's wireless network service objectives.

(Applicants 1, pp 18-19, 40-44, Attachment F; Applicants 4, response 8; Applicants 10, response 5,6,7; Tr 1, p 44)

- 104. On May 5, 2022, DOT informed the Town that it was not able to proceed with a lease agreement for a tower facility at its properties located on Hales Road. (Applicants 1, p. 44; Attachment M, Attachment F; Tr.1, p. 72-73, p. 105; Town 6, response 4)
- 105. On July 8, 2022, Town officials met with DOT. On July 11, 2022, in response to a town letter dated May 12, 2022, and the subsequent discussions between DOT and Town officials, DOT sent correspondence to the Town stating its concerns regarding the project and recommending that TT submit a request under DOT guidelines for review and investigation. (Applicants 1, p 44; Applicants 10, response 4, 5; Town 6, response 4)
- 106. On August 24, 2022, TT submitted a request to DOT. As of September 13, 2022, TT had not received a response from DOT. (Applicants 10, response 4, 5; Town 6, response 4)
- 107. As of September 22, 2022, the Town has not received any additional correspondence from DOT. (Tr 2, p 76)
- 108. There are 228 residential properties within 1,000 feet of the DOT-owned Hales Road parcel. (Applicants 10, p. 4)

109. Site locations at 4 Elaine Road and New Creek Road would not meet AT&T's coverage objectives because those locations are directly adjacent to existing AT&T sites. (Tr. 1, p. 108)
110. The Town's major concern is the siting of a tower on a parcel that is in residential use. (Town 5, response 5; Town 6, response 2)
111. The Town did not express a preference for a site location. However, the Town believes that all options for alternative sites have not been fully considered and that a final determination of whether the DOT property can still be utilized has not been obtained. (Tr. 1, Town 6, response 5)
112. The Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility nor shall the Council be limited in any way by the applicant having already acquired land or an interest therein for the purpose of constructing a facility. (*Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007); C.G.S. §16-50p(g)(2021))
113. For any site to be considered a feasible and prudent alternative to a proposed facility site, it must be available to host the proposed facility. The Council has no authority to force a property owner to agree to sell or lease land, or any portion thereof, as a primary or alternative location for a proposed facility. (*Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))

#### *Small Cells and Distributed Antenna Systems*

114. Small cells or distributed antenna systems would not be a practicable or feasible means of addressing the existing coverage deficiency within the proposed service area. Small cells are typically installed to provide added network capacity and fill-in coverage within a limited specific area with a higher population density. The proposed tower (macrosite) would enable AT&T and Cellco to provide wireless service to a large area. (Applicants 4, response 30; Cellco 5, response 27; Tr. 1, p. 58-59; Tr2, p. 68; Administrative Notice Item A)
115. A small cell is usually limited to one frequency, would offer significantly reduced signal propagation and would not support AT&T's FirstNet public safety network. In addition, handoffs between small cells would not be able to keep up with the average vehicle speed on highways such as I-95. (Applicants 4, response 30)
116. AT&T installs small cells in Connecticut to provide capacity relief in targeted areas. AT&T has over 200 small cells approved and either constructed or planned for deployment in urban/downtown areas and more densely populated areas of the state such as Bridgeport, New Britain, Waterbury, Danbury, New London and Greenwich. (Applicants 4, response 30; Applicants 11, response 4)
117. Cellco operates two small cell facilities located southwest and west respectively of the proposed site. Each small cell does not provide coverage beyond 0.15 mile radius and is not able to provide any capacity relief within the proposed service area. (Cellco 3, response 6)
118. AT&T estimates at least 30 utility pole small cells would be required to provide in-building service to the proposed service area. This estimate assumes that utility poles for small cell installations are either available to AT&T or can be installed in any location deemed appropriate for network needs. (Applicants 4, response 18; Applicants 11, response 4)
119. Small cell limitations include a reduction in the number of frequencies deployed, the lack of structure sharing with other carriers, the inability to support Town emergency communication equipment and the lack of emergency backup power. (Applicants 4, response 30; Tr. 1, pp. 58-59)

120. The Town retained a Radio Frequency (RF) consultant who issued a report suggesting there is no need for a tower site, the DOT-owned Hales Road parcel would meet the coverage objectives of both carriers and small cells could support as much as 10 individual frequencies, be powered by emergency backup batteries and portable generators in the event of an outage and could be used to provide the required coverage along the I-95. (Town 5, responses 5, 17)
121. A small cell installation at the DOT-owned Hales Road parcel or within the ROW would not meet AT&T or Verizon's coverage objectives. (Tr. 3, pp. 43, 67-69; Applicants 11, response 4)

### **Facility Description**

122. Pursuant to R.C.S.A. §16-50j-2a(29), "Site" means a contiguous parcel of property with specified boundaries, including, but not limited to, the leased area, right-of-way, access and easements on which a facility and associated equipment is located, shall be located or is proposed to be located. (R.C.S.A. §16-50j-2a(29))
123. The proposed site is located on an approximate 1.99-acre irregular shaped parcel at 92 Greens Farms Road. The parcel has frontage on Greens Farms Road (refer to Figure 10). (Applicants 4, Exhibit 48)
124. The host parcel is located within the one acre minimum single family residential district (zone AA) and is developed with a residence, accessed from Greens Farms Road. (Applicants 1, pp.1, 2, 8, 29, 30, Attachment G, Attachment 4)
125. The residence is located in the center of the parcel. The rest of the parcel consists of a mostly heavily wooded area lightly sloping down from the east of the residence. (Applicants 1, Attachment 3, Attachment 4)
126. Land use immediately surrounding the site to the north, northeast and northwest is residential. I-95 abuts the property to the south. Further to the south across I-95 is the Metro North Railroad. (Applicants 1, p. 2, 24, 28, Attachment I)
127. The proposed tower site is located in the western portion of the host parcel, at an approximate elevation of 27 feet above mean sea level (amsl) (refer to Figure 9). (Applicants 1, Attachment G)
128. The proposed facility would consist of a 124-foot monopole. The tower would be designed to support four wireless carrier antennas as well as municipal emergency services antennas. (Refer to Figure 11). (Applicants 1, pp. 1 & 7; Attachment G)
129. AT&T would install twelve antennas at a tower centerline height of 120 feet agl. (Applicants 1, Attachment G)
130. Cellco would install twelve antennas at a tower centerline height of 110 feet agl. (Applicants 1, Attachment G)
131. A 35-foot by 64-foot (2,240 square foot) fenced equipment compound would be constructed at the base of the tower, within a 2,500 square-foot lease area. The compound is oriented generally in an east-west direction. (Applicants 1, Attachment 4)

132. Within the compound, AT&T and Cellco would install equipment cabinets on concrete pads. Each carrier would also install an emergency backup generator. (Applicants 1, Attachment G; Cellco 2, response 1)
133. The proposed equipment compound will be surrounded by an eight-foot high chain link fence. The proposed compound fence would have a double swing access gate that would be locked for security purposes. (Applicants 1, pp. 1, 8; Attachment G Sheet TR-2; Applicants 10, Response 7)
134. Access to the tower site would be via a proposed 25-foot wide access and utility easement to be constructed as part of the project. A 12-foot wide gravel vehicular driveway would be installed as part of the easement which would extend south from Greens Farms Road about 125 feet to the compound access gate located in the southeastern corner of the compound. (Applicants 1, p 6, Attachment G; Applicants 4, response 21; Applicants 15, Attachment 8a)
135. Applicants indicated that removal or reconfiguration of the vehicle turnaround located just before the access gate could increase the buffer between the limit of disturbance and Wetland 2. (Tr. 1, pp. 103-104)
136. The host parcel is mostly level with ground elevation ranging from 21 amsl on the eastern portion of the property to 27 amsl on the western portion of the property. The equipment compound would have a finished level of 19 feet amsl. The proposed point of access on Greens Farms Road for the facility is 25 feet amsl. The access drive would have a finished gradient of 10 percent. (Applicants 1, Attachment G, Tr. 1, p. 21)
137. Power and telco utilities would extend underground from the eastern side of the compound to the proposed access easement and then north within the access easement to a new utility pole on Greens Farms Road to be installed as part of the project. An overhead utility line would extend from the new utility pole across Greens Farms Road to an existing utility pole on the opposite side of the road as part of the connection. (Applicants 1, Attachment G, Applicants 15, Attachment 8a; Tr.1, p. 29)
138. The site does not require water supply or wastewater utilities. There would be no water connection to the site. (Applicants 1, p. 17; Applicants 10)
139. A geotechnical survey would be performed prior to construction to evaluate existing subsurface conditions within the project area as part of the Development and Management (D&M) Plan. The geotechnical survey would be used to design the tower and foundation and potential stormwater controls. (Applicants 8, response 4; Tr. 1, pp 44-45; Tr. 3, pp 25-27, 54-55; Tr. 4, p 46)
140. A D&M Plan is a condition of a Council final decision that must be met prior to commencement of construction and constitutes the “nuts and bolts” of a facility approved by the Council. (C.G.S. §16-50p (2021); R.C.S.A. §16-50j-75, *et seq.*; *Town of Westport v. Conn. Siting Council*, 260 Conn. 266 (2002))
141. The geotechnical study would involve core drilling using All-Terrain Vehicle (ATV) drill rigs. Some minor tree/brush clearing may be required to allow access for the ATV drill rig to the boring locations. TT would bore holes in the compound area and tower location. (Tr. 3, pp. 24-27)
142. TT does not anticipate any blasting as part of the construction for this project and, if necessary, would utilize a jack hammer for rock removal. (Applicants 4, response 12; Tr. 1, pp. 44-45; Tr. 3, 27-28, 99; Tr. 4, p. 47; Tr. 5, p 80)

143. There are approximately 67 residences within 1,000 feet of the proposed tower. The nearest residential property line from the base of the tower is approximately 232 feet to the east (102 Greens Farms Road). (Applicants 1, p 32, Attachment G)
144. The proposed tower would be approximately 145 feet from the residence on the host property and 118 feet from shoulder of I-95. (Applicants 4, response 10)
145. The abutting property boundaries from the proposed tower are approximately 79 feet to the north (Greens Farms Road), 232 feet to the east (102 Greens Farms Road) and 35 feet to the south (I-95). (Applicants 1 p 32, Attachment G; Applicants 15, Attachment 8a)
146. TT anticipates the facility could be constructed within fifteen weeks, followed by 2 weeks of site testing/integration for the carriers. (Applicants 1, p 46)
147. Site construction would commence following Council approval of a D&M Plan for the facility. (Applicants 1, p 46)
148. A copy or notice of the filing of a D&M Plan with the Council, is required to be provided to the service list for comment. (R.C.S.A. §16-50j-75(e))
149. The Council has statutory authority to order a D&M Plan and the Council's D&M Plan process has been upheld by the Connecticut Supreme Court. (C.G.S. §16-50p (2021); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014); Council Administrative Notice Item No. 61)
150. Once operational, TT would access the site for quarterly maintenance visits. Carriers typically visit a site every 2-3 months. (Applicants 1, p 17; Tr. 1, p 53, 118-119)
151. The estimated cost of the proposed facility is:

Tower and Foundation	\$135,000
Site Development	\$160,000
Utility Installation	\$ 30,000
AT&T Equipment and Materials	\$150,000
AT&T Construction	\$179,000
Cellco Equipment	\$150,000
Emergency Back-up Generator	\$ 25,000
Miscellaneous Fiber and Electrical Installation	\$ 25,000
Cellco Construction/Utilities	\$130,000
<b><u>Total Estimated Costs</u></b>	<b><u>\$984,000</u></b>

(Applicants 1, p 46; Applicants 15, response 5; Cellco 2, response 2)

152. TT would recover construction costs associated with the facility by the revenue generated from leasing space on the facility to wireless service providers. (Applicants 4, response 2)
153. AT&T and Cellco would recover the costs of its equipment as part of its business operations and services provided. (Applicants 4, response 2; Cellco response 3)
154. Neither the Project, nor any portion thereof, is proposed to be undertaken by state departments, institutions or agencies or to be funded in whole or in part by the state through any grant or contract. (Tr. 5, p. 46; C.G.S. §22a-1, *et seq.* (2021))

### **Public Health and Safety**

155. The Wireless Communications and Public Safety Act of 1999 (911 Act) was enacted by Congress to promote and enhance public safety by making 9-1-1 the universal emergency assistance number, by furthering deployment of wireless 9-1-1 capabilities, and by encouraging construction and operation of seamless ubiquitous and reliable networks for wireless services. (Council Administrative Notice Item No. 6 - Wireless Communications and Public Safety Act of 1999)
156. The proposed facility would be in compliance with the requirements of the 911 Act and would provide Enhanced 911 services. (Applicants 1, p 10; Cellco 2, response 18)
157. Wireless carriers have voluntarily begun supporting text-to-911 services nationwide in areas where municipal Public Safety Answering Points (PSAP) support text-to-911 technology. Text-to-911 will extend emergency services to those who are deaf, hard of hearing, have a speech disability, or are in situations where a voice call to 911 may be dangerous or impossible. However, even after a carrier upgrades its network, a user's ability to text to 911 is limited by the ability of the local 911 call center to accept a text message. The FCC does not have the authority to regulate 911 call centers; therefore, it cannot require them to accept text messages. (Council Administrative Notice Item No. 21 – FCC Text-to-911: Quick Facts & FAQs)
158. AT&T's and Cellco's proposed equipment installations would be capable of supporting text-to-911 service. (Applicants 1, p 1, 8, 15; Cellco 2, response 29)
159. Pursuant to the Warning, Alert and Response Network Act of 2006, "Wireless Emergency Alerts" (WEA) is a public safety system that allows customers who own enabled mobile devices to receive geographically-targeted, text messages alerting them of imminent threats to safety in their area. WEA complements the existing Emergency Alert System that is implemented by the FCC and FEMA at the federal level through broadcasters and other media service providers, including wireless carriers. (Council Administrative Notice No. 5 – FCC WARN Act)
160. AT&T's and Cellco's proposed equipment would provide WEA services. (Applicants 1, pp. 16; Cellco 2, response 31)
161. FirstNet is a subscriber service available to local emergency response entities that would allow preferred wireless service on AT&T's 700 MHz system during emergencies. AT&T and FirstNet work together to determine which sites in coverage deficient areas are prioritized. AT&T's proposed equipment would support FirstNet services. (Applicants 4, response 45)
162. The proposed facility would provide 700 MHz coverage for 1,900 additional residents within the surrounding area as well as the surrounding road, neighborhoods and business areas. (Applicants 1, p 17)
163. Pursuant to C.G.S. §16-50p(a)(3)(G), the tower would be constructed in accordance with the current governing standard in the State of Connecticut for tower design in accordance with the currently adopted International Building Code. (Applicants 4, response 22)
164. The proposed tower would not require notice to the Federal Aviation Administration or constitute an obstruction or hazard to air navigation and therefore would not require any obstruction marking or lighting. (Applicants 1, p 45, Attachment N)

165. Security measures at the site would include, but are not limited to, the proposed compound fence, a locked access gate, and silent intrusion alarms on the equipment cabinets. (Applicants 4, response 10)
166. A radio frequency safety sign and a TT emergency contact sign would be installed on the compound fence. (Applicants 1, Attachment 4)
167. The tower setback radius\* for the proposed site location would extend beyond the boundary of the host parcel to the south by 89 feet. TT would design a tower yield point at the 89-foot agl of the tower, to ensure the tower setback radius remains within the boundaries of the host parcel. (Applicants 1, p.15, p.22, Attachment 4, construction drawings sheet SP-1; Tr 1, p 24)  
  
\*The horizontal distance equal to the tower height that extends radially from the center of the tower.
168. Operational noise from the facility would comply with DEEP Noise Control Regulations. (Applicants 15, Attachment 8c)
169. Noise studies using computer modeling and sound data from equipment manufacturers indicate that with all equipment running the noise level at the property line would be 55 dBA during the day and 50 dBA at night. Existing ambient noise levels at the site which is mostly dominated by traffic from I-95 is 66 dBA. (Applicants 15, Attachment 8b)
170. Construction noise is exempt from the DEEP Noise Control Regulations §22a-69-1.8(g), which includes, but is not limited to, “physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property.” (R.C.S.A. §22a-69-1.8(g))
171. The proposed site is not located within the Federal Emergency Management Agency designated 100-year or 500-year flood zones. (Applicants 1, p 19; Tr.1, pp 49-50)
172. The proposed access drive would have a slope of about 10 percent. There would be no issue with vehicles, propane trucks and fire apparatus from ascending/descending the access drive. (Tr. 1, p. 21)
173. Neither the proposed site nor the alternate site is located within a state-designated aquifer protection area. (Council Administrative Item No. 72, DEEP Aquifer Protection Area Maps: Town of Westport)
174. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T’s and Cellco’s antennas is 59.48 percent of the standard\* for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas in a sector would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (Applicants 1, p 25, Attachment J; Cellco 2, Attachment 3; Council Administrative Notice Item No. 2 – FCC OET Bulletin No. 65)

\*This includes a 10 dB off-beam pattern loss to account for the lower relative gain below the antennas.



***Emergency Backup Power***

175. In response to two significant storm events in 2011, Governor Malloy formed a Two Storm Panel (Panel) that was charged with an objective review and evaluation of Connecticut's approach to the prevention, planning and mitigation of impacts associated with emergencies and natural disasters that can reasonably be anticipated to impact the state. (Final Report of the Two Storm Panel, (Council Administrative Notice Item No. 53)
176. Consistent with the findings and recommendations of the Panel, and in accordance with C.G.S. §16-50*ll*, the Council, in consultation and coordination with DEEP, DESPP and PURA, studied the feasibility of requiring backup power for telecommunications towers and antennas as the reliability of such telecommunications service is considered to be in the public interest and necessary for the public health and safety. (Council Administrative Notice Item No. 34 – Council Docket No. 432)
177. Commercial Mobile Radio Service (CMRS) providers are licensed by and are under the jurisdiction and authority of the FCC. At present, no standards for backup power for CMRS providers have been promulgated by the FCC. (Council Administrative Notice Item No. 34 – Council Docket No. 432)
178. AT&T would install a 20-kW diesel-fueled generator with a built-in 92-gallon tank for backup power. The generator would be capable of providing 48 hours of runtime at full electrical load in the event of an outage. The generator would be remotely exercised on a bi-weekly basis. (Applicants 1, p 26; Applicants 4, response 39, 42; Tr. 1, pp 42, 104, 111)
179. AT&T would also utilize battery backup to prevent a reboot condition and provide between 4 to 6 hours of battery power in the event of an outage. (Applicants 4, response 41)
180. Cellco proposes to install a 30-kilowatt diesel-fueled generator with a built-in 200-gallon fuel tank for backup power. The built-in fuel tank would be fitted with tertiary containment measures and leak detection alarms Cellco's generators are remotely monitored. Cellco would also install a 4-hour backup battery at the site. (Cellco 2, response 15, response 16, response 24; Tr 2, p 16)
181. Cellco estimates that a diesel-fueled generator would enable it to save between \$35,000 and \$50,000 in additional project costs. (Cellco 2, response 24; Tr. 2, p 61)
182. Cellco's generator would be exercised bi-weekly during daytime hours for approximately 30 minutes. (Cellco 2, response 26)
183. A shared emergency backup generator among multiple carriers is not preferred from a public safety aspect in order to avoid a single point of failure. (Tr. 1, pp. 32-33)
184. TT estimates that it would cost approximately \$15,000 to extend the gas line from the street to the compound. (Applicants 15, response 4; Tr 2, p 47)
185. The Town recommends the emergency backup generator be fueled by natural gas, an amended site plan be submitted with construction detail and evergreen plantings to shield the base of the tower and associated equipment. (Town 4)
186. According to R.C.S.A. §22a-69-1.8, noise created as a result of, or relating to, an emergency, such as an emergency backup generator, is exempt from the DEEP Noise Control Regulations. (R.C.S.A. §22a-69-1.8)

## Environmental Considerations

### *Air and Water Quality*

187. Operation of the proposed facility would not produce air emissions, excluding operation of the emergency backup generator. (Applicants 1, p. 26)
188. Pursuant to R.C.S.A. §22a-174-3b, the generator would be managed to comply with DEEP's "permit by rule" criteria and would comply with air emissions. Therefore, the generator would be exempt from general air permit requirements. (Applicants 1, p. 34; Applicants 4, response 43; Cellco 2, response 27; R.C.S.A. §22a-174-3b)
189. The Inland Wetlands and Watercourses Act (IWWA), C.G.S. §22a-36, *et seq.*, contains a specific legislative finding that the inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed, and the preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. (C.G.S. §22a-36, *et seq.* (2021))
190. The IWWA grants regulatory agencies with the authority to regulate upland review areas in its discretion if it finds such regulations necessary to protect wetlands or watercourses from activity that will likely affect those areas. (C.G.S. §22a-42a (2021))
191. The IWWA forbids regulatory agencies from issuing a permit for a regulated activity unless it finds on the basis of the record that a feasible and prudent alternative does not exist. (C.G.S. §22a-41 (2021))
192. A Wetland Inspection was conducted on May 21, 2021. It identified two wetland areas located within the adjacent DOT ROW along the southern and western boundaries of the host parcel (see figure 12).
193. Wetland 1 is located approximately 85 feet southwest of the proposed fenced compound and consists of a small, narrow, and isolated wetland feature formed within a small topographic depression. This wetland showed signs of previous disturbance including but not limited to disturbed soil profiles, prolific refuse material, and high densities/dominance of invasive plant species. These are direct results of the proposed site's proximity to I-95 and the abandoned route for Greens Farms Road. (Applicants 1, p28, 39, Attachment I, Attachment L)
194. Wetland 2 is located about 40 feet south of the proposed access easement at its closest point and consists of a narrow (10-12 feet wide) channelized watercourse which begins at an existing 72-inch wide reinforced concrete pipe culvert and flows eastward parallel to I-95. This wetland is seasonally saturated and occasionally flooded. This wetland also showed signs of previous human disturbance. (Applicants 1, p28, 39, Attachment I, L)
195. The minimum distance from the construction limits of disturbance (LOD) (for the access road) to wetland 2 is approximately 30 feet. (Tr. 1, p 78)
196. No vernal pools were identified within the project area. (Applicants 1, Attachment L; Tr. 1, p 77)
197. TT would install appropriate erosion and sedimentation (E&S) controls such as a construction fence and silt socks in compliance with the 2002 *Connecticut Guidelines for Soil Erosion and Sediment Control* (2002 E&S Guidelines). (Applicants 1, Attachment 6)

198. TT would ensure periodic monitoring of the E&S controls during construction. In addition, TT would implement a wetland protection plan to be monitored by a wetland scientist. (Tr.1, p 89)
199. The construction and operation of the proposed facility would not result in temporary or permanent impacts to the nearby wetlands, given the relatively level ground surface, with E&S controls in place. (Applicants 1, p. 39; Tr. 1, p. 23)
200. Pursuant to C.G.S. §22a-430b, a DEEP Stormwater Permit is required for any disturbance greater than 1 acre. The construction LOD for the proposed site is approximately 5,365 square feet, therefore the project would not require a DEEP Stormwater Permit. (C.G.S. §22a-430b; DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities. (DEEP-WPED-GP-015)
201. Generally, a minimum 100-foot undisturbed upland buffer along a wetland boundary or on either side of a watercourse should be maintained to promote water quality. Establishment of buffers should also consider slopes and the sensitivity of wetland/watercourse resources. (Council Administrative Notice Item No. 37 - *2004 Stormwater Quality Manual*, pp. 4-3 – 4-4)
202. AT&T and Cellco's tertiary containment measures for the proposed generators include a double walled tank and a secondary containment area below the tank in the event of a spill. (Cellco 2, response 24; Cellco 3; Tr 2, pp 16-17, 44)
203. Stormwater generated by the construction of the tower facility would be managed in accordance with the *2004 Stormwater Quality Manual*. (Applicants 1, p. 40; Tr. 1 pp. 23)
204. The proposed site is not located within a public water supply watershed. (Council Administrative Notice Item No. 72; Town POCD)

#### ***Forests and Parks***

205. Sherwood Island State Park is approximately 0.5 miles southeast of the site. I-95 and the Metro North Railroad are located between the site and the state park. (Applicants 1, Attachment H; Council Administrative Notice Item No. 75)
206. Development of the proposed site would require the removal of 8 existing trees with a diameter of six inches or greater at breast height. (Tr. 1, p. 26)

#### ***Fish and Wildlife***

207. DEEP Natural Diversity Database (NDDB) maps show approximate locations of state-listed endangered, threatened, and special concern species and are used to find areas of potential conservation concern. (Council Administrative Notice Item No. 71)
208. The proposed facility is not located within a NDDB buffer area, and thus, TT did not consult with the DEEP NDDB program. The nearest DEEP NDDB area is located approximately 0.2 miles southeast of the site. (Applicants 1, p. 24; Attachment I; Council Administrative Notice Item No. 71)
209. The site is within the range of the northern long-eared bat (NLEB), a federally-listed threatened species and state-listed endangered species. There are no known NLEB hibernacula or known

maternity roost trees within 0.25 miles and 150-feet, respectively, of the proposed site. The Applicants submitted information to the USFWS using its Information, Planning, and Conservation System (IPaC). USFWS submitted correspondence dated May 19, 2021 to TT based on the IPaC submission stating that any take of NLEB that may occur as a result of site construction is not prohibited under Endangered Species Act, Section 4(d) rule adopted for this species at 50 CFR §17.40(o). (Applicants 1, Attachment 9)

210. The nearest NLEB habitat resource to the proposed facility is located ±15.1 miles to the west in the Town of Greenwich. Although NLEB uses forested areas to roost, the site does not provide quality forest habitat due to the proximity of developed areas and I-95 and the Metro North Railroad. TT would implement recommended measures for NLEB conservation including but not limited to:
- Conducting tree removal activities outside of the NLEB pup season (June 1-July 31) and active season (April 1-October 31) to minimize impacts to pups at roosts not yet identified;
  - Maintain dead trees (snags) and large trees when possible;
  - Use herbicides and pesticides only if unavoidable. If necessary, spot treatment is preferred over aerial application;
  - Minimize exterior lighting, opting for down-shielded, motion-sensor security lights instead of constant illumination
- (Applicants 1, Attachment I; Tr. 1, p. 75)
211. The USFWS letter also indicated that other species that may occur within the vicinity of the project area includes the red knot, a federally-listed threatened bird species, that uses tidal and intertidal flats as a habitat. There are no suitable red knot feeding or roosting habitats within the project area. (Applicants 1, Attachment I; Tr. 1, p. 75)
212. The proposed facility is not located adjacent to an Important Bird Area (IBA), as designated by the National Audubon Society. The nearest IBA to the proposed site is the Nature Conservancy's Devil's Den Preserve in Weston located approximately 7.5 miles northeast of the proposed site. The proposed facility would not affect the IBA. (Applicants 1, p. 28, Attachment K)
213. Applicants complied with National Environmental Policy Act (NEPA) requirements for telecommunications facilities. (Applicants 1, pp. 26, 29, 32, Attachment I)
214. The proposed facility would comply with the USFWS telecommunications tower guidelines for minimizing the potential for impact to bird species. (Applicants 1, p 24, Attachment I, USFWS Determination dated May 19, 2021, K)

### *Agriculture and Soils*

215. The host parcel does not contain prime farmland soils. (Applicants 4, response 24)
216. The project area consists of well drained to excessively drained soils that have been disturbed by developmental activities and areas that are covered by pavement (refer to Figure 16). (Applicants 1, Attachment I, L, Town POCD)

### *Scenic, Historic and Recreational Values*

217. By letter dated December 13, 2022, SHPO determined that the host parcel does not appear to be eligible for listing on the National Register of Historic Places (NRHP) and that the proposed project would not have an adverse effect on sites that are listed on or are eligible for listing on the NRHP. (Applicants 1, p. 22 and Attachment I, SHPO Determination dated December 13, 2021)

218. The Town POCD identifies scenic views, roads considered scenic in character, state-designated scenic roads and scenic areas. The POCD considers views to and from Long Island Sound and the Saugatuck River as scenic. These scenic views are marked with directional arrows (refer to Figure 15) pointing in the direction of Long Island Sound (south) and not in the direction of the tower (north). (Applicants 1, Town POCD)
219. Greens Farms Road is considered scenic in character in the Town POCD. A state designated scenic road, Route 136, is located approximately 0.69 miles west of the site. (Applicants 1, p. 22, Attachment H, Town POCD)
220. The proposed site is located within a scenic area identified within the Town POCD (refer to Figure 15). The boundaries of the POCD scenic area match the boundaries of the DEEP-designated Coastal Area. The designated scenic area includes existing tower facilities at 20 Post Office Lane, 45 Ferry Lane, and 221 Post Road West as well as travel corridors (I-95, Metro North Railroad) and electric transmission line structures associated with a transmission line right-of-way. (Applicants 1, Town POCD)
221. The Project is located within the coastal resource boundary, as defined by the Connecticut Coastal Management Act (CCMA). The goals and policies of the act are to “ensure that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the rights of private property owners and the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth”. None of the coastal resources identified by the CCMA would be adversely affected by construction or operation of the Project. The resources include tidal rivers, streams and creeks, wetlands and marshes, intertidal mudflats, beaches and dunes, bluffs and headlands, islands, rocky shorefronts, and adjacent shorelands. (Council Administrative Notice Item No. 44; Town POCD, pp 46-48)
222. There are no “blue-blazed” hiking trails maintained by the Connecticut Forest and Park Association within two-miles of the site. (Council Administrative Notice Item No. 75)
223. Pursuant to C.G.S. §16-50p(b), the Council shall examine whether the proposed facility would be located in an area of the state which the Council, in consultation with DEEP and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance and the latest facility design options intended to minimize aesthetic and environmental impacts. The Council may deny an application for a certificate if it determines that the proposed facility would substantially affect the scenic quality of its location or surrounding neighborhood and no public safety concerns require that the proposed facility be constructed in such a location. (C.G.S. §16-50p(b) (2021))
224. No comments were received from the OPM or DEEP regarding any impacts to scenic quality or resources. (Record)

#### *Visibility*

225. Property owners have no right to an unobstructed view from structures built on adjacent property except where there is an express statutory provision or there is a contract or restrictive covenant protecting the private right to a view or vista. (*Mayer v. Historic District Comm’n of Town of Groton*, 325 Conn. 765 (2017); C.G.S. §47-25 (2021))

226. Applicants used a combination of predictive computer models, in-field analysis, and a review of various data sources to evaluate the visibility of the proposed facility. (Applicants 1, p. 21, Attachment H)
227. On March 2, 2022, Applicants conducted a balloon test and field reconnaissance at the proposed tower site to assist in the visibility evaluation. The balloon test consisted of flying a four-foot diameter helium filled balloon to a height of approximately 124-feet agl at the proposed site. An in-field reconnaissance was then performed from publicly accessible locations in the surrounding area to determine where the proposed tower would be visible. The in-field reconnaissance included photographs taken from various areas around the site. (Applicants 1, p. 21, Attachment H)
228. Information obtained during the field reconnaissance was incorporated into a viewshed map that depicts areas with year-round visibility within a two-mile radius (8,042 acres) of the site (Study Area) based on computer modeling and in-field observations from local and State roads and other publicly-accessible locations. (Applicants 1, Attachment H)
229. The tree line within and around the project area ranges from 40 feet to 50 feet with a few trees extending up to 60 feet. (Tr 1, p 30, 33)
230. Open water comprises approximately 2,158 acres, or approximately 26.8%, of the Study Area. 1,842 of these acres are in Long Island Sound. (Applicants 1, Attachment H)
231. The Town POCD identifies scenic views in the direction of Long Island Sound (to the south) (refer to Figure 15). (Applicants 1, Town POCD)
232. The Town's RF consultant believes that there would be continuous views of the proposed tower along a straight,  $\frac{3}{4}$  mile section of Greens Farms Road near the Hillspoint Road intersection and recommends a reduction in tower height and antenna array width, installation of a monopine and/or painting the tower and attachments a common color, such as brown, to mitigate views from that section of Greens Farms Road. (Town 5, response 20)
233. Based on the final viewshed analysis (refer to Figure 13), the proposed tower would be visible year-round from approximately 439 acres (5.5% of the Study Area), of which 408 acres will occur from over open water on Sherwood Mill Pond. Year-round visibility would be primarily limited to immediately surrounding areas along Greens Farms Road, I-95, Metro North Railroad, Sherwood Island State Park and Sherwood Mill Pond (Applicants 1, p. 21, Attachment H)
234. Year round views would extend westwards along Greens Farms Road for approximately 0.69 miles, eastwards on Sherwood Island Connector for approximately 0.69 miles and possibly south and southeastwards over Long Island Sound for over mile. (Applicants 1, p. 21, Attachment H)
235. The tower would be seasonally visible (leaf-off conditions) from approximately 538 acres (6.7%) of the Study Area. Seasonal views may extend northwestwards for approximately 0.23 miles, northeastwards for approximately 0.16 miles and possibly up to one mile east of the facility to Clapboard Ridge. (Applicants 1, p. 21, Attachment H)
236. Approximately 50 residences within 0.5 miles of the proposed facility would have seasonal and year round views of the facility. 13 of those residences including the host property would have year-round views and 37 residences would have seasonal views. (Applicants 4, response 46)

237. The tower would be seasonally visible from Greens Farms Road within 0.23 miles of the site. Some sections of the road would have year-round visibility of the upper portion of the tower. (Applicants 1, p 21, Attachment H)
238. Approximately 75.8% of the predicted visibility occurs over open water and the associated tidal marsh areas. The upper portion of the tower would be visible from the western portions of Sherwood Island State Park, mostly along the shoreline of Sherwood Millpond. (Applicants 1, p. 21, Attachment H)
239. A stealth monopine facility at the proposed site would be more visible above the existing tree line due to the lack of existing pine trees (surrounding foliage is mostly deciduous), the addition of branches, an increased profile width of 25 to 37 feet and the comparably low height of the existing tree line. Installation of a stealth monopine at this site would cost an additional \$40,000 plus \$1,000 to \$4,000 annually for maintenance. However, the Applicants are willing to consider a monopine if so ordered by the Council. (Applicants 4, response 47; Tr. 1, pp 30-35)
240. A flagpole type facility would require a pole with a larger diameter to accommodate the antennas and would have limited space at each level of the tower to fit antennas and associated equipment. Each carrier would require two to three tower levels for their equipment with separation between tower levels. This would significantly increase the proposed height of the tower. (Applicants 4, response 47)
241. The Town did not express a preference for a stealth design. (Tr. 1, p 75)
242. TT is willing to install landscaping and appropriate screening of the fence/compound at the site if required by the Council. (Applicants 1, p 35; Tr. 1, p 84)
243. The Town would prefer the planting of evergreen trees to provide screening of the compound and associated equipment. (Town 4; Town 3)
244. AT&T's equipment cabinet may be visible from Greens Farms Road. (Tr. 1, p 85)
245. Pursuant to C.G.S. §16-50p(a)(3)(F), for a telecommunications proposed to be installed on land near a building containing a school, the facility will not be less than 250 feet from the building containing the school unless the location is acceptable to the chief elected official of the municipality or the Council finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which such school is located. (C.G.S. §16-50p(a)(3)(F) (2021))
246. No schools or commercial child day care facilities are located within 250 feet of the site. The nearest building containing a school or commercial child day care is the Children's Community Development Center located approximately 0.23 miles north-northwest of the proposed facility site. (Applicants 1, p. 21; Attachment H)



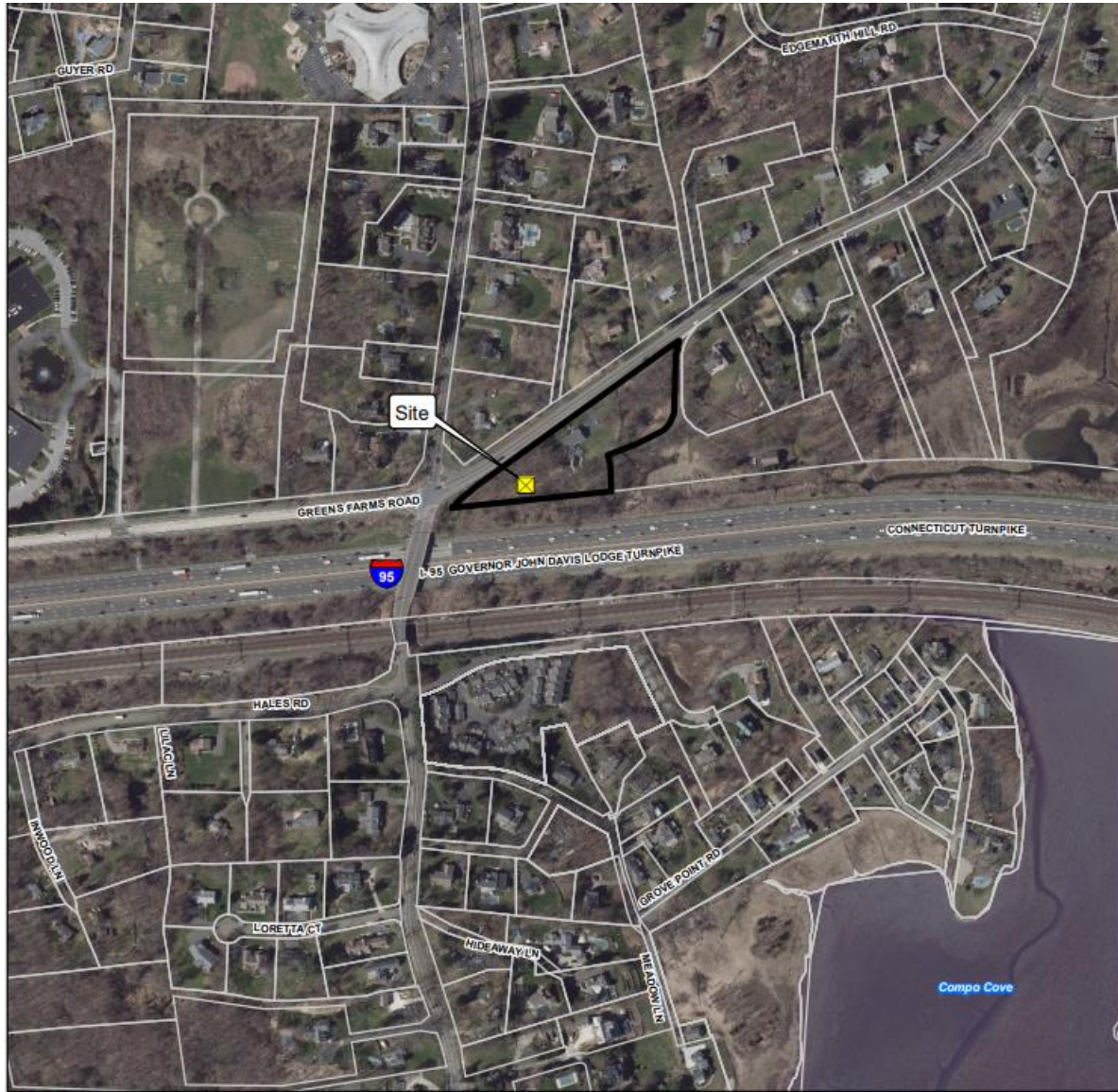
**Figure 1 – Site Location – Topographic Map**





(Applicants 1, Attachment T)



**Figure 2 – Site Location – Aerial Image**



**Legend**

-  Site
-  Subject Property
-  Approximate Parcel Boundary

Map Notes:  
Base Map Source: CT ECO 2019 Imagery  
Map Scale: 1 inch = 400 feet  
Map Date: May 2022

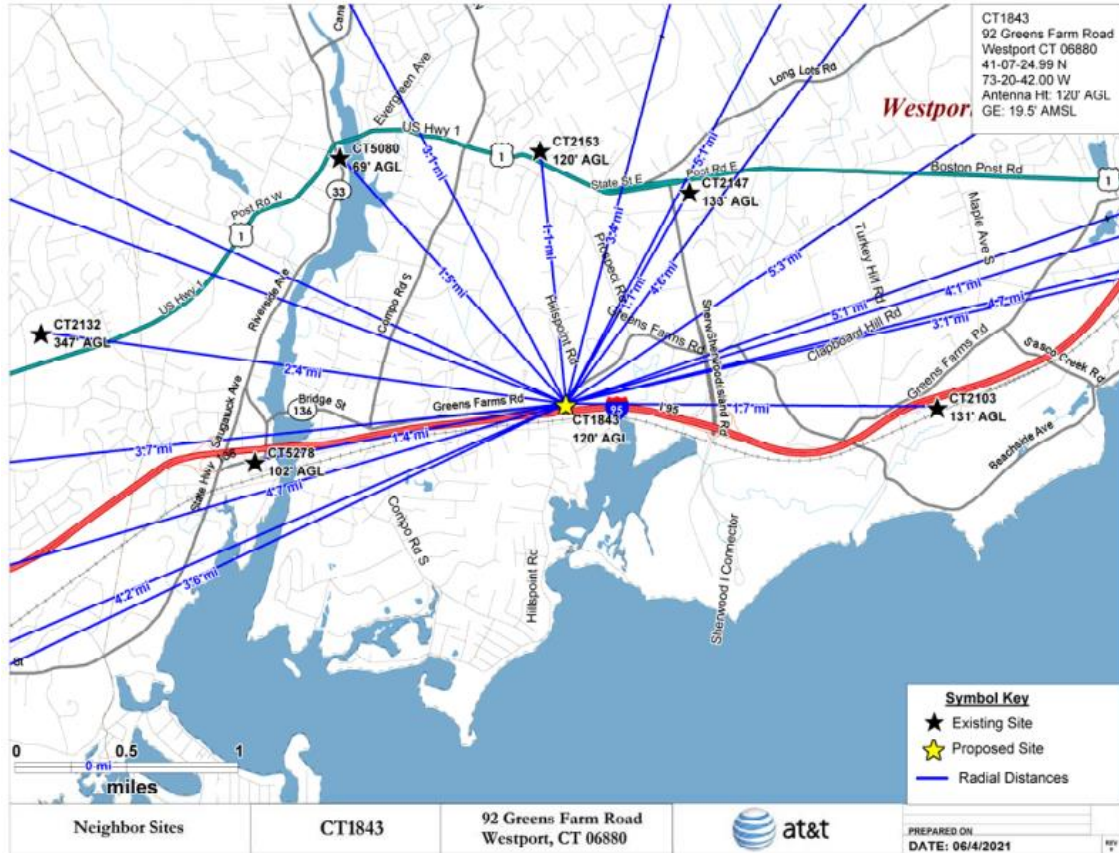


**Site Location Map**

Proposed Wireless  
Telecommunications Facility  
CT1024  
Westport  
92 Greens Farms Road  
Westport, Connecticut



**Figure 3 – AT&T Adjacent Sites**

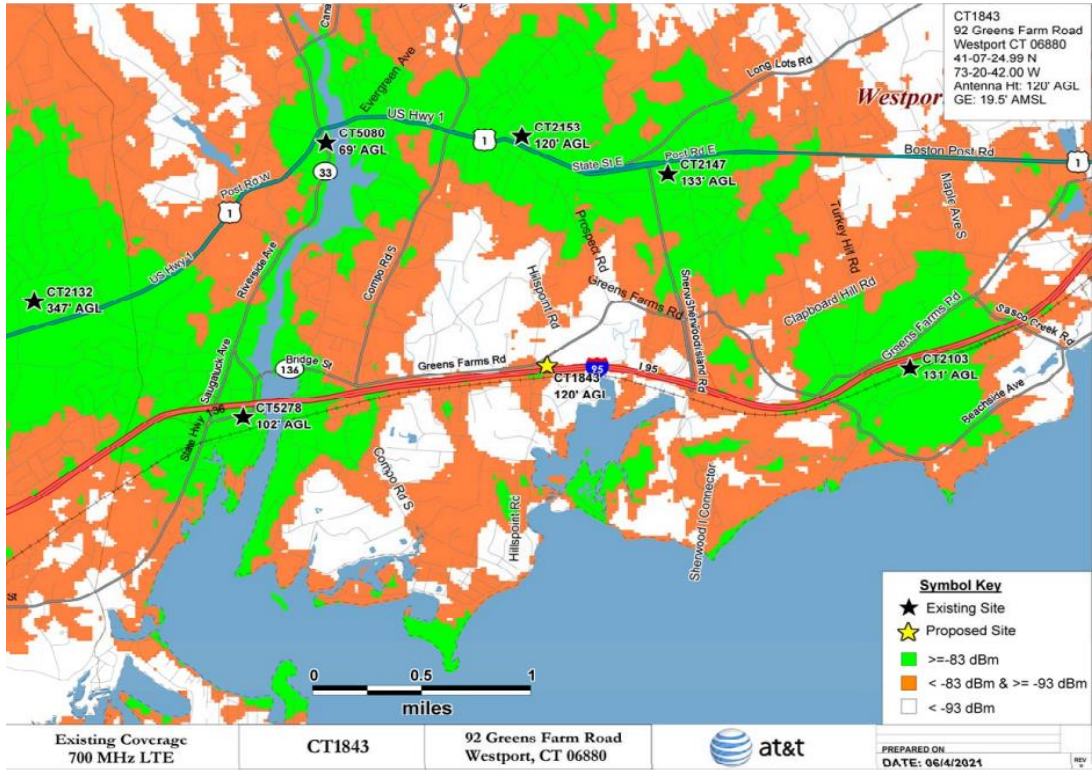


Site Name	Address	City/State	Location		Antenna Height (ft AGL)	Structure Type	Status
			Latitude	Longitude			
CT2103	26 Maple	Westport/CT	41.1234	-73.3131	131	Monopole	On-Air
CT2119	651 Pequot Avenue	Southport/CT	41.1334	-73.2876	85	Steeple	On-Air
CT2132	344 Strawberry Hill Avenue	Norwalk/CT	41.1283	-73.3902	347	Lattice	On-Air
CT2147	800 Post Road East	Westport/CT	41.1375	-73.3344	133	Lattice	On-Air
CT2153	9 Crescent Park Road	Westport/CT	41.1402	-73.3472	120	Monopole	On-Air
CT15080	22 Riverside Avenue	Westport/CT	41.1397	-73.3644	59/69	Rooftop	On-Air
CT15278	21 Charles Street	Westport/CT	41.1197	-73.3719	102	Rooftop	On-Air
<b>CT1843</b>	<b>92 Greens Farm Road</b>	<b>Westport/CT</b>	<b>41.1236</b>	<b>-73.3450</b>	<b>120</b>	<b>Monopole</b>	<b>Proposed</b>
CT2094	2 Allen Raymond Lane	Westport/CT	41.1629	-73.3731	100	Monopole	On-Air
CT2107	180 Bayberry	Westport/CT	41.1717	-73.3285	100	Monopole	On-Air
CT2128	3965 Congress Street	Fairfield/CT	41.1884	-73.2991	128	Monopole	On-Air
CT2305	986 Old Academy Road	Fairfield/CT	41.1769	-73.2923	90	Steeple	On-Air
CT15055	499 Main Avenue	Norwalk/CT	41.1514	73.4259	128	Rooftop	On-Air
CT2115	25 Van Zant Street	Norwalk/CT	41.1013	-73.4079	60	Rooftop	On-Air
CT15014	50 Washington Street	Norwalk/CT	41.0995	-73.4197	177	Rooftop	On-Air
CT15015	24 Belden Avenue	Norwalk/CT	41.1180	-73.4159	121/141	Rooftop	On-Air
CT15243	200 Connecticut Avenue	Norwalk/CT	41.1044	-73.4325	120	Rooftop	On-Air
CT2151	173 ½ West Rocks Road	Norwalk/CT	41.1439	-73.4183	111	Watertank	On-Air
CT2137	2150 Post Road	Fairfield/CT	41.1408	-73.2697	59	Rooftop	On-Air
CT15022	100 Reef Road	Fairfield/CT	41.1395	-73.2572	130	Monopole	On-Air
CT2120	55 Walls Road	Fairfield/CT	41.1478	-73.2515	70	Rooftop	On-Air

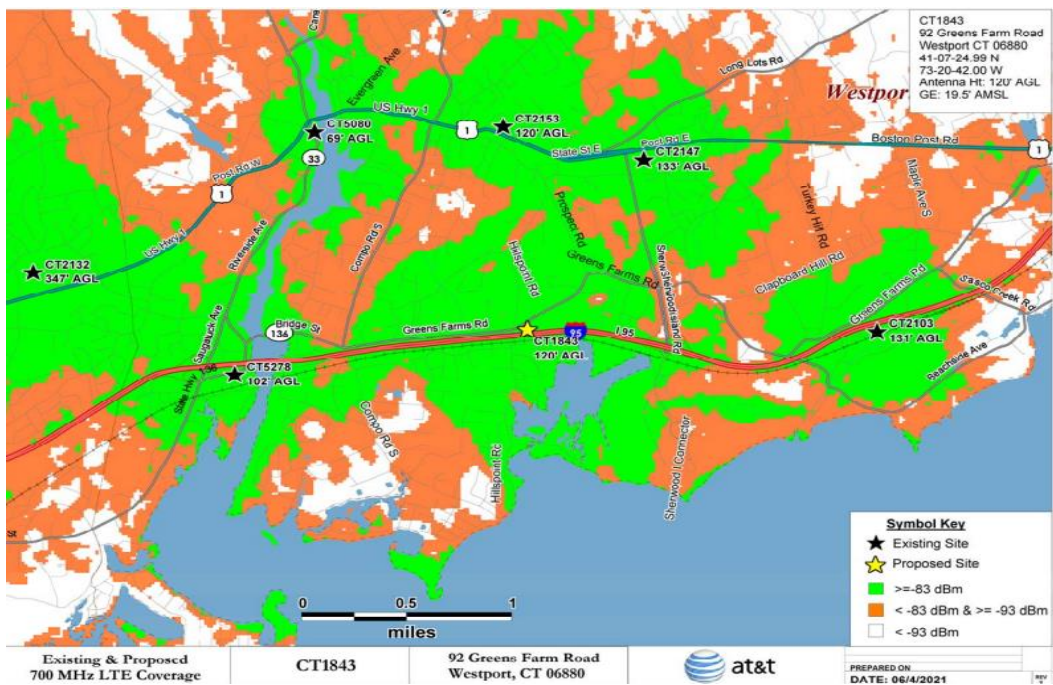
**Table 1: AT&T Mobility Site Information Used in Coverage Analysis<sup>3</sup>**



**Figure 4 – AT&T Existing 700 MHz Coverage**



**Figure 5 – AT&T Existing and Proposed 700 MHz Coverage**

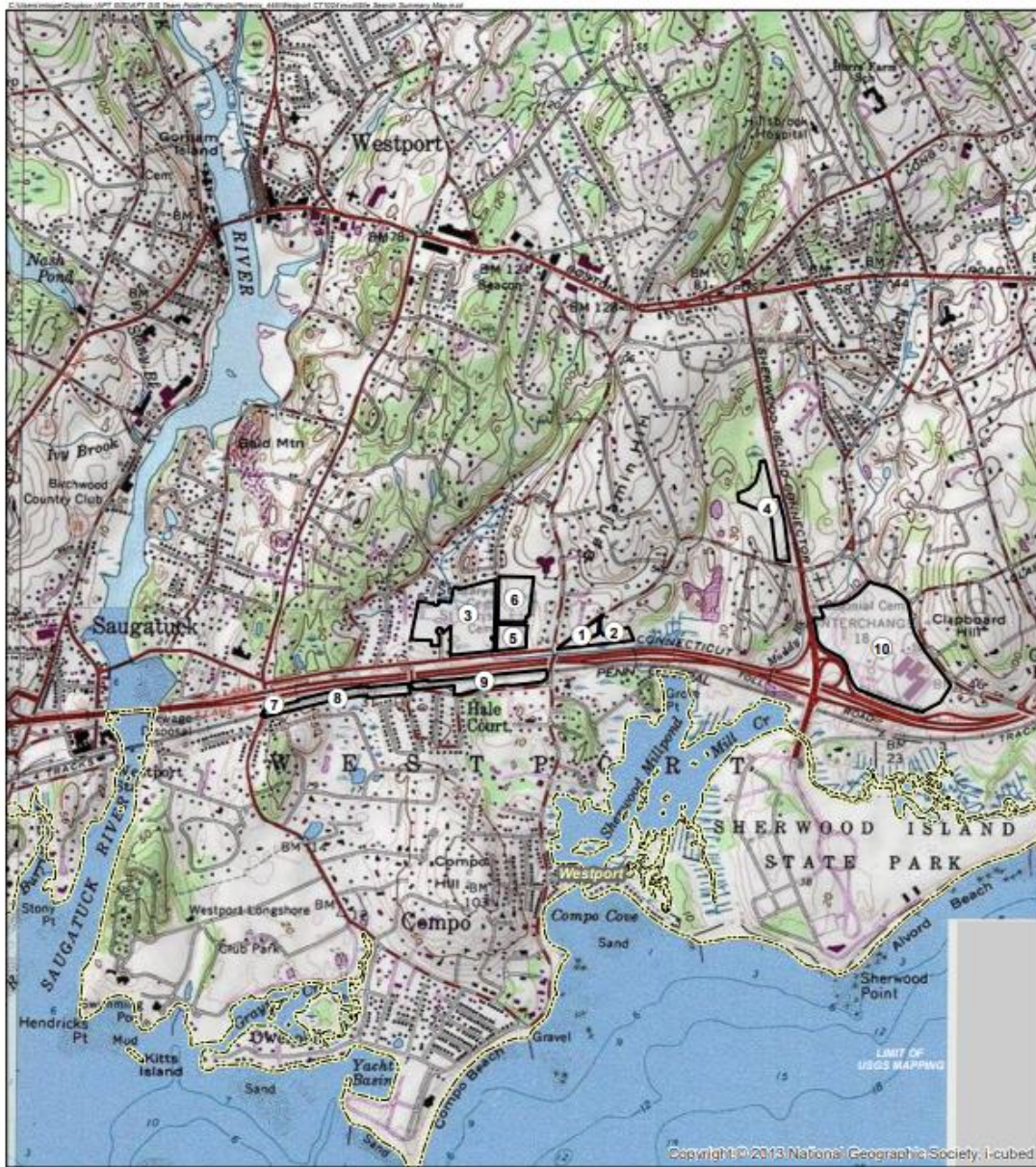








**Figure 8 – Site Search Summary Map**



**Legend**  
 Site Investigated  
 Municipal Boundary

- Sites Investigated:**
- 1 92 Greens Farms Road, Westport, CT (Proposed Site)
  - 2 102 Greens Farms Road, Westport, CT
  - 3 55-57 Greens Farms Road, Westport, CT
  - 4 300 Sherwood Island Connector, Westport, CT
  - 5 Greens Farms Road, Westport, CT
  - 6 Greens Farms Road, Westport, CT
  - 7 197 Compo Road South, Westport, CT
  - 8 Hales Road, Westport, CT
  - 9 Hales Road, Westport, CT
  - 10 92 Nyala Farm Road, Westport, CT

**Site Search Summary Map**  
 Proposed Wireless  
 Telecommunications Facility  
 Westport/CT1024  
 92 Greens Farms Road  
 Westport, Connecticut

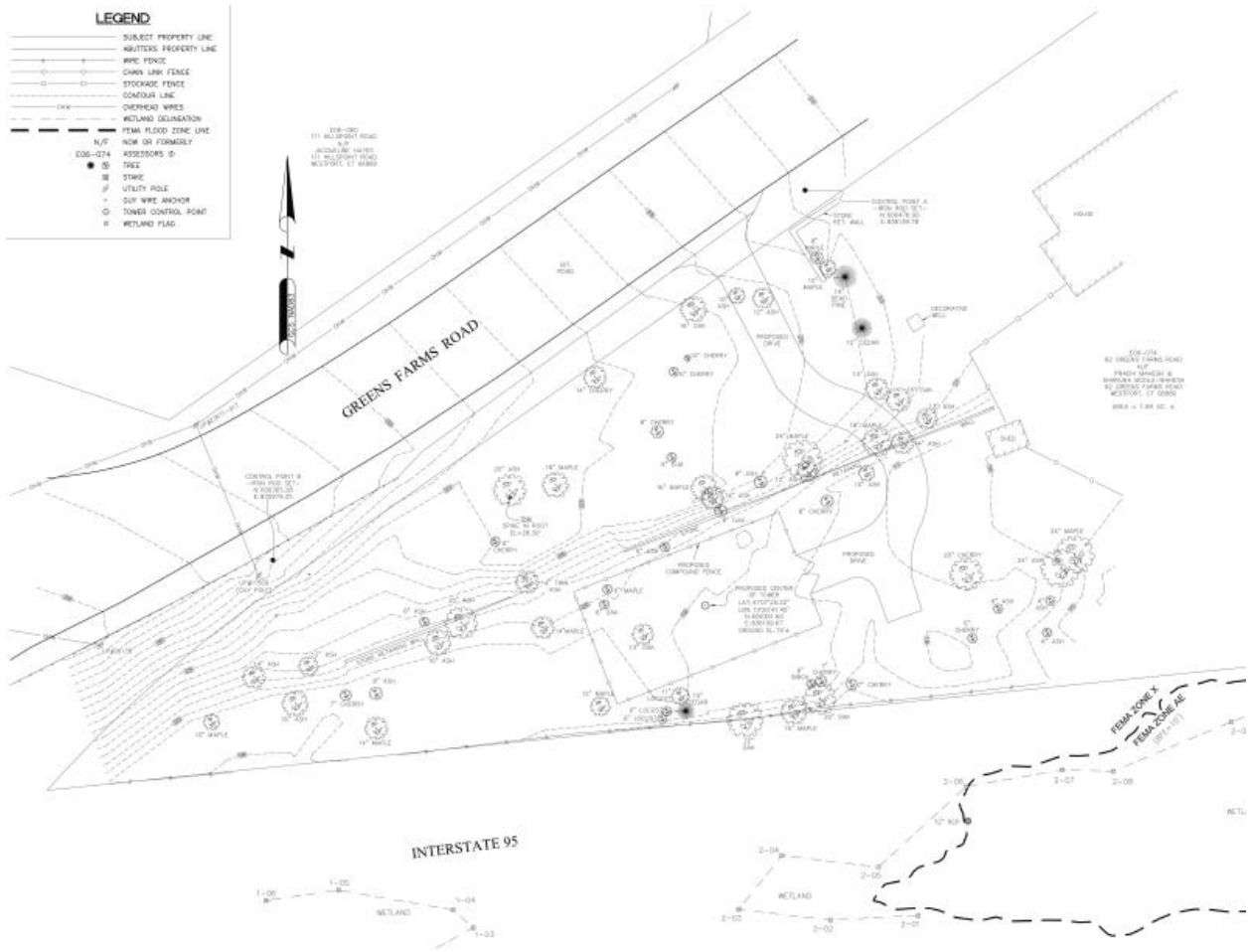
**Metadata:**  
 Base Map Source: USGS 7.5 Minute Topographic  
 Quadrangle Maps, Norwich South, CT (1975),  
 Norwich South, CT (1984), Sherwood  
 Point, CT (1998), and Westport, CT (1971)  
 Map Scale: 1 inch = 2,000 feet  
 Map Date: April 2022



# 1 is the proposed site.

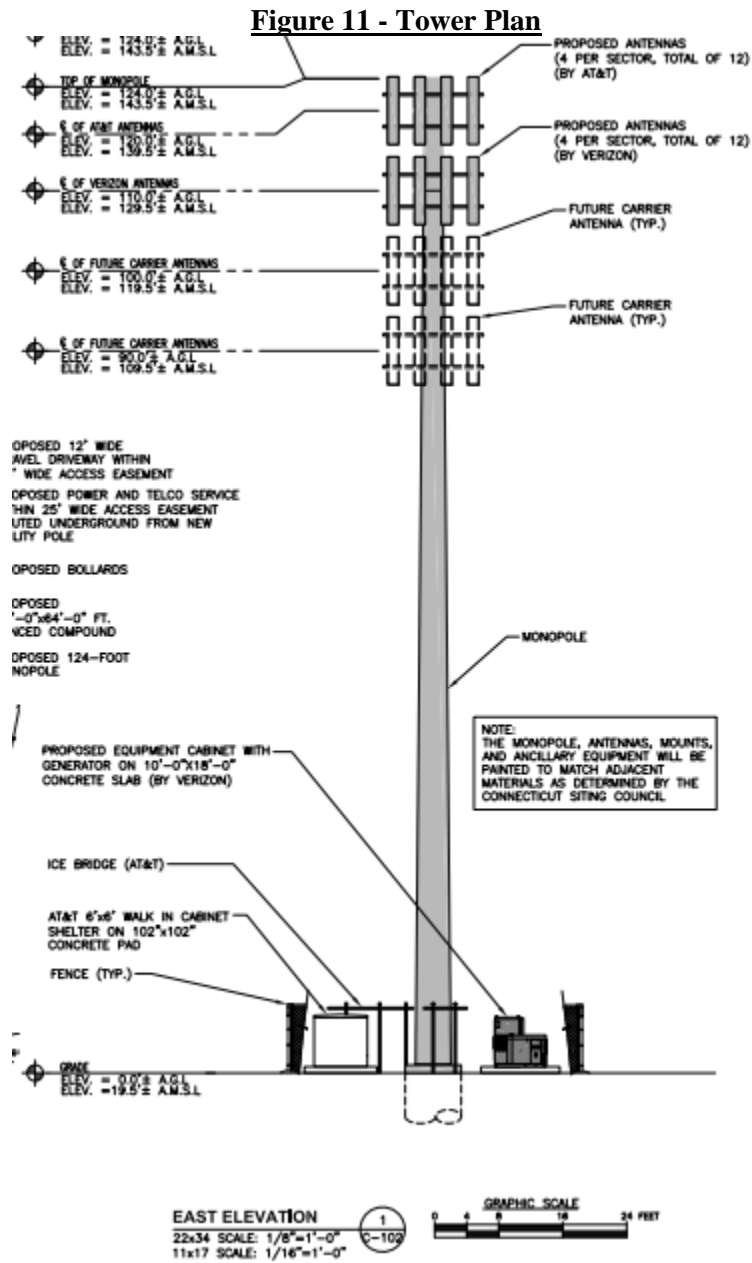
(Applicants 1, Attachment F)

**Figure 9 – Site parcel topographic features**



(Applicants 15, Attachment 8a)





(Applicants 15, Attachment 8a)

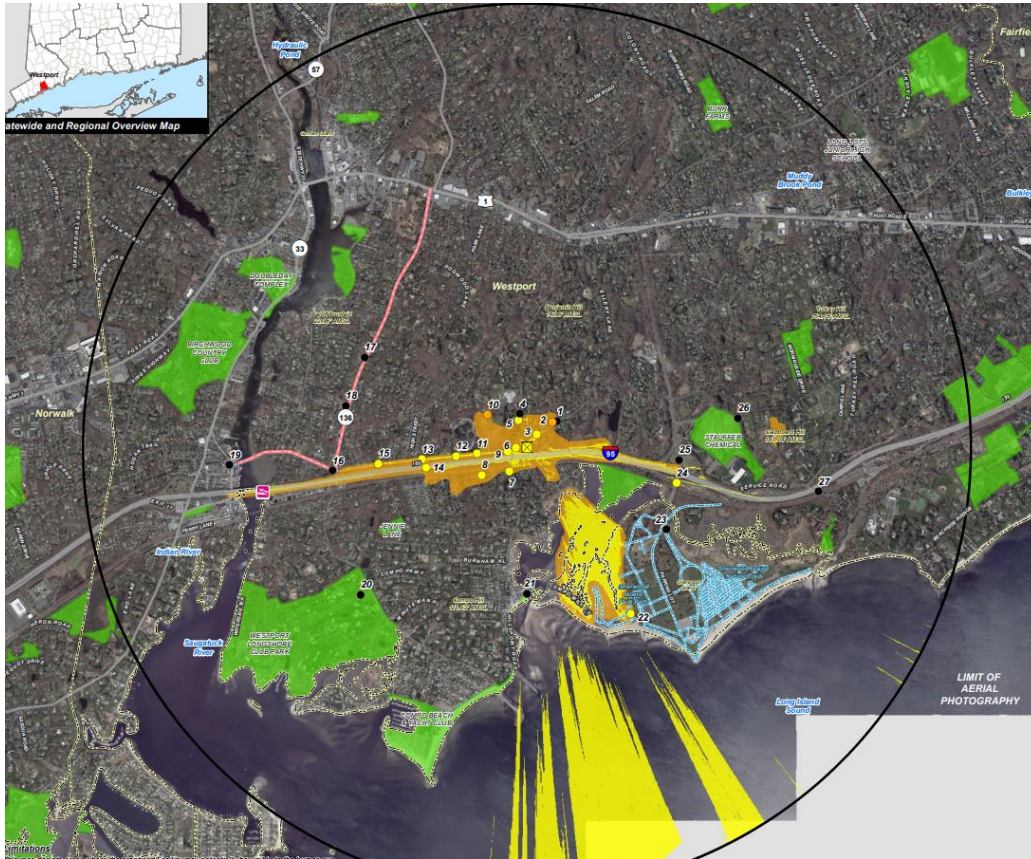


**Figure 12 – Wetland Location**



(Applicants 1, Attachment L)

**Figure 13 – Proposed Site Visibility Analysis**



**Viewshed Analysis Map**

Proposed Wireless Telecommunications Facility  
 Westport/CT1024  
 92 Greens Farms Road  
 Westport, Connecticut

Proposed facility height is 124 feet AGL.  
 Forest canopy height is derived from LIDAR data.  
 Study area encompasses a two-mile radius and includes 8,042 acres.  
 Existing conditions field verified by APT on March 2, 2022  
 Base Map Source: 2019 Aerial Photograph (CTECO)  
 Map Date: March 2022

**Legend**

- Proposed Site
- Study Area (2-Mile Radius)
- Photo Locations (March 2, 2022)**
- Not Visible
- Seasonal
- Year-Round
- Predicted Year-Round Visibility (439 Acres: +/- 408 acres occurs over open water and/or associated tidal marsh areas )
- Areas of Potential Seasonal Visibility (144 Acres)
- Municipal Boundary
- Trail
- Scenic Highway
- DEEP Boat Launches
- Municipal and Private Open Space Property
- State Forest/Park
- Protected Open Space Property**
- Federal
- Land Trust
- Municipal
- Private
- State

**Data Sources:**  
 Connecticut Department of Transportation

(Applicants 1, Attachment H)

**Figure 14 Visibility Analysis Map Photolog**

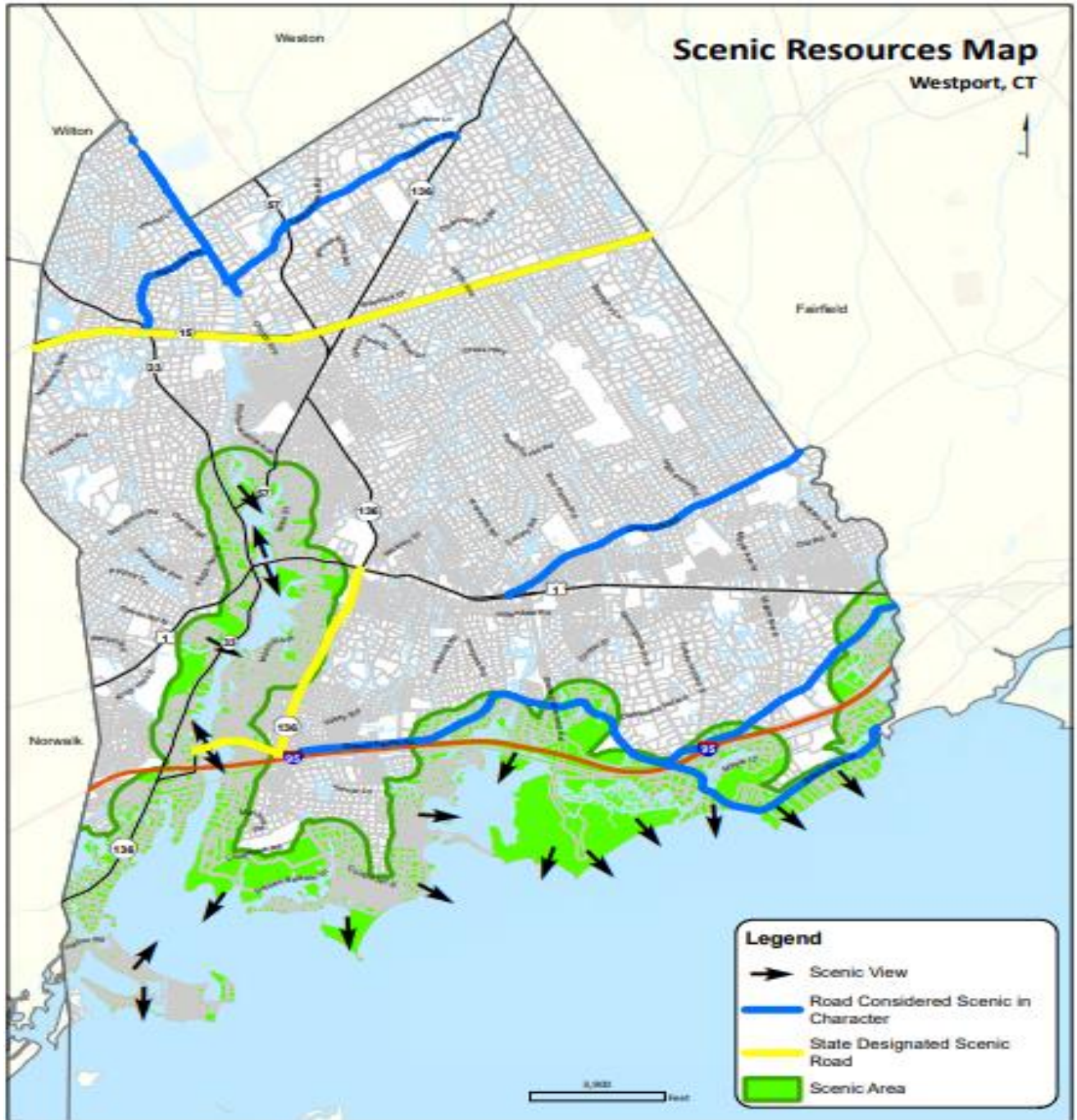
Photo	Location	Orientation	Distance to Site	Height of Facility Visible in Photograph	Visibility
1	Greens Farms Road	Southwest	+ 0.17 Mile	N/A	Not Visible
2	Greens Farms Road	Southwest	+ 0.16 Mile	N/A	Seasonal
3	Greens Farms Road*	Southwest	+ 375 Feet	20'-40'	Year Round
4	Hillspoint Road	Southeast	+ 0.16 Mile	N/A	Not Visible
5	Hillspoint Road	Southeast	+ 0.13 Mile	10'-20'	Year Round
6	Hillspoint Road at Greens Farms Road*	East	+ 280 Feet	0'-10'	Year Round
7	Hales Road at Hillspoint Road	Northeast	+ 0.14 Mile	30'-50'	Year Round
8	Hales Road	Northeast	+ 0.24 Mile	20'-40'	Year Round
9	Greens Farms Road	East	+ 0.10 Mile	20'-30'	Year Round
10	Assumption Greens Farms Cemetery	Southeast	+ 0.23 Mile	N/A	Seasonal
11	Greens Farms Road	East	+ 0.23 Mile	30'-40'	Year Round
12	Greens Farms Road	East	+ 0.33 Mile	25'-35'	Year Round
13	Greens Farms Road at Hales Road	East	+ 0.48 Mile	15'-25'	Year Round
14	Hales Road	East	+ 0.47 Mile	30'-40'	Year Round
15	Greens Farms Road	East	+ 0.69 Mile	40'-60'	Year Round
16	Bridge Street at Compo Road South	East	+ 0.69 Mile	N/A	Not Visible
17	Compo Road South	Southeast	+ 0.84 Mile	N/A	Not Visible
18	Compo Road South	Southeast	+ 0.84 Mile	N/A	Not Visible
19	Riverside Avenue at Bridge Street	East	+ 1.35 Miles	N/A	Not Visible
20	Westport Longshore Club Park*	Northeast	+ 1.01 Miles	N/A	Not Visible
21	Oil Mill Road	North	+ 0.66 Mile	N/A	Not Visible
22	Sherwood Island State Park	Northwest	+ 0.88 Mile	20'-30'	Year Round
23	Sherwood Island Connector*	Northwest	+ 0.72 Mile	N/A	Not Visible
24	Sherwood Island Connector	Northwest	+ 0.69 Mile	30'-50'	Year Round
25	Sherwood Island Connector*	West	+ 0.69 Mile	N/A	Not Visible
26	Greens Farms Road	West	+ 0.96 Mile	N/A	Not Visible
27	Beachside Avenue	West	+ 1.33 Miles	N/A	Not Visible

*\*Photograph was taken at 24 mm focal length.  
 All locations photographed during this assessment are located in Westport.*

(Applicants 1, Attachment H)

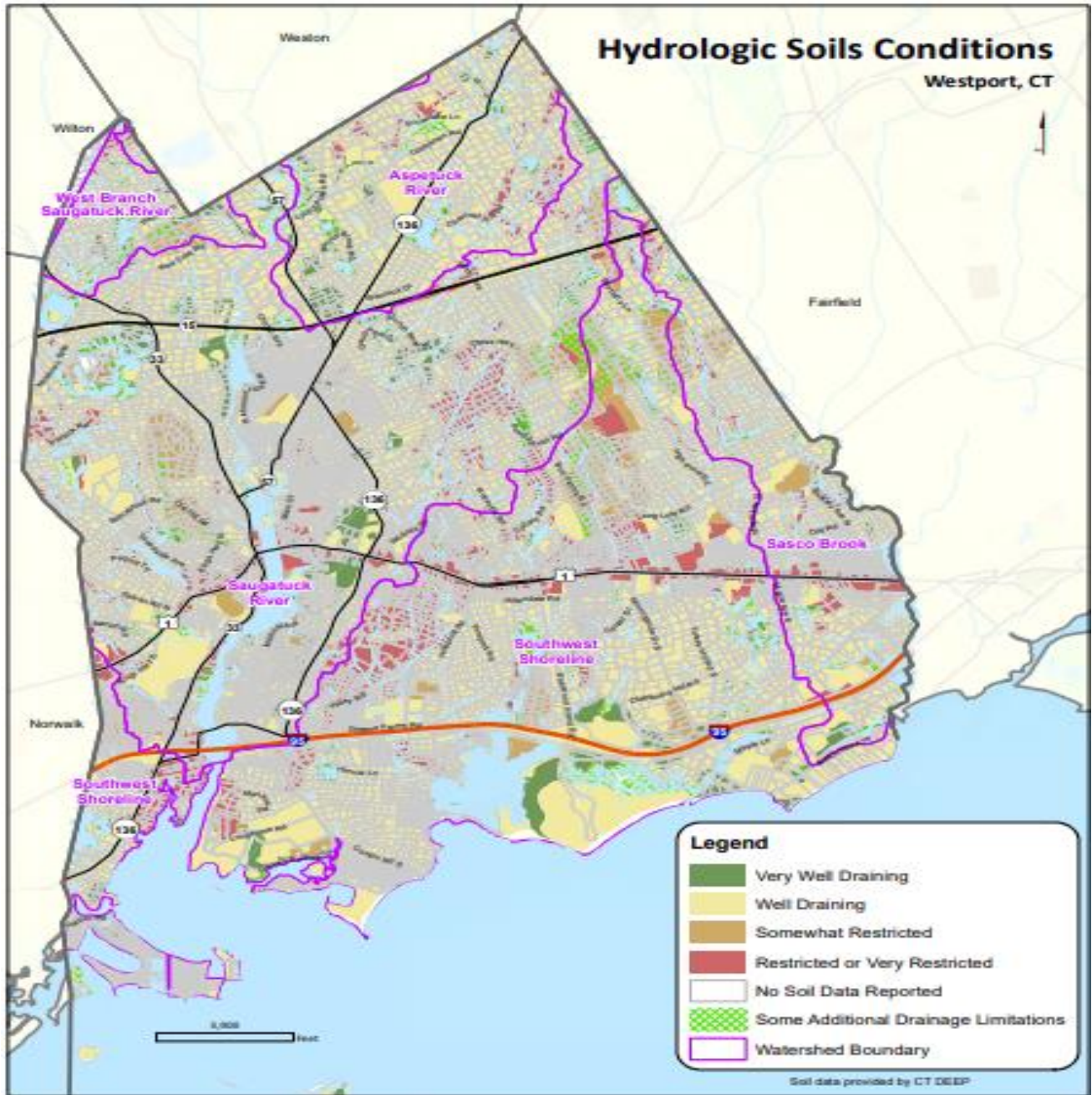


**Figure 15 Town of Westport Scenic Resources Map**



(Applicants 1, TOWN POCD)

**Figure 16 Town of Westport Hydrologic Soil Conditions**



(Applicants 1, Town POCD)

**DOCKET NO. 510** - New Cingular Wireless PCS, LLC d/b/a } Connecticut  
AT&T and Tarpon Towers II, LLC application for a Certificate of }  
Environmental Compatibility and Public Need for the construction, } Siting  
maintenance, and operation of a telecommunications facility }  
located at 92 Greens Farms Road, Westport, Connecticut. } Council

January 5, 2023

### Opinion

On May 26, 2022, Tarpon Towers II, LLC (TT) and New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T) (collectively, Applicants), 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 92 Greens Farms Road, Westport, Connecticut. The purpose of the proposed facility is to provide reliable wireless communications services for AT&T and Cellco Partnership d/b/a Verizon Wireless (Cellco) customers and address significant coverage deficiencies in AT&T and Cellco's networks in portions of southwestern Westport.

The parties to this proceeding are Applicants and the Town of Westport (Town). The Intervenors to this proceeding are Cellco and Donald Bergmann (Bergmann). There are no Connecticut Environmental Protection Act (CEPA) Intervenors to this proceeding. In this Opinion, the Council incorporates its record disposition of all substantive and procedural motions and objections that were raised by the parties and intervenors during the course of 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. FCC preempts state or local regulation on matters that are exclusively within the jurisdiction and authority of 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 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.

Under Connecticut General Statutes (CGS) §16-50p(b), there is a presumption of public need for personal wireless services and the Council is limited to consideration of a specific need for any proposed facility to be used to provide such services to the public.

TT owns and/or operates numerous tower facilities in the state. TT and AT&T would construct, maintain and operate the proposed facility and would be joint Certificate Holders. AT&T and Cellco are licensed by FCC to provide personal wireless communications service throughout the state. Cellco would lease space on the proposed tower for their telecommunications equipment.

The total estimated cost of the proposed facility is \$984,000, inclusive of costs associated with AT&T and Cellco's equipment installations. Neither the project, nor any portion thereof, is proposed to be undertaken by state departments, institutions or agencies or to be funded in whole or in part by the state through any grant or contract. Applicants and Cellco are private entities.

AT&T and Cellco have significant coverage deficiencies in their wireless communications networks in portions of southwestern Westport. Coverage objectives include the deployment of reliable in-vehicle

service on roads and within buildings in the proposed service areas. Public roads in the area without adequate service include, but are not limited to, Interstate-95 (I-95), Greens Farms Road and Hillspoint Road. The Metro North Railroad would also benefit from improved coverage within the proposed service area. Non-reliable service for both carriers was confirmed by coverage modeling and drive testing.

Both carriers would operate at the 700 MHz, 850 MHz, 1900 MHz, 2100 or 2300 MHz, and 3550 or 3700 MHz frequencies, all of which transmit voice and data services. All of AT&T's frequencies and Cellco's 850 MHz, 2100 MHz, and 3700 MHz frequencies are capable of supporting 5G services. In addition to coverage needs, AT&T's proposed installation would provide capacity relief to its existing site at 344 Strawberry Hill Avenue in Norwalk. Cellco's proposed installation would provide capacity relief to its existing site at 880 Post Road East in Westport.

In addition to wireless call capability, AT&T's deployment would feature emergency communication FirstNet services. These services are provided through a federal program to establish emergency communications to areas with deficient wireless service. FirstNet gives emergency responders on AT&T's 700 MHz network first priority to ensure emergency communications are not interrupted.

AT&T's drive tests and propagation modeling indicate that there is an existing coverage gap of about 3.9 square miles of roadway and 1.23 square miles of residential area. Cellco's drive tests and propagation modeling indicate that there is an existing coverage gap of about 3.36 square miles of roadway and 1.54 square miles of residential area.

AT&T's proposed installation at the 120-foot level of the tower would provide a 700 MHz coverage footprint of 1.23 square miles at -83 dBm and 1.02 square miles at -93 dBm. Within the -93 dBm footprint, AT&T's installation would provide 1.6 miles and 8.3 miles of new in-vehicle coverage to main roads and secondary roads, respectively. AT&T's installation would provide approximately 0.4 miles of new in-vehicle coverage along I-95 and approximately 1.7 miles of coverage along the Metro North Railroad.

Cellco's proposed installation at the 108-foot level of the tower would provide a 700 MHz coverage footprint of 1.54 square miles at -85 dB Reference Signal Received Power (RSRP) and 3.36 square miles at -95 dB RSRP, including reliable in-vehicle service to 2.6 miles of I-95, 2.6 miles of Greens Farms Road, 2.5 miles of the Metro North Railroad and 1.7 miles of Hillspoint Road at -95 dB RSRP.

In 2011, TT began searching for a site in the southwest Westport area and subsequently entered into a lease agreement with the property owner for 92 Greens Farms Road in 2013.

Cellco issued a search ring for a site in southwest Westport in the first quarter of 2016. Due to Cellco's awareness of TT's lease agreement at the proposed site, Cellco centered its search ring at 92 Greens Farms Road. Since this location met Cellco's objectives, no other properties were investigated.

AT&T began its search for a site in southwest Westport in December of 2018. The search area was centered at 57 Greens Farms Road and had a search radius of approximately 0.25 miles.

During the municipal consultation, the Town voiced concerns regarding the proposed site and recommended that the Applicants explore alternative sites at 55 Greens Farms Road, the Assumption Cemetery located at 57 Greens Farms Road and the DOT-owned properties located on Hales Road. AT&T and Cellco were able to confirm that a tower facility at all three of the Town's recommended alternative sites would satisfy their coverage objectives; however, all three sites were rejected due to the property owners not being interested in a lease agreement. A significant impact to existing wetlands was also identified for a proposed site at 55 Greens Farms Road. Subsequently, the Town suggested additional



alternative sites at 197 Compo Road South and 200 Nyala Farms, which were rejected due to insufficient space and inadequacy for AT&T's wireless network service objectives, respectively.

Small cells or distributed antenna systems would not be a practicable or feasible means of addressing the existing coverage deficiency within the proposed service area. Small cells are typically installed to provide added network capacity and fill-in coverage within a limited specific area with a higher population density. The proposed tower (macrosite) would enable AT&T and Cellco to provide wireless service to a large area.

A small cell is usually limited to one frequency, would offer significantly reduced signal propagation and would not support AT&T's FirstNet public safety network. In addition, handoffs between small cells would not be able to keep up with the average vehicle speed on highways such as I-95

The Applicants investigated 10 potential sites in total for tower development and 9 of these were ultimately rejected due to the property owners not being interested in a lease agreement or the inability of the potential site locations to satisfy the carriers coverage objectives. During the proceeding, Applicants investigated 2 additional potential sites suggested by the Council that are directly adjacent to existing AT&T sites and would not meet AT&T's coverage objectives.

For any site to be considered a feasible and prudent alternative to a proposed facility site, it must be available to host the proposed facility. Although many sites were examined and many landowners were not interested in a lease agreement for a wireless facility, the Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility nor shall the Council be limited in any way by the Applicants having already acquired land or an interest therein for the purpose of siting a facility.

As of September 22, 2022, at the close of the evidentiary record in the proceeding, DOT had not corresponded further with the Town or Applicants, and DOT did not submit any comments to the Council. Although the Town believes alternative sites have not been fully considered, based on the record in this proceeding, the Council finds the alternatives identified by the Town and the DOT-owned properties preferred by the Town are not available to host the proposed facility. Thus, the proposed facility site is the only available site that would meet both AT&T and Cellco's coverage objectives.

Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over telecommunications facilities throughout the state. It shall consider any location preferences provided by the host municipality under CGS §16-50gg as the Council shall deem appropriate.

The Town opposed the proposed site because it is located in a residential district and expressed a preference for the tower to be located at the DOT-owned properties on Hales Road. However, those properties are also located in residential districts and are not available to host the proposed facility. The Town also expressed a preference for a natural gas-fueled emergency backup generator and the planting of evergreen trees to provide screening of the compound and associated equipment; however, the Town did not express a preference for a stealth design. The Council will order use of natural gas to fuel the backup generator, if feasible, and development of a landscaping plan for the tower compound and associated equipment as part of the Development and Management (D&M) Plan.

Pursuant to CGS §16-50p(b), the Council shall examine whether the proposed facility may be shared with any public or private entity that provides service to the public, provided such shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, and may impose reasonable conditions as it deems necessary to promote the immediate and shared use of telecommunications facilities and avoid the unnecessary proliferation of such facilities in the state. The proposed facility would be designed to accommodate four wireless carriers and local emergency service



providers and municipal antennas. The Town has not expressed an interest in co-locating emergency services antennas on the proposed facility.

The proposed site consists of a 124-foot monopole located in the western portion of the 1.99-acre residentially-zoned parcel. The host parcel is developed with a residence located in the central portion of the parcel, accessed from a driveway extending from Greens Farms Road. The remaining areas on the parcel consist of a mostly wooded area slightly sloping downward from the east of the residence.

The tower would be located at an elevation of 27 feet above mean sea level. A 2,240 square-foot equipment compound would be established at the base of the tower, with space to accommodate the equipment of four carriers and municipal emergency services.

AT&T proposes to install twelve antennas at a tower centerline height of 120 feet above ground level (agl). Cellco would install twelve antennas at a tower centerline height of 110 feet agl. AT&T and Cellco would install equipment cabinets on concrete pads within the compound.

In the event an outage of commercial power occurs at the proposed site, AT&T is proposing to install a 20-kW diesel-fueled generator with a built-in 92-gallon tank with a run time of 48 hours and Cellco proposes to install a 30-kilowatt diesel-fueled generator with a built-in 200-gallon fuel tank for backup power. Cellco estimates that a diesel-fueled generator would enable it to save between \$35,000 and \$50,000 in additional project costs. In addition, both carriers would utilize a 4-6 hour battery backup at the site to prevent a reboot condition. TT investigated extending an existing natural gas line from the street to the compound and estimates that it would cost approximately \$15,000.

The compound would be accessed via a proposed 25-foot wide access and utility easement which would include a 12-foot wide gravel vehicular driveway extending south from Greens Farms Road about 125 feet to the compound access gate located in the southeastern corner of the compound. The easement design includes a vehicle turnaround on its south side just before the access gate. The access drive would have a finished gradient of 10 percent.

Power and telco utilities would extend underground from the eastern side of the compound to the proposed access easement and then north within the access easement to a new utility pole on Greens Farms Road. An overhead utility line would extend from the new utility pole across Greens Farms Road to an existing utility pole on the opposite side of the road.

The proposed tower would be approximately 145 feet from the residence on the host property and 118 feet from the shoulder of I-95. The nearest residential property line from the base of the tower is approximately 232 feet to the east (102 Greens Farms Road). There are approximately 67 residences within 1,000 feet of the host parcel while there are approximately 228 residential properties within 1,000 feet of the DOT-owned Hales Road parcel.

The tower setback radius for the proposed site location would extend beyond the boundary of the host parcel to the south by 89 feet. TT would design a tower yield point at 89-foot level of the tower to ensure the tower setback radius remains within the boundaries of the host parcel.

Blasting is not anticipated. If necessary, TT would utilize a jack hammer for rock removal.

A wetland inspection report identified two wetland areas located within the adjacent DOT ROW along the southern and western boundaries of the host parcel. Wetland 1 is located approximately 85 feet southwest of the proposed fenced compound and consists of a small, narrow, and isolated wetland feature formed

within a small topographic depression that shows signs of previous disturbance Wetland 2 is located approximately 40 feet south of the proposed access easement at its closest point and consists of a narrow (10-12 feet wide) channelized watercourse which begins at an existing 72-inch wide reinforced concrete pipe culvert and flows eastward parallel to I-95 that shows signs of previous disturbance. This wetland is seasonally saturated and occasionally flooded.

The distance from the construction limits of disturbance for the access road to Wetland 2 is approximately 30 feet. The Council will order Applicants to increase the wetland buffer from the vehicle turnaround area of the access drive as part of the D&M Plan.

Development of the site would disturb an approximate 5,365 square foot area and would not require a DEEP-issued Stormwater Permit. TT would install appropriate erosion and sedimentation (E&S) controls in compliance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control* (2002 E&S Guidelines). Stormwater generated by the construction of the tower facility would be managed in accordance with the *2004 Stormwater Quality Manual*.

Eight trees with a diameter of six inches or greater at breast height would be removed to develop the site. The facility is not located within a DEEP Natural Diversity Database (NDDDB) buffer area. The site is within the range of the northern long-eared bat (NLEB), a federally-listed threatened species and state-listed endangered species; however, there are no known NLEB hibernacula or known maternity roost trees within 0.25 miles and 150-feet, respectively, of the proposed site. TT would implement U.S. Fish and Wildlife Service (USFWS)-recommended measures for NLEB conservation. The project area does not provide suitable habitat for other federally-listed species identified by USFWS.

The site is approximately 7.5 miles northeast of the Nature Conservancy's Devil's Den Preserve in Weston, an Important Bird Area (IBA), as designated by the National Audubon Society. The proposed facility would not affect the IBA and would comply with the USFWS guidelines for minimizing the potential for telecommunications towers to impact bird species.

The host parcel is not within a flood zone. It does not contain prime farmland soil. Operation of the facility would comply with DEEP Noise Control Standards.

No resources listed on the State or Natural Register of Historic Places were identified within 0.5-mile of the site and thus, no impact to historic resources is expected. The State Historic Preservation Office determined the proposed facility would have no adverse effect on historic or archeological resources.

Applicants prepared a visual impact assessment of the site utilizing a two-mile radius study area (Study Area-8,042 acres) and computer modeling that was supplemented with in-field studies. These analyses were used by Applicants to generate photo-simulations of the proposed tower.

Based on the visual impact assessment, the proposed tower would be visible year-round from approximately 439 acres (5.5% of the Study Area), of which 408 acres will occur from over open water on Sherwood Mill Pond. The tower would also be seasonally visible (leaf-off conditions from November to early May) from approximately 538 acres (6.7%) of the Study Area.

Approximately 50 residences within 0.5 miles of the proposed facility would have seasonal and year round views of the facility. 13 of those residences, including the host property, would have year-round views and 37 residences would have seasonal views. The tower would be seasonally visible from Greens Farms Road within 0.23 miles of the site while some sections of the road would have year-round visibility of the upper portion of the tower.

Approximately 75.8% of the predicted visibility occurs over open water and the associated tidal marsh areas. The upper portion of the tower would be visible from the western portions of Sherwood Island State Park, mostly along the shoreline of Sherwood Millpond.

A stealth monopine facility at the proposed site would cost an additional \$40,000 plus \$1,000 to \$4,000 annually for maintenance and would be more visible above the existing tree line due to the lack of existing pine trees, the addition of branches, an increased profile width of 25 to 37 feet and the comparably low height of the existing tree line.

Pursuant to CGS §16-50p(b), the Council shall examine whether the proposed facility would be located in an area of the state which the Council, in consultation with DEEP and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance and the latest facility design options intended to minimize aesthetic and environmental impacts.

The Town considers Greens Farms Road to be scenic in character, as defined in the Town's Plan of Conservation and Development (POCD), in addition to views to and from Long Island Sound and the Saugatuck River. However, the POCD marks scenic views with directional arrows, which point toward Long Island Sound rather than toward the proposed site. Route 136, a state designated scenic road, is located approximately 0.69 miles west of the site.

The proposed site is located within a Town-designated scenic area, the boundaries of which match the boundaries of the DEEP-designated Coastal Area. The designated scenic area includes existing tower facilities at 20 Post Office Lane, 45 Ferry Lane, and 221 Post Road West as well as travel corridors (I-95, Metro North Railroad) and electric transmission line structures associated with a transmission line right-of-way.

The Council finds that the proposed facility would not be located in an area of the state that possesses scenic quality of local, regional or state-wide significance and would not substantially affect the scenic quality of its location or surrounding neighborhood. The Council also finds that landscaping with evergreen trees to screen the compound and associated equipment, as recommended by the Town, minimizes aesthetic impacts.

The host parcel is located within the coastal resource boundary, as defined by the Connecticut Coastal Management Act (CCMA). None of the coastal resources identified by the CCMA would be adversely affected by construction or operation of the tower. The resources include, but are not limited to, tidal rivers, streams and creeks, wetlands and marshes, intertidal mudflats, beaches and dunes, bluffs and headlands, islands, rocky shorefronts, and adjacent shorelands.

No public schools or commercial child day care facilities are located within 250 feet of the proposed site.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T and Cellco's proposed antennas to be installed on the tower have been calculated to amount to 59.5 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure (MPE), as measured at the base of the tower. This is conservatively based on all antennas of a given sector pointing down to the ground and emitting maximum power. This percentage is below federal standards established for the frequencies used by wireless companies. As part of the D&M Plan, the Council will require a rigorous cumulative far-field radio frequency analysis for the facility that accounts for all entities on the tower, a 6-foot tall person at ground level and the actual antenna pattern for

the proposed facility with a cumulative percent MPE at or below 100 percent, consistent with FCC methodology.

If federal power density 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 entities 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. Potential harm to wildlife from radio frequency emissions, like the potential harm to human health from radio frequency emissions, is a matter of exclusive federal jurisdiction. The Council's role is to ensure that the tower meets federal permissible exposure limits.

The Council finds that the proposal 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 the proposal represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the 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 policies of the state concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, maintenance, and operation of a 124-foot monopole telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut.

**DOCKET NO. 510** - New Cingular Wireless PCS, LLC d/b/a } Connecticut  
AT&T and Tarpon Towers II, LLC application for a Certificate of }  
Environmental Compatibility and Public Need for the construction, } Siting  
maintenance, and operation of a telecommunications facility }  
located at 92 Greens Farms Road, Westport, Connecticut. } Council

January 5, 2023

### Decision and Order

Pursuant to Connecticut General Statutes (CGS) §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 (Certificate), as provided by CGS §16-50k, be issued to New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC, hereinafter referred to as the Certificate Holders, for the construction, maintenance and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, 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 124 feet above ground level to provide the proposed wireless services, sufficient to accommodate the antennas of AT&T, Cellco Partnership d/b/a Verizon Wireless and other entities, both public and private. The height of the tower may be extended after the date of this Decision and Order (D&O) pursuant to regulations of the Federal Communications Commission (FCC).
2. The Certificate Holders 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 (RCSA). The D&M Plan shall be provided to the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
  - a) 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;
  - b) Construction plans for site clearing, grading, water drainage and stormwater control, site stabilization measures during construction; and erosion and sedimentation (E&S) controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended;
  - c) A reconfiguration or removal of the vehicle turnaround located just before the access gate to increase the buffer between the limit of disturbance and Wetland 2;
  - d) the tower shall be designed with a yield point to ensure that the tower setback radius remains within the boundaries of the subject property;
  - e) Landscaping Plan including, but not limited to, evergreen plantings to screen the compound and associated equipment;

- f) The feasibility of a natural gas connection for the emergency backup generators;
  - g) Petroleum Materials Storage and Spill Prevention Plan including, but not limited to, spill cleanup procedures, and detailed contact information for the spill response contractor; and
  - h) construction schedule including hours and days of the week for construction activities.
3. Deployment of any 5G services must comply with FCC and Federal Aviation Administration guidance relative to air navigation, as applicable.
4. Prior to the commencement of operation, the Certificate Holders shall provide the Council with a rigorous cumulative far-field radio frequency analysis for the facility that accounts for all entities on the tower, a 6-foot tall person at ground level and the actual antenna pattern for antennas on the facility with a cumulative percent maximum permissible exposure at or below 100 percent, consistent with FCC, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holders shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this D&O.
5. Upon the establishment of any new federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
6. Radio frequency access restriction and caution signage shall be installed at the site in compliance with FCC guidance.
7. The Certificate Holders shall provide the Council with a copy of necessary permits from any other state or federal agency with concurrent jurisdiction prior to the commencement of construction.
8. The Certificate Holders shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
9. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed with at least one fully operational wireless telecommunications carrier providing wireless service within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, D&O (collectively called "Final Decision"), this D&O shall be void, and the Certificate Holders shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holders shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
10. Any request for extension of the time period referred to in Condition 9 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of Westport.
11. If the facility ceases to provide wireless services for a period of one year, this D&O shall be void, and the Certificate Holders shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council within 90 days from the one year period of cessation of service. The Certificate Holders may submit a written request to the Council for an extension of the 90 day period not later than 60 days prior to the expiration of the 90 day period.

12. Any nonfunctioning antenna, and associated antenna mounting equipment, on this facility shall be removed within 60 days of the date the antenna ceased to function.
13. In accordance with RCSA §16-50j-77, the Certificate Holders shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holders shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.
14. The Certificate Holders shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under CGS §16-50v.
15. This Certificate may be transferred in accordance with CGS §16-50k(b), provided both the Certificate Holders/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under CGS §16-50v. In addition, both the Certificate Holders/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under CGS §16-50v(b)(2) that may be associated with this facility. If construction has not been completed in accordance with Condition 9 of this D&O at the time the Certificate is requested to be transferred, a certified letter from a wireless telecommunications carrier with a firm commitment to install associated wireless equipment at the facility upon completion of construction shall also be provided.
16. The Certificate Holders shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this D&O and a D&M Plan to be approved by the Council.
17. If the Certificate Holders is a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, or if the Certificate Holders transfers management and operations of the facility to another corporation or other entity, the Council shall be notified in writing of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.
18. This Certificate may be surrendered by the Certificate Holders upon written notification and acknowledgment by the Council.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each party and intervenor or its authorized representative, as listed in the Service List, dated September 23, 2022, and notice of issuance published in the Westport News in accordance with CGS §4-180(c) and CGS §16-50p(f).

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party and intervenor named or admitted to the proceeding in accordance with RCSA §16-50j-17.

## CERTIFICATION

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 510** – New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut, and voted as follows to approve the proposed site:

<u>Council Members</u>	<u>Vote Cast</u>
<u>/s/ John Morissette</u> John Morissette, Presiding Officer	Yes
<u>/s/ Quat Nguyen</u> Chairman Marissa Paslick Gillett Designee: Quat Nguyen	Yes
<u>/s/ Brian Golembiewski</u> Commissioner Katie Dykes Designee: Brian Golembiewski	Yes
<u>/s/ Robert Silvestri</u> Robert Silvestri	Yes
<u>/s/ Daniel P. Lynch, Jr.</u> Daniel P. Lynch, Jr.	Yes
<u>/s/ Mark Quinlan</u> Mark Quinlan	Absent

Dated at New Britain, Connecticut, January 5, 2023.





## STATE OF CONNECTICUT

### CONNECTICUT SITING COUNCIL

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E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

Web Site: [portal.ct.gov/csc](http://portal.ct.gov/csc)

### VIA ELECTRONIC MAIL

January 6, 2023

TO: Classified/Legal Supervisor  
**510230106**  
Westport News  
410 State Street  
Bridgeport, CT 06605  
[nhlegals@hearstmedia.com](mailto:nhlegals@hearstmedia.com)

FROM: Lisa A. Mathews, Office Assistant

RE: **DOCKET NO. 510** – New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut.

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Please publish the attached legal notice for one day on the first day possible from receipt of this notice.

Please send an affidavit of publication and invoice to my attention.

Thank you.

LM



## STATE OF CONNECTICUT

### *CONNECTICUT SITING COUNCIL*

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

Web Site: [portal.ct.gov/csc](http://portal.ct.gov/csc)

### NOTICE

Pursuant to General Statutes § 16-50p (a), the Connecticut Siting Council (Council) announces that, on January 5, 2023, the Council issued Findings of Fact, an Opinion, and a Decision and Order approving an application from New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers II, LLC for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 92 Greens Farms Road, Westport, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.