

<p>DOCKET NO. 511 – Barrett Outdoor Communications application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 200 East Main Street Rear, Stratford, Connecticut.</p>	<p>} Connecticut } Siting } Council</p>
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January 19, 2023

Findings of Fact

Introduction

1. On October 15, 2021, Barrett Outdoor Communications (BOC) submitted a petition to the Connecticut Siting Council (Council) for a declaratory ruling, pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k, for the proposed replacement of an existing non-tower antenna array (NTAA) structure located at 28 Sidney Street in Stratford on a parcel that was merged with 100 East Main Street and is owned by UB Stratford, LLC with a new 125-foot monopole telecommunications facility to be located at 200 East Main Street Rear in Stratford, Connecticut (Petition 1467). (Council Administrative Notice Item No. 34 – Petition 1467 Record)

2. The existing NTAA structure is a billboard that was approved by the Town of Stratford (Town) in 1979. It currently supports Verizon and T-Mobile antennas at centerline heights of 65.7 feet above ground level (agl) and 60 feet agl, respectively. The top of the antennas extend to a height of approximately 72.5 feet agl. (Council Administrative Notice Item No. 34 – Petition 1467 Record)

3. In 2018, in connection with a redevelopment plan known as the Dock Shopping Center, the Town approved a new billboard at the shopping center, approximately 380 feet northeast of the existing NTAA structure. This new billboard is 87 feet tall, but due to overall site redevelopment into a shopping center, the property owner was not interested in allowing antenna co-location on the new billboard. (Council Administrative Notice Item No. 34 – Petition 1467 Record)

4. According to the Town-approved redevelopment plan, a Starbuck’s is proposed for construction at the location of the existing NTAA Structure. (Council Administrative Notice Item No. 34 – Petition 1467 Record)

5. For the proposed Petition 1467 replacement facility, Verizon required a minimum antenna height at the 121-foot level, T-Mobile did not provide information on its antenna height, and AT&T expressed interest in collocation at the 131-foot level, which would have required a 20-foot height extension. (Council Administrative Notice Item No. 34 – Petition 1467 Record)

6. The only party to Petition 1467 was BOC. Although reference was made to Verizon, T-Mobile and AT&T, there were no other parties or intervenors. (Council Administrative Notice Item No. 34 – Petition 1467 Record)

7. The Council issued two sets of interrogatories to BOC in Petition 1467 on November 10, 2021 and January 25, 2022. BOC responded to the Council’s interrogatories on December 15, 2021, January 11, 2022 and February 4, 2022. (Council Administrative Notice Item No. 34 – Petition 1467 Record)

8. On February 25, 2022, the Council denied Petition 1467 on the following bases;
 - a) the new telecommunications tower is a “facility” over which the Council has jurisdiction that requires a Certificate of Environmental Compatibility and Public Need (Certificate) pursuant to CGS §16-50i and §16-50k;

- b) the existing NTAA structure, a billboard, is not a “facility” over which the Council has or had jurisdiction nor is it a “tower” pursuant to Regulations of Connecticut State Agencies (R.C.S.A) §16-50j-2a(30); and
 - c) the Council has not balanced the public need with the environmental effects of the proposed facility site in accordance with the certification criteria under CGS §16-50p.
(Council Administrative Notice Item No. 34 – Petition 1467 Record)
9. In its final decision, the Council determined the existing NTAA structure cannot be replaced by the proposed new facility through a declaratory ruling pursuant to CGS §4-176 and §16-50k. The proposed new facility is required to obtain a Certificate in accordance with provisions of the Public Utility Environmental Standards Act (PUESA), CGS §16-50g, *et seq.* (Council Administrative Notice Item No. 34 – Petition 1467 Record)
10. On May 6, 2022, BOC, in accordance with provisions of PUESA, applied to the Council for a Certificate for the construction, maintenance, and operation of a 135-foot monopole telecommunications facility to be located at 200 East Main Street Rear in Stratford, Connecticut (refer to Figure 1). This is the same site that was proposed in Petition 1467. (BOC 1, pp. 1-2)
11. BOC, based in West Haven, Connecticut, provides outdoor advertising billboards along transportation corridors throughout the state. It hosts wireless carriers on nine billboard sites in New Haven, Stratford and West Haven. (BOC Administrative Notice No. 1; BOC 1, pp. 1-2)
12. BOC entered into a Telecommunications Easement Agreement with UB Dockside, LLC (200 East Main Street, Front parcel) and UB Railside, LLC (200 East Main Street, Rear parcel) for the proposed site. (Council Administrative Notice Item No. 34 – Petition 1467, Record)
13. The party to this proceeding is BOC. The Intervenors to this proceeding are Dish Wireless, LLC (DISH), Cellco Partnership d/b/a Verizon Wireless (Cellco), and New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T). (Record)
14. There are no Connecticut Environmental Protection Act (CEPA) Intervenors in this proceeding. (Record)
15. The purpose of the proposed facility is to replace the existing NTAA structure with a new structure capable of supporting multiple tower tenants and to provide network improvements for telecommunications carriers. The proposed facility would improve upon Cellco’s existing wireless services and would provide reliable wireless communications services for DISH and AT&T to the surrounding area. (BOC Administrative Notice No. 1; BOC 1, p. 3; DISH 1; Cellco 1, AT&T 1)
16. 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); Council Administrative Notice Item No. 4)
17. 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))

18. Pursuant to C.G.S. §16-50l (b), BOC provided public notice of the filing of the application that was published in the Connecticut Post on July 19 and July 21, 2022. (BOC 2)
19. Pursuant to C.G.S. §16-50l (b), notice of the application was provided to all abutting property owners by certified mail on July 22, 2022. (BOC 1 p. 2, Attachment 3; BOC 3, response 1)
20. On July 22, 2022, BOC provided notice to all federal, state and local officials and agencies listed in C.G.S. §16-50l (b). (BOC 1, p. 3, Attachment 2)

Procedural Matters

21. 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. 57)
22. 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. 57)
23. 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 Nos. 57 and 58)
24. 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. 56; C.G.S. §1-200, *et seq.* (2021))
25. 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. 56)
26. Upon receipt of the application, on July 26, 2022 the Council sent a letter to the Town and the City of Milford (City), which is located within 2,500 feet of the proposed facility site, as notification that the application was received and is being processed, in accordance with C.G.S. §16-50gg. No comments from the Town or City were received. (Record)
27. 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))

28. During a regular Council meeting on August 18, 2022, the application was deemed complete pursuant to R.C.S.A. §16-50l-1a and the public hearing schedule was approved by the Council. (Record)
29. Pursuant to C.G.S. § 16-50m, on August 19, 2022, the Council sent a letter to the Town and City, to provide notification of the scheduled public hearing via Zoom conferencing and to invite the municipalities to participate. (Record)
30. 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 Connecticut Post on August 23, 2022. (Record; Transcript 1 – October 6, 2022 - 2:00 p.m. [Tr. 1], p. 5)
31. 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))
32. On September 6, 2022, in lieu of an in-person field review of the proposed site, the Council requested that BOC submit photographic documentation of site-specific features into the record intended to serve as a “virtual” field review of the site. On September 22, 2022, BOC submitted such information in response to the Council’s interrogatories. (Record; BOC 4, response 2)
33. Pursuant to C.G.S. §16-50p(g), the Council shall in no way be limited by BOC 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))
34. 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. (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))
35. On September 7, 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 August 31, 2022; R.C.S.A §16-50j-22a; R.C.S.A. §16-50j-26)
36. In compliance with R.C.S.A. §16-50j-21, on September 9, 2022 BOC installed a four-foot by eight-foot sign at the entrance to 200 East Main Street Rear, where the access intersects with East Main Street. The sign presented information regarding the proposed telecommunications facility and the Council’s public hearing. (BOC 3; Tr. 1, p. 5; Record)
37. Pursuant to C.G.S. § 16-50m, the Council gave due notice of a remote public hearing to be held on October 6, 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 August 19, 2022; Tr. 1, p. 1; Transcript 2 – October 6, 2022 - 6:30 p.m. [Tr. 2], p. 93)

38. 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. (Tr. 1, pp. 6-7; Tr. 2 pp. 95, 98; C.G.S. §16-50n(f) (2021))
39. No oral limited appearance statements were made during the public comment session of the Council's hearing held on October 6, 2022. (Tr. 2)
40. 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 October 6, 2022 and October 18, 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 August 19, 2022; Tr. 1; Tr. 2; Record)
41. 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)
42. BOC's witnesses prepared, supervised or assisted in the preparation of BOC's exhibits. The Council, parties and intervenors were provided opportunities to cross examine BOC's witness panel on the exhibits. (BOC 1-4; Tr. 1; Record)
43. 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).
44. Pursuant to C.G.S. §16-50n(f), at the conclusion of the hearing session held on October 6, 2022, the Council closed the evidentiary record for Docket 511 and established November 5, 2022 as the deadline for public comments and the submission of briefs and proposed findings of fact. (Record)
45. On October 25, 2022, BOC submitted a post-hearing brief. On October 26, 2022, Cellco submitted a letter in lieu of a post-hearing brief. On November 1, 2022, AT&T submitted a letter in lieu of a post-hearing brief. On November 3, 2022, DISH submitted a post-hearing brief. (Record)
46. 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

47. Pursuant to C.G.S. § 16-50j (g), on August 19, 2022, the following state agencies were solicited by the Council to submit written comments regarding the proposed facility: 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)
48. On August 26, 2022, the Council received comments from CAA related to 5G-C band operation at the proposed site.¹ Aviation safety, among other safety concerns, are addressed in the Public Safety section of this document, pursuant to C.G.S. §16-50p. (Record; C.G.S. §16-50p (2021))
49. No other state agencies responded with comment on the application. (Record)
50. 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. (C.G.S. §16-50p(g) (2021); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007)).

Municipal Consultation

51. Pursuant to C.G.S. § 16-50l(f), BOC satisfied the 90-day pre-application municipal consultation process by submitting a technical report for the proposed Petition 1467 facility to the Town and City on March 29, 2021. (BOC 1, p. 8; Council Administrative Notice Item No. 34, Record; BOC Administrative Notice Item No. 1, Attachment 4)
52. The Town and City submitted letters in support of the project on June 8, and April 13, 2021, respectively. (BOC 1, p. 8; BOC Administrative Notice Item No. 1, Attachment 4)

Public Need for Service

53. 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)
54. 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)
55. 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)

¹[TO: Parties & Intervenors \(ct.gov\)](#) CAA comments, dated August 26, 2022)

56. 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)
57. 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)
58. 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)
59. 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)
60. 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)
61. 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)
62. 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)

63. 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)
64. 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)
65. 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)
66. On August 19, 2022, the Council sent correspondence to T-Mobile, who did not intervene in the proceeding, requesting notification of any interest in collocating on the proposed facility in the foreseeable future by September 29, 2022. T-Mobile did not respond. (Record)
67. BOC contacted T-Mobile in September 2022. T-Mobile indicated that it would locate at the 111-foot level of the tower. T-Mobile would be required to submit a request for tower sharing with the Council if the proposed facility is approved. (Tr. 1, pp. 15-16, 22; C.G.S. §16-50aa (2021))
68. The facility would be designed to accommodate four wireless carriers and municipal emergency communications equipment. (BOC 1, p. 3, Attachment 1)
69. The tower and foundation would be designed to accommodate a 10 to 20-foot extension to accommodate future tower sharing, if necessary. (BOC 1, Attachment 1)
70. Although the initial Petition 1467 site plans depicted the Town and Red Cross as tenants on the replacement tower, these entities do not intend to install antennas at the proposed site. (BOC Administrative Notice No. 1, Attachment 1.1, Record; Tr. 1, pp. 19-20)
71. The proposed site is in a heavily developed area containing major traffic corridors, Route 1, Route 110, Interstate 95 (I-95) and the Metro-North Railroad (MNRR). The DOT traffic counts per day for the roadways adjacent to the site include 88,400 vehicles on I-95, 14,400 vehicles on Route 110 and 29,900 on Route 1. Data for the MNRR was not available. (BOC 1, Attachment 4)

Cellco Existing and Proposed Wireless Services

72. Cellco is currently located on the NTAA structure at a height of approximately 68 feet agl. Cellco would locate at a significantly higher location on the proposed structure, 121 feet agl, which would increase coverage and capacity services to the surrounding area, particularly to the north where substandard service currently exists. (BOC 1, p. 3; Cellco 2, responses 7, 11 & 12)
73. Cellco proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 3550 MHz, and 3700 MHz frequencies at the site. The 850 MHz, and 3700 MHz frequencies are capable of supporting 5G services. (BOC 1, Attachment 7; Cellco 2, response 7, response 12)

74. 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 8)
75. Cellco currently operates six facilities within an approximate three-mile radius of the proposed site. None of these facilities provide reliable network services to the proposed service area (refer to Figure 2). (Cellco 2, responses 9, 11 & 12)
76. Cellco's proposed installation at the 121-foot level of the tower would provide a 700 MHz coverage footprint of 3.3 square miles at -85 dB RSRP and 9.0 square miles at -95 dB RSRP (refer to Figure 3). (Cellco 2, response 7, Attachment 1)
77. Cellco's installation would provide reliable in-vehicle service to the following travel corridors:
 - a. I-95 - 3.5 miles;
 - b. Route 1 - 3.4 miles;
 - c. MNRR - 3.7 miles; and
 - d. Route 110 - 1.6 miles.(Cellco 2, response 7)
78. In addition to providing reliable service to the surrounding area, the proposed site would also provide capacity relief to the proposed site area (above what the NTAA installation provided) and to Cellco's existing Stratford West facility (alpha sector). The additional capacity would be accomplished by using a four-sector array instead of the three-sector array currently used on the NTAA Structure. (Cellco 2, response 11; Tr. 1, pp. 60-61)

AT&T Existing and Proposed Wireless Services

79. AT&T has a significant coverage deficiency in its wireless communications network in portions of eastern Stratford. Major travel corridors in this underserved area include Route 1, Route 110, Route 113, I-95 and the MNRR. (BOC 1, p. 3; Attachment 4; AT&T 2, Attachment 2)
80. AT&T proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz and 3700 MHz frequencies at the site. The 850 MHz, 1900 MHz, 2100 MHz and 2300 MHz frequencies are capable of supporting 5G services; however, only the 850 MHz frequency would be deployed initially. (BOC 1, Attachment 4, Attachment 7; Tr. 1, pp. 80-81)
81. AT&T designs its 700 MHz network using -83 dBm signal level threshold for reliable in-building service and a -93 dBm signal level threshold for reliable in-vehicle service. The 1900 MHz LTE network operates at -86 dBm and -96 dBm thresholds, respectively. (BOC 1, Attachment 4)
82. AT&T currently operates nine facilities within an approximate three-mile radius of the proposed site. None of these facilities provide reliable network services to the proposed service area (refer to Figure 4). (AT&T 2, Attachments B and C)
83. AT&T's proposed installation at the 132-foot level of the tower would provide a 700 MHz coverage footprint of 1.4 square miles at -83 dBm and an additional 1.3 square miles at -93 dBm. (BOC 1, Attachment 4)
84. Within the -93 dBm footprint, reliable service would be provided to 3.4 miles of main roads and 15.4 miles of secondary roads (refer to Figure 5). "Main roads" include Route 110, Route 113, Barnum Avenue Cutoff, East Main Street, Ferry Blvd., Huntington Road in Stratford, and Milford Point Road, and Naugatuck Avenue in Milford. (BOC 1, Site Location Map, Attachment 4; AT&T 2, response 7)

85. In addition to providing reliable service to the surrounding area, the proposed site would also provide capacity relief at the 700 MHz frequency to three AT&T sites in the surrounding area. (AT&T 2, response 8)

DISH Existing and Proposed Wireless Services

86. DISH has a significant coverage deficiency in its wireless communications network in portions of eastern Stratford and western Bridgeport. DISH selected this site due to its proximity to I-95. Major travel corridors in this area are Route 1, Route 110, Route 113, I-95 and the MNRR. (BOC 1, p. 3; Attachment 4; DISH 2, Attachment 2)
87. DISH proposes to operate at the 600 MHz, 2000 MHz, 2100 MHz frequencies and all are capable of supporting 5G services. (DISH 2, response 8)
88. DISH designs its 600 MHz network using -96 dBm signal level threshold for reliable in-building service and -101 dBm signal level threshold for reliable in-vehicle service. The 2000-2200 MHz frequencies operate at -105 dBm and -110 dBm thresholds, respectively. (DISH 2, response 6)
89. DISH does not have any operating facilities within a mile of the site. DISH is planning a rooftop NTAA at 2399 Main Street, Stratford, approximately 1.2 miles southwest of the site. This planned NTAA is located adjacent to I-95 and would have antennas mounted at a centerline height of 49 feet agl. This planned NTAA would not provide reliable network services to the proposed service area (refer to Figure 6). (DISH 2, Attachment 1; Tr. 1, pp. 49-50, 73-76)
90. DISH's proposed installation at the 91-foot level of the tower would provide a 600 MHz coverage footprint of 12.2 square miles at -101.1 dBm. (DISH 2, response 7, Attachment 1)
91. Within the 600 MHz footprint, reliable service would be provided to 3.3 miles of I-95 as well as service to Route 110 and Route 113 north of the site in Stratford and Route 1 and Naugatuck Avenue in Milford (refer to Figure 7). (DISH 2, response 7, Attachment 1)
92. The site is designed to assist DISH in meeting its obligation under a U.S. Department of Justice Stipulation and Order to deploy wireless services to at least 70 percent of the U.S. population no later than June 14, 2023. (DISH 2, response 7, response 9)

Site Selection

93. The existing NTAA structure would be removed as part of a property redevelopment plan (refer to Figure 8). BOC selected the proposed site based on the height of the new buildings within the redevelopment plan and the property owner's desire to move the proposed facility further from the redevelopment. Other factors considered in site selection include the location in a commercial district adjacent to a shopping center, I-95 and the MNRR, lack of sensitive environmental resources and distance from residential areas to the north and south. The proposed site is approximately 1,250 feet northeast of the NTAA Structure. (Council Administrative Notice Item No. 34 – Petition 1467, Record)
94. Prior to submitting the Application to the Council, BOC/Cellco examined nine other locations as potential alternatives to the proposed site that were rejected, as follows;
- a. **200 East Main Street (Stop & Shop)** – Abuts the host parcel along East Main Street. The property owner was not interested in leasing any locations in the front or rear of the host parcel other than the proposed site;

- b. **250 East Main Street (Ashcroft, Inc.)** – the property is located in a flood zone;
 - c. **350 Barnum Avenue (Home Depot/WalMart)** – the property is a capped Superfund site;
 - d. **955 Ferry Boulevard (Edge Fitness)** – the property is located near a residential area;
 - e. **NRG power plant smokestacks** – the facility owner was not interested in a lease;
 - f. **Electric transmission line structures adjacent to MNRRC**–co-use restrictions by the utility company;
 - g. **335 Ferry Boulevard, billboard** –structure is too close (<0.5 mile) to an existing Cellco site;
 - h. **East Main Street Shopping Center, billboard** – property owner was not interested in a lease; and
 - i. **Five story self-storage building adjacent to the site** - property owner is not interested in a lease.
- (Council Administrative Notice Item No. 34 – Petition 1467, Record; BOC 4, response 5)
95. AT&T also searched for a site to host a facility to provide network services to eastern Stratford. AT&T’s search began in 2013 and included the following:
- a. **Replacement Light Pole, Penders Field - Longbrook Park, Glendale Rd., Stratford** – Submitted to the Council in 2015 as Petition 1135. AT&T withdrew the Petition due to significant public opposition.
 - b. **Town of Stratford DPW, 550 Patterson Ave., Stratford** – Town initially was supportive of a site in this location but subsequently withdrew interest.
 - c. **BOC Billboard, 28 Sidney St., Stratford** – this site is the existing NTAA structure. BOC did not pursue a lease with AT&T due to structure loading and billboard aesthetic concerns.
 - d. **251 East Main St., Stratford** – property adjacent to the DPW location and developed with a restaurant. ARX Wireless, a tower builder, held a lease on the property but the Town opposed the site.
- (AT&T 2, Attachment A; AT&T 4)
96. DISH did not examine other properties for potential use as the proposed site met their network needs. (DISH 2, response 5)
97. 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. (Council Administrative Notice Item No. 34 – Petition 1467, Record; AT&T 2, response 8)
98. 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. (Tr. 1, pp. 12-16; *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007); C.G.S. §16-50p(g)(2021))
99. 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))
100. A series of small cells or a Distributed Antenna System (DAS) to serve the area is not cost effective or feasible given the number of facilities required and encumbrances on existing utility poles such as transformers, and streetlights that would limit a carrier’s ability to use the pole, and, due to space constraints, the lack of reliable backup power source for each small cell or DAS node. (Council Administrative Notice Item No. 34 – Petition 1467, Record)

Facility Description

101. 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))
102. The proposed site is located on an approximate 4.3-acre triangular-shaped parcel owned by UB Railside, LLC. The parcel is accessed by driveways extending through a commercial redevelopment area along East Main Street (refer to Figure 9). (BOC 1, p. 4, Attachment 1)
103. The property, zoned Retail Commercial District (CA), is used as a boat storage area and contains open areas and a metal-framed building. (BOC 1, p. 4, Attachment 1)
104. The host parcel is bounded by the MNRR to the north, the Housatonic River to the east, commercial development to the west and I-95 to the south. (Council Administrative Notice Item No. 34 – Petition 1467, Record; Tr. 1, p. 29)
105. The proposed 135-foot tower would be located in the northeastern corner of the parcel. The proposed fence line would be approximately 6 to 11 feet from the MNRR property line. The proposed monopole would be approximately 27.6 feet from the MNRR property line. (Council Administrative Notice Item No. 34 – Petition 1467, Record)
106. The ground elevation of the proposed site is approximately 12.3 feet above mean sea level (amsl). (BOC 1, Attachment 1)
107. Antennas would be installed on platforms as follows:
 - a) AT&T- 12 antennas at a centerline height of 132 feet;
 - b) Cellco - 15 antennas at a centerline height of 121 feet, and
 - c) DISH - 9 antennas at centerline height of 91 feet agl.(BOC 1, p. iii, Attachment 1, Attachment 7; DISH 2, response 1)
108. A 4,210 square foot compound/lease area would be established at the base of the tower. The compound is generally oriented in an east-west direction, along the MNRR right-of-way (refer to Figure 10). (BOC 1, Attachment 1)
109. The compound would include a 90-foot long by 23-foot wide elevated steel equipment platform, covered with an open canopy. The platform, supported by steel post, would be installed along the south slope of an embankment that extends along the property line. (BOC 1, Attachment 1)
110. The front of the platform floor would be 9.1 feet agl. The rear of the platform floor would back up onto the embankment and would be 5.1 feet agl. The metal canopy roof would reach 21.8 feet agl (measured from the front of the platform). (BOC 1, Attachment 1)
111. The elevated platform would have four 10-foot by 16-foot equipment areas for each carrier, accessible by two stairways at either end of the platform. The tower would rise out of the south-central section of the platform. (BOC 1, Attachment 1)
112. AT&T would install three equipment cabinets on the platform. (BOC 1, Attachment 1)
113. Cellco would install two equipment cabinets and a battery cabinet on the platform. (Cellco 2, response 1)

114. DISH would install two equipment cabinets on the platform. (DISH 2, response 1)
115. The lease area/equipment compound contains enough space to expand the platform by 240 square feet to support tower sharing, if necessary. (Council Administrative Notice No. 34 – Petition 1467, Record; BOC 1, p. iii)
116. The platform is proposed in order to utilize the embankment on the host property, maximizing space for boat storage and maintenance. (Council Administrative Notice No. 34 – Petition 1467, Record; Tr. 1, pp. 25-26, 31)
117. Within the fenced compound, an area to the east of the platform would be used for ground-mounted emergency backup generators. There would be enough space to up to four diesel-fueled generators. (BOC 1, Attachment 1; Tr. 1, 25-26)
118. The compound area would be enclosed by an eight-foot high chain link fence with anti-climb mesh. Two double swing vehicle access gates would be along the south fence line. (BOC 1, Attachment 1)
119. Due to activities within the boat storage yard, the compound fence would be protected by concrete-filled steel bollards installed in five-foot intervals outside of the fence line. (BOC 1, Attachment 1)
120. Access to the site would originate from East Main Street and continue along existing paved driveways for a distance of approximately 2,235 feet through a commercial area to the proposed equipment compound. (BOC 1, Attachment 1)
121. Telco service to the site would extend underground from a utility pole on East Main Street (approx. 1,500 feet west of the site). The final details of the route would be included in the Development and Management Plan (D&M Plan) for the site. (BOC 1, Attachment 1; Tr. 1, p. 12)
122. 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))
123. Underground electric service would be installed to the compound, extending approximately 430 feet from an existing pad-mounted transformer southeast of the site. (BOC 1, Attachment 1)
124. There would be no water connection to the site. (BOC1, Attachment 1)
125. Construction of the facility would disturb an approximate 12,400 square foot area. Approximately 95 cubic yards of cut would be removed from the site. (BOC1, Attachment 1)
126. Surrounding land use is commercial and hosts several travel corridors (I-95 & MNRR). (Council Administrative Notice Item No. 34 – Petition 1467, Record; BOC 1, Attachment 1)
127. There are no residences within 1,000 feet of the site. (BOC 1, Attachment 7)
128. The nearest residence is located approximately 1,155 feet northwest of the proposed facility at 153 Peck Street. This residence is north of the MNRR, a transmission line right-of-way, and a developed industrial property (Ashcroft, Inc.). (Council Administrative Notice Item No. 34 – Petition 1467, Record)

129. The compound fence east of the platform would be approximately six feet from the MNRR property line. The proposed platform and monopole would be approximately 10 feet and 28 feet from the MNRR property line, respectively. (BOC 1, Attachment 1)
130. BOC anticipates the facility could be constructed within 12 weeks, followed by 2 weeks of site testing/integration for each carrier. (BOC 1, p. 9)
131. Site construction would commence following Council approval of a D&M Plan for the facility. (BOC 1, p. 9)
132. 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))
133. 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)
134. The estimated cost of the proposed facility is:

Tower and Foundation	\$125,500
Site Development	\$135,000
Facility/Utility Installation	\$75,000
AT&T Equipment and Materials	\$364,000
Cellco Equipment and Materials	\$335,000
DISH Equipment and Materials	\$120,000

Total Estimated Costs

\$1,154,500

(BOC 4, response 3; AT&T 2, response 1; Cellco 2, response 2; DISH 2, response 2)

135. The cost of decommissioning the NTAA Structure is the responsibility of the property owner and it is not included in the project cost. Cellco's decommissioning of its equipment on the NTAA Structure is approximately \$15,000 (additional cost). (Tr. 1, pp. 15, 61)
136. BOC would recover construction costs associated with the facility by the revenue generated from leasing space on the facility to other wireless providers. (Council Administrative Notice Item No. 34 – Petition 1467, Record)
137. AT&T, Cellco, and DISH would recover the costs of their equipment as part of its business operations and services provided. (AT&T 2, response 2; Cellco 2, response 3; DISH 2, response 3)
138. 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. BOC, AT&T, Cellco and DISH are private entities. (BOC 4, response 1; C.G.S. §22a-1, *et seq.* (2021))
139. Once the site is operational, Cellco would remove its equipment from the existing NTAA structure. BOC would remove the NTAA structure in 2023 after T-Mobile's NTAA lease expires or T-Mobile removes its equipment prior to expiration of the lease. (BOC 4, response 4; Cellco 2, response 4)

Public Health and Safety

140. 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)
141. The proposed facility would be in compliance with the requirements of the 911 Act and would provide Enhanced 911 services. (AT&T 2, response 16; Cellco 2, response 20; DISH 2, response 17)
142. 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)
143. AT&T's, DISH's and Cellco's proposed equipment installations would be capable of supporting text-to-911 service. (AT&T 2, response 15; Cellco 2, response 19; DISH 2, response 16)
144. 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)
145. AT&T's, DISH's and Cellco's proposed equipment would provide WEA services. (AT&T 2, response 17; Cellco 2, response 21; DISH 2, response 18)
146. 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. (BOC 1, Attachment 7)
147. The Town is a FirstNet subscriber (Police and EMS services) with approximately 160 users. The City of Bridgeport, abutting the Town to the west, is also a FirstNet subscriber (Police, Fire, DPW and Government) with approximately 1,180 users. (BOC4, response 10; Tr. 1, p. 80)
148. Pursuant to C.G.S. §16-50p(a)(3)(G), the facility would be constructed in accordance with the current the Connecticut State Building Code for tower design and in accordance with the currently adopted International Building Code. (Tr. 1, pp. 20-21)
149. The Federal Aviation Administration (FAA) issued a Determination of No Hazard to Air Navigation for the proposed facility on September 3, 2020, with an expiration date of March 3, 2022. At the request of BOC, the FAA issued an extension letter to expire on August 24, 2023, indicating there were no changes to the original determination that the structure does not constitute an obstruction or hazard to air navigation and therefore would not require any marking or lighting. (Council

- Administrative Notice Item No. 34- Petition 1467 Record; BOC 1, Attachment 5; BOC 4, response 11)
150. The CAA is concerned about 5G C-band infrastructure interfering with operations at Sikorsky Airport in western Stratford. Sikorsky Airport is not on an FAA list of airports where 5G interference may be of concern. (CAA comments dated August 26, 2022; Tr. 1, pp. 36-37)
 151. Per the Federal Railroad Administration, a 25-foot safety zone must be maintained from the outer rail of the MNRR. Non-railroad personnel are prohibited from accessing the safety zone unless properly trained and accompanied by a railroad flagman. BOC owns several billboards situated on or near rail lines and its agents receive annual railroad safety training. (Council Administrative Notice Item No. 34- Petition 1467 Record)
 152. The compound, elevated platform and tower would not encroach upon this safety zone. BOC continues to consult with the MNRR and the DOT regarding project-required safety zones. (BOC 4, response 6, Attachment 2; Tr. 1, p. 16-17)
 153. The northern part of the property adjacent to the MNRR, has a transmission line easement held by United Illuminating (UI) for safety clearance related to a 115-kV transmission line that extends along the MNRR. The nearest transmission line structure (#861S), located east of the compound on MNRR property, extends to a height of 139 feet amsl. (BOC 4, response 6, response 9 Attachment 2)
 154. BOC discussed the facility location with UI. As a result of these discussions, UI expanded their lease area on the host property to incorporate a larger safety zone for the existing transmission line. (BOC 4, response 9)
 155. UI operates four transmission lines on the structures and the MNRR operates an electric line located on a side arm at 65 feet amsl. A 15-foot minimum safety zone must be maintained between the electric lines and adjacent objects. The platform-mounted panel antennas located at 133 feet amsl would be 26 feet horizontally from the nearest transmission line. The MNRR electric line would be 22 feet horizontally from the monopole (Refer to figure 11). (BOC 4, response 6, Attachment 2)
 156. If the tower was extended in the future to accommodate tower sharing, it would be designed to meet MNRR and UI safety clearance requirements. (BOC 1, response 8)
 157. Due to the close proximity of the tower to the MNRR and UI transmission line, BOC would design a tower yield point at an approximate height of 120 feet agl. If a tower extension was installed, the extension attachment point would be designed as a second hinge point. If the extension hinge point flexed under high winds, as designed, it would fold down and damage the tower-mounted equipment below (assuming the lower hinge point did not also flex). (Council Administrative Notice Item No. 34- Petition 1467 Record; BOC 4, response 8; Tr. 1, pp. 12, 18-19, 23-25, 70-71)
 158. The proposed facility is not expected to have any impact on access and/or maintenance activities conducted by MNRR and UI. (Council Administrative Notice Item No. 34- Petition 1467, Record)
 159. The compound and elevated platform would meet OSHA electric line distance requirements for a safe work environment for telecommunications/maintenance workers. (BOC 1, response 8; Tr. 1, p. 41)
 160. Security measures at the site would include, but are not limited to, the proposed compound fence, a locked vehicle gate, and equipment cabinets with locks and/or silent intrusion alarms. (BOC 1, Attachment 1; Tr. 1, pp. 21, 25, 50,70, 80-81)

161. Operational noise from the facility would comply with DEEP Noise Control Regulations. The surrounding area is developed with commercial properties that generate a high volume of traffic. I-95 is immediately to the southeast, and active rail lines run along the northern property boundary. (Council Administrative Notice Item No. 34- Petition 1467, Record)
162. 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))
163. 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)
164. The proposed site is not located within a Federal Emergency Management Agency designated flood zone. (Council Administrative Notice Item No. 34- Petition 1467, Record; BOC 1, Attachment 1)
165. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T’s and Cellco’s antennas is 47.2 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. (BOC 1, Attachment 7; Cellco 3, response 20; Council Administrative Notice Item No. 2 – FCC OET Bulletin No. 65; BOC’s Administrative Notice Item No. 2)
*This includes a 10 dB off-beam pattern loss to account for the lower relative gain below the antennas.

Emergency Backup Power

166. 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. 52)
167. Consistent with the findings and recommendations of the Panel, and in accordance with C.G.S. §16-50ll, 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. 33 – Council Docket No. 432)
168. 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. 33 – Council Docket No. 432)
169. AT&T would install a 15-kW diesel-fueled generator in the ground level area of the compound. The generator includes a 54-gallon belly tank that could provide 53 hours of run time before refueling is

- required. AT&T would also install a battery cabinet that would provide three to four-hours of run time. (AT&T 2, response 11)
170. Cellco proposes to install a backup battery system that would provide up to four hours of power before recharging is necessary. Cellco's equipment would include a port to hookup a portable diesel generator if necessary. Once the decision is made to dispatch a mobile generator, it would take approximately two hours for it to arrive and be set up. (Cellco 2, response 14; Tr. 1, pp. 62-63, 65-67 74-75)
171. Cellco is discussing the possibility of installing a stand-alone propane-fueled backup power generator at the site if there is enough space within the compound to accommodate a generator and an associated propane tank. (Tr. 1, pp. 42-43, 62-63)
172. DISH proposes to install a backup battery system that would provide up to four hours of power before recharging is necessary. Depending on the outage type, if necessary, DISH would deploy a mobile generator to the site if the outage duration long term. Once the decision is made to dispatch a mobile generator, it would take approximately two hours for it to arrive and be set up (DISH 2, response 11, response 12; Tr. 1, pp. 50-52, 74)

Environmental Considerations

Air and Water Quality

173. Operation of the proposed facility would not produce air emissions, smoke, gas, dust or other air contaminants, excluding operation of the emergency backup generator. (Council Administrative Notice Item No. 34- Petition 1467, Record; AT&T 1, response 11)
174. Pursuant to R.C.S.A. §22a-174-3b, AT&T's emergency backup 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. (AT&T 2, response 12)
175. 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))
176. 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))
177. 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))
178. There are no inland wetlands within or near the project development area. Tidal wetlands associated with the Housatonic River are approximately 316 feet east of the site. No work would occur within 300 feet of this resource. (Council Administrative Notice Item No. 34- Petition 1467, Record; BOC 1, Attachment 1; Tr. 1, pp. 29-30)

179. The proposed site is located within the coastal 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 the construction or operation of the facility. (Council Administrative Notice Item No. 34-Petition 1467, Record; Tr. 1, pp. 30-31)
180. BOC performed a CCMA Coastal Consistency Review and determined no coastal resources would be affected by the project. (Council Administrative Notice Item No. 34- Petition 1467, Record; Tr. 1, pp. 30-31)
181. BOC would establish erosion and sedimentation (E&S) controls consistent with the 2002 E&S Guidelines. (Council Administrative Notice Item No. 34- Petition 1467, Record)
182. Development of the site would not increase stormwater flows since the facility would be located either on existing impervious paved surfaces or on an elevated steel platform over pavement or a rip rap armored side slope. No stormwater features are proposed. (Council Administrative Notice Item No. 34- Petition 1467, Record; Tr. 1, p. 39)
183. Pursuant to C.G.S. §22a-430b, a DEEP Stormwater Permit is required for any disturbance greater than 1.0 acre. The construction LOD for the proposed site is approximately 4,210 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; BOC 4, Attachment 2).
184. The site is not located within a state-designated aquifer protection area or a public drinking water supply watershed. (Council Administrative Notice Item No. 73; Council Administrative Notice Item No. 34- Petition 1467, Record)

Forests and Parks

185. The site is approximately 0.6 mile southeast of Town-owned Longbrook Park. (BOC 1, Attachment 6)
186. No forested areas would be cleared or affected by the development of the proposed site. (BOC1, Attachment 1)

Fish and Wildlife

187. DEEP Natural Diversity Database (NDDDB) 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. 72)

188. The proposed facility is not located within a NDDDB buffer area. On September 23, 2020, DEEP issued a determination letter for the project indicating that it does not anticipate negative impacts to species listed on the NDDDB. (Council Administrative Notice Item No. 34- Petition 1467, Record; Council Administrative Notice Item No. 72)
189. 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. BOC submitted information to the USFWS using its Information, Planning, and Conservation System (IPaC). USFWS submitted correspondence to BOC dated September 9, 2020 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). (Council Administrative Notice Item No. 34- Petition 1467, Record)
190. The proposed facility is approximately 0.63 mile north of the Milford Point/Wheeler Marsh, an Important Bird Area (IBA) designated by the National Audubon Society. This area contains marsh, sandbars, and barrier beaches that provide habitat and nesting areas for shorebirds and acts as a shorebird migratory stopover area for tens of thousands of shorebirds each year. The proposed facility would not affect the IBA. (Council Administrative Notice Item No. 34- Petition 1467, Record)
191. The proposed facility would comply with the USFWS telecommunications tower guidelines for minimizing the potential for impact to bird species. (Council Administrative Notice Item No. 34- Petition 1467, Record)
192. Due to the proximity to coastal habitat, there is the potential for the tower antenna platforms to be used for bird nesting, particularly by ospreys. Should ospreys (or other avian species) establish a nest on the monopole, any antenna maintenance activities would need to comply with federal Migratory Bird Treaty Act regulations while the nest is active. (Council Administrative Notice Item No. 34- Petition 1467, Record)
193. BOC complied with National Environmental Policy Act (NEPA) requirements for telecommunications facilities. (Council Administrative Notice Item No. 34- Petition 1467, Record)

Agriculture and Soils

194. The host parcel does not contain prime farmland soils. (Council Administrative Notice Item No. 21)

Scenic, Historic and Recreational Values

195. No resources listed on the State or National Register of Historic Places were identified within 0.5 mile of the proposed site. By letter dated November 19, 2022, SHPO determined the project would have no effect on sites listed on or eligible for listing on the National Register of Historic Places (NRHP). SHPO noted two properties listed on the NRHP are located within 0.5 miles of the site, the Housatonic River Railroad Bridge and the Washington Bridge, but would not be adversely impacted by the Project. (Council Administrative Notice Item No. 34- Petition 1467, Record)
196. The Town's Plan of Conservation and Development (POCD) did not identify any scenic areas near the site. (Council Administrative Notice Item No. 34- Petition 1467, Record)
197. There are no "blue-blazed" hiking trails maintained by the Connecticut Forest and Park Association within two-miles of the site. (Council Administrative Notice No. 79)

198. 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))
199. No comments were received from the Town, City, OPM or DEEP regarding any impacts to scenic quality or resources. (Record)
200. The site is an active boatyard, an activity that is considered a water dependent use. The design of the site with the elevated platform to allow for ground level storage of boats would not affect the property's value as a water dependent use. (Tr. 1, pp. 31-32)

Visibility

201. 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))
202. BOC 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. (BOC 1, Attachment 6)
203. On March 23, 2021, BOC conducted a crane test and field reconnaissance at the proposed tower site to assist in the visibility evaluation. The crane test consisted of raising a crane arm with a flag attached to the end to a height of 135 feet agl at the proposed site. An in-field reconnaissance of the crane arm/flag 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. (BOC 1, Attachment 6)
204. 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 publicly-accessible locations. (BOC 1, Attachment 6)
205. Based on the final viewshed analysis (refer to Figure 12), the proposed tower would be visible year-round from approximately 76 acres of land and 1,168 acres of open water and tidal wetlands associated with the mouth of the Housatonic River (collectively 15.2% of the Study Area). (BOC 1, Attachment 6)
206. The tower would be seasonally visible (leaf-off conditions) from approximately 197 acres (2.4%) of the Study Area. (BOC 1, Attachment 6)
207. Most of the year-round visibility from land areas occurs from transportation corridors and commercial properties within 0.5 mile of the site. (BOC 1, Attachment 6)

208. The nearest residential areas with year-round visibility are on Avery Street, 0.25 miles northwest of the site and on Patterson Avenue 0.35 miles west of the site. The upper 70 – 80 feet of the tower would be visible from this area. Other structures within these viewsheds include the MNRR catenary structures, transmission line structures and distribution poles. (BOC 1, Attachment 6)
209. The upper portion of the tower (80 -100 feet) would be visible from residential areas along the shoreline in Milford, 0.5 to 0.6 miles southeast of the site including but not limited to the Crescent Drive and Edgemont Road areas. Other structures within these viewsheds include the MNRR catenary structures, transmission line structures and drawbridge lighting. (BOC 1, Attachment 6)
210. The Charles Wheeler Wildlife Management Area is located approximately 0.9 miles south of the site. The upper portion of the tower would be visible to watercraft users in this area but the tower would blend in with other tall structures associated with the MNRR, I-95 and electric transmission lines. (BOC 1, Attachment 6; Tr. 1, pp. 32-33)
211. The upper portion of the tower would be visible from the Housatonic River State Boat Launch, located 0.3 mile east of the site and below the I-95 bridge spanning the river. The tower would blend in with existing infrastructure in the surrounding area. (BOC 1, Attachment 6; Tr. 1, pp. 33-34)
212. 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))
213. No schools or commercial child day care facilities are located within 250 feet of the site. The nearest building containing a school or commercial day care is Wilcoxson Elementary School located approximately 0.52-mile northwest of the Site at 600 Wilcoxson Avenue in Stratford. The tower would not be visible from the school grounds. (BOC 1, Attachment 6)

Figure 1 – Site Location – Aerial Image



- Legend**
- Site
 - Subject Property
 - Approximate Parcel Boundary
 - Municipal Boundary

Map Notes:
Base Map Source: CT ECO 2019 Imagery
Map Scale: 1 inch = 400 feet
Map Date: October 2021



Site Location Map
Proposed Wireless
Telecommunications Facility
Dock Shopping Center
200 East Main Street, Rear
Stratford, Connecticut



Figure 2 – Cellco 700 MHz Coverage without NTAA Structure

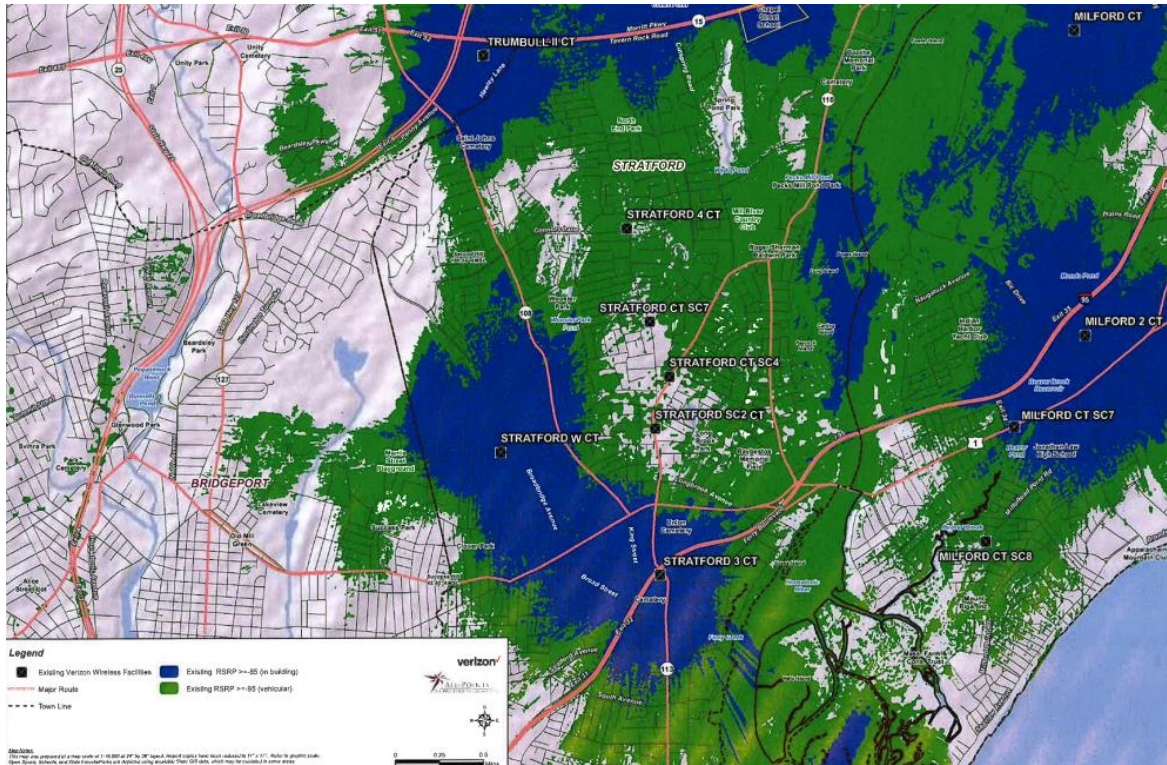


Figure 3– Cellco 700 MHz Proposed Coverage

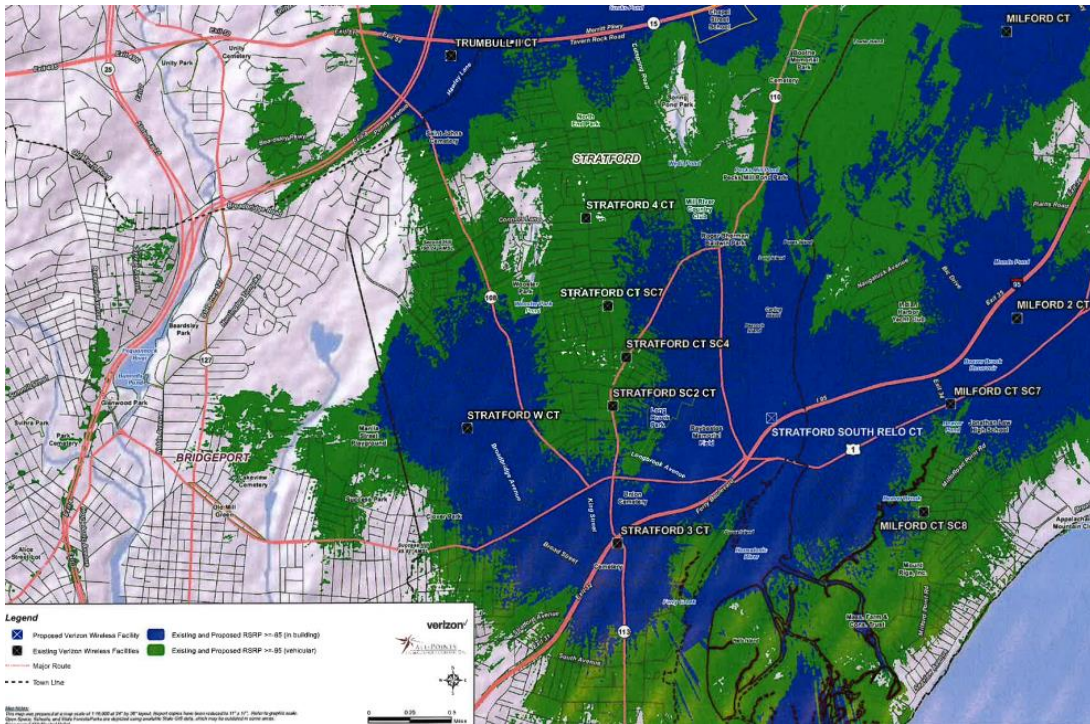


Figure 4 – AT&T Existing 700 MHz Coverage



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



(AT&T 2)

Figure 6– DISH Existing 600 MHz Coverage

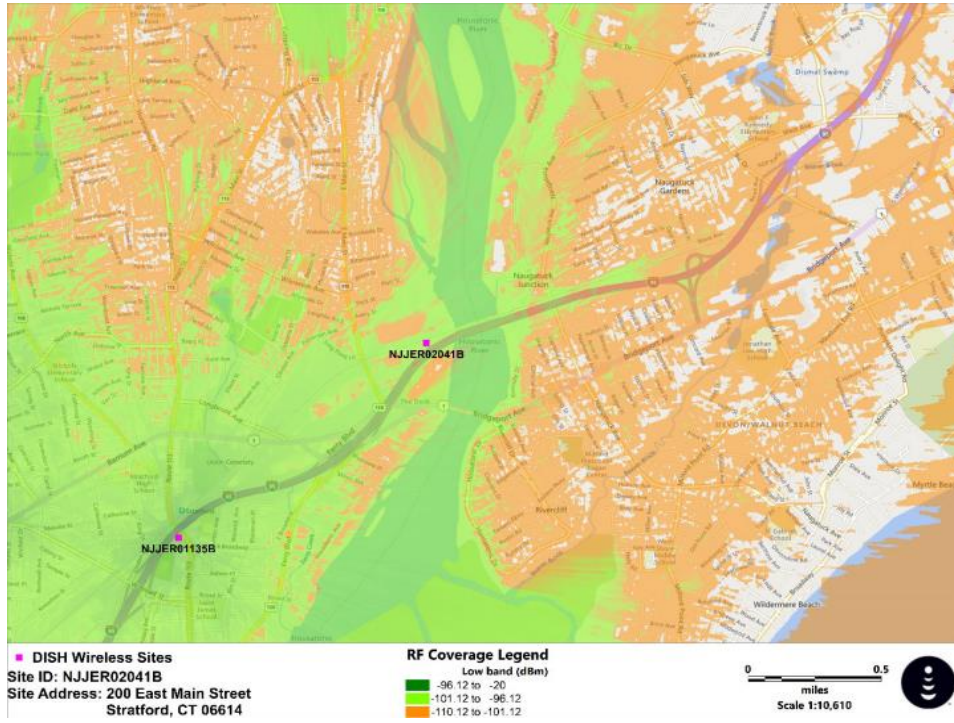
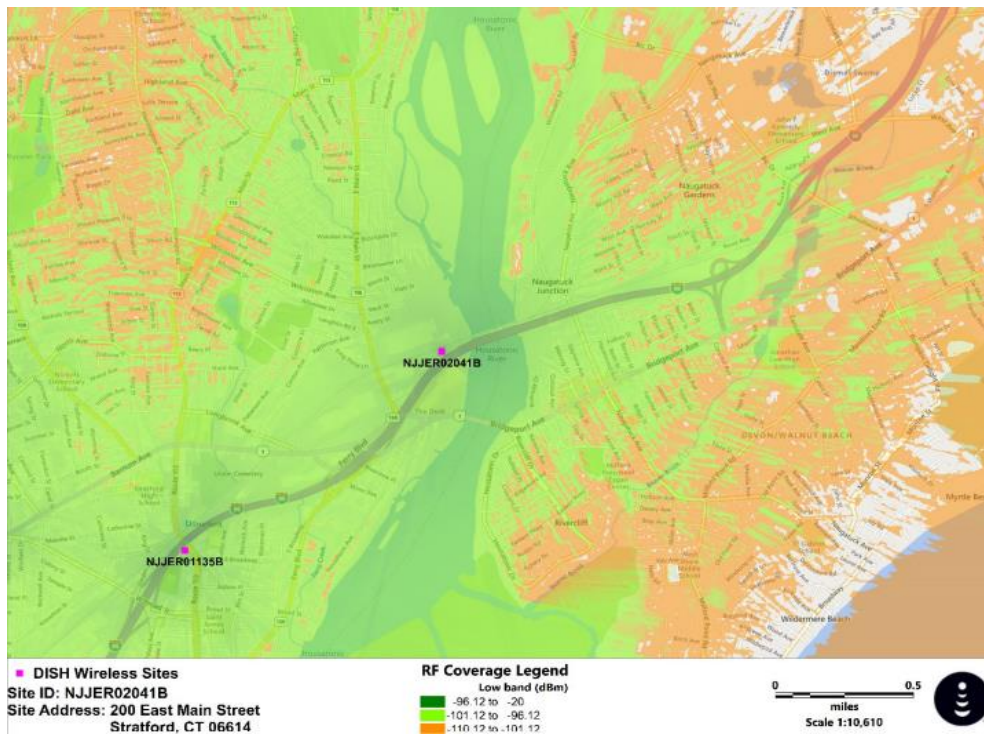


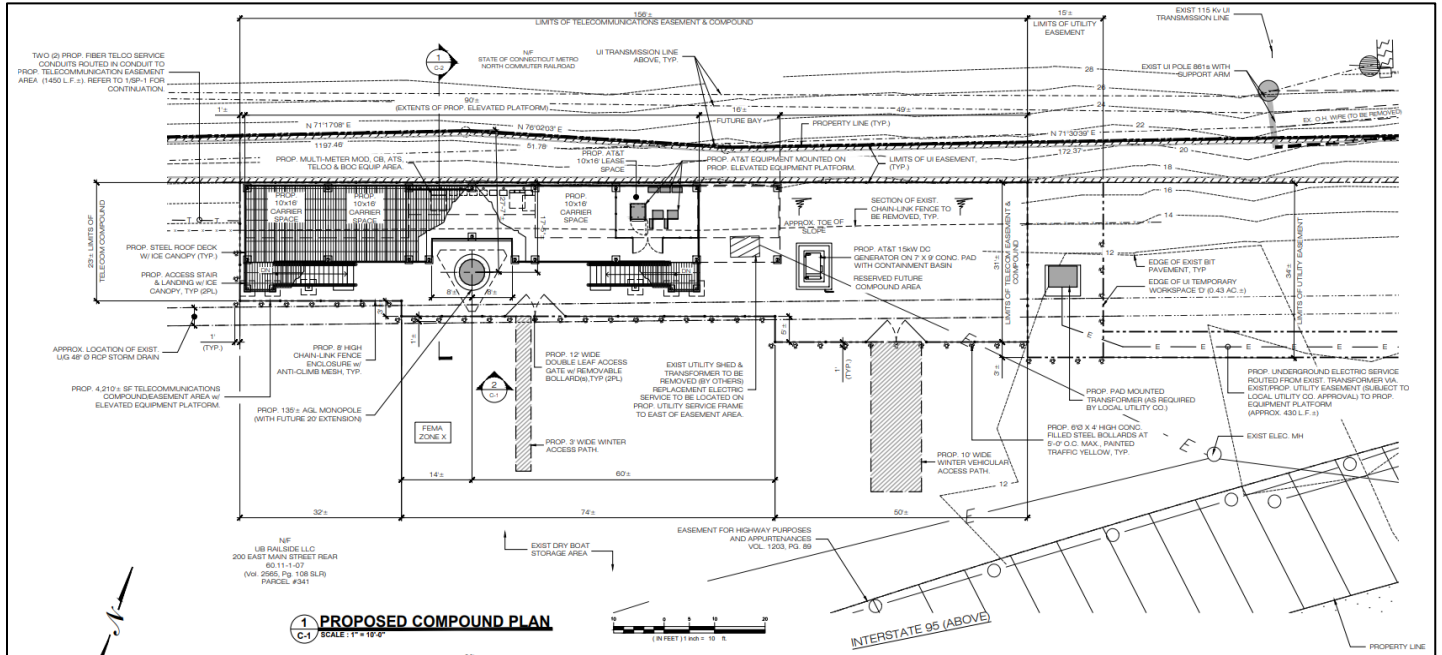
Figure 7– DISH Proposed 600 MHz Coverage



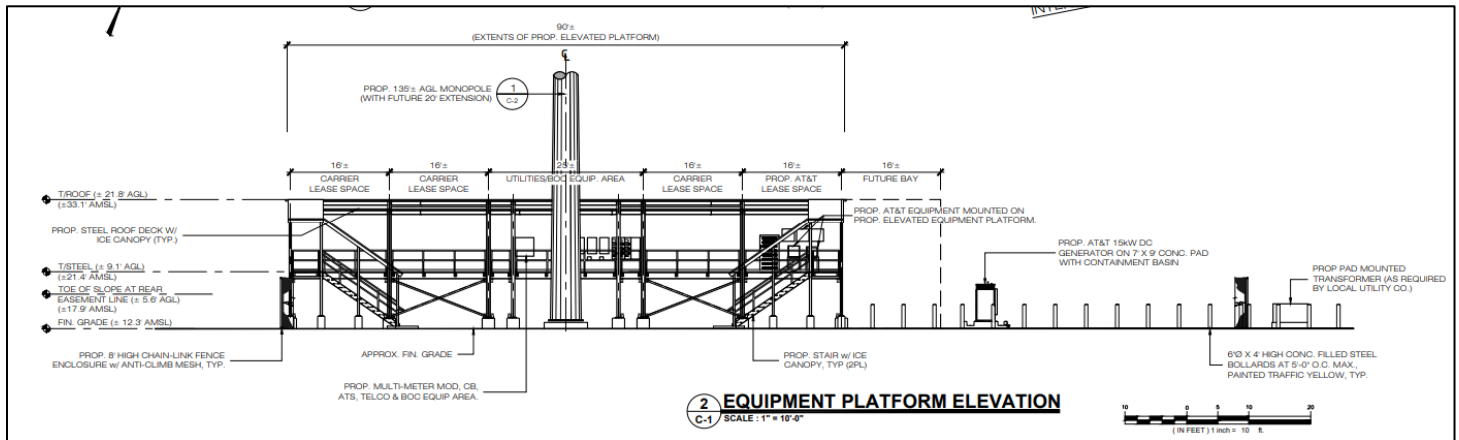
*Site 1135B is a proposed rooftop facility with antennas at 49 feet agl. (DISH 2; Tr. 1, pp 49-50, 73-76)

Figure 10- Site Plan of compound area

Plan view



Elevation View



(BOC 1, Attachment 1)

Figure 11 - Tower Plan with safety clearance zones

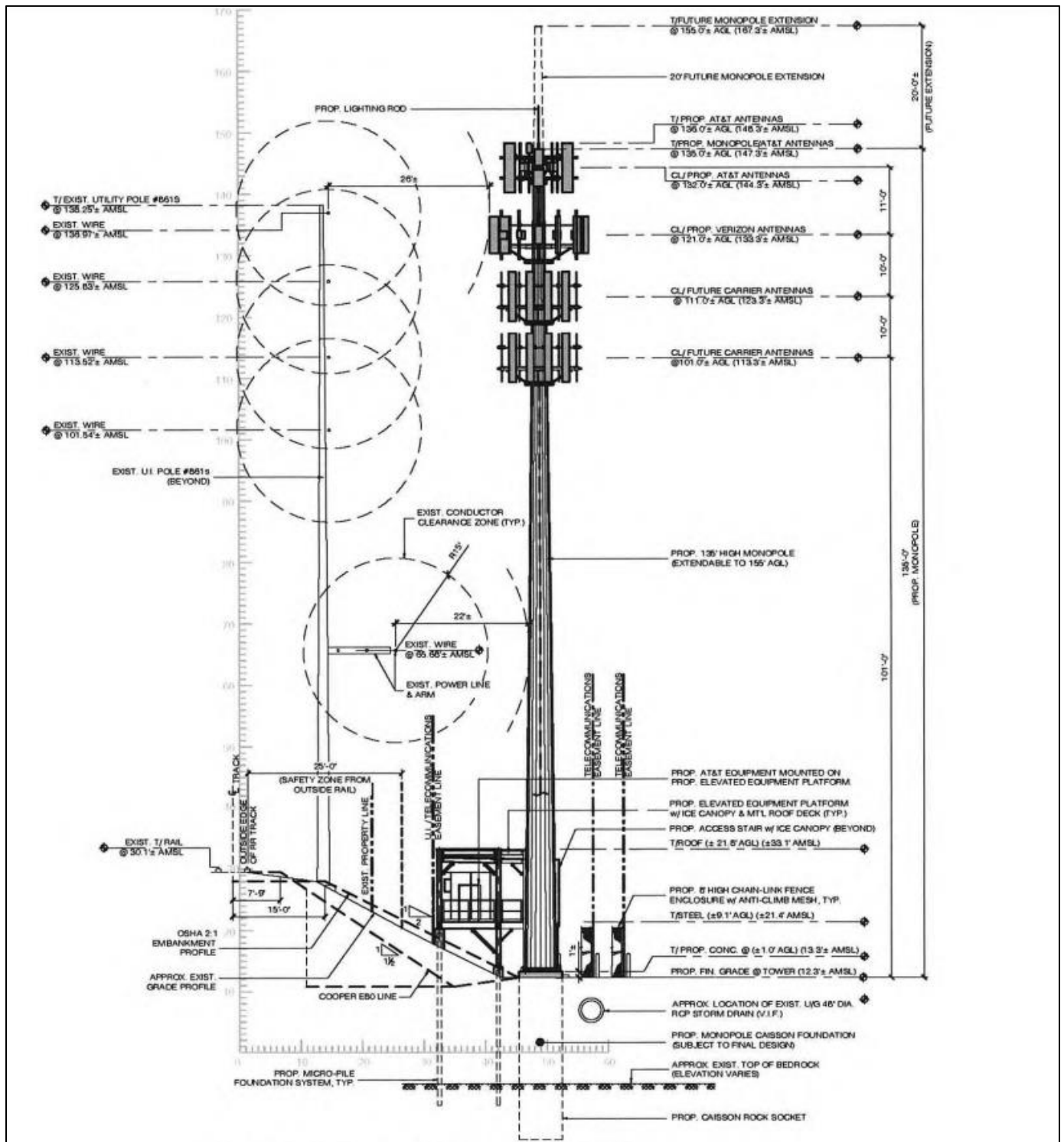
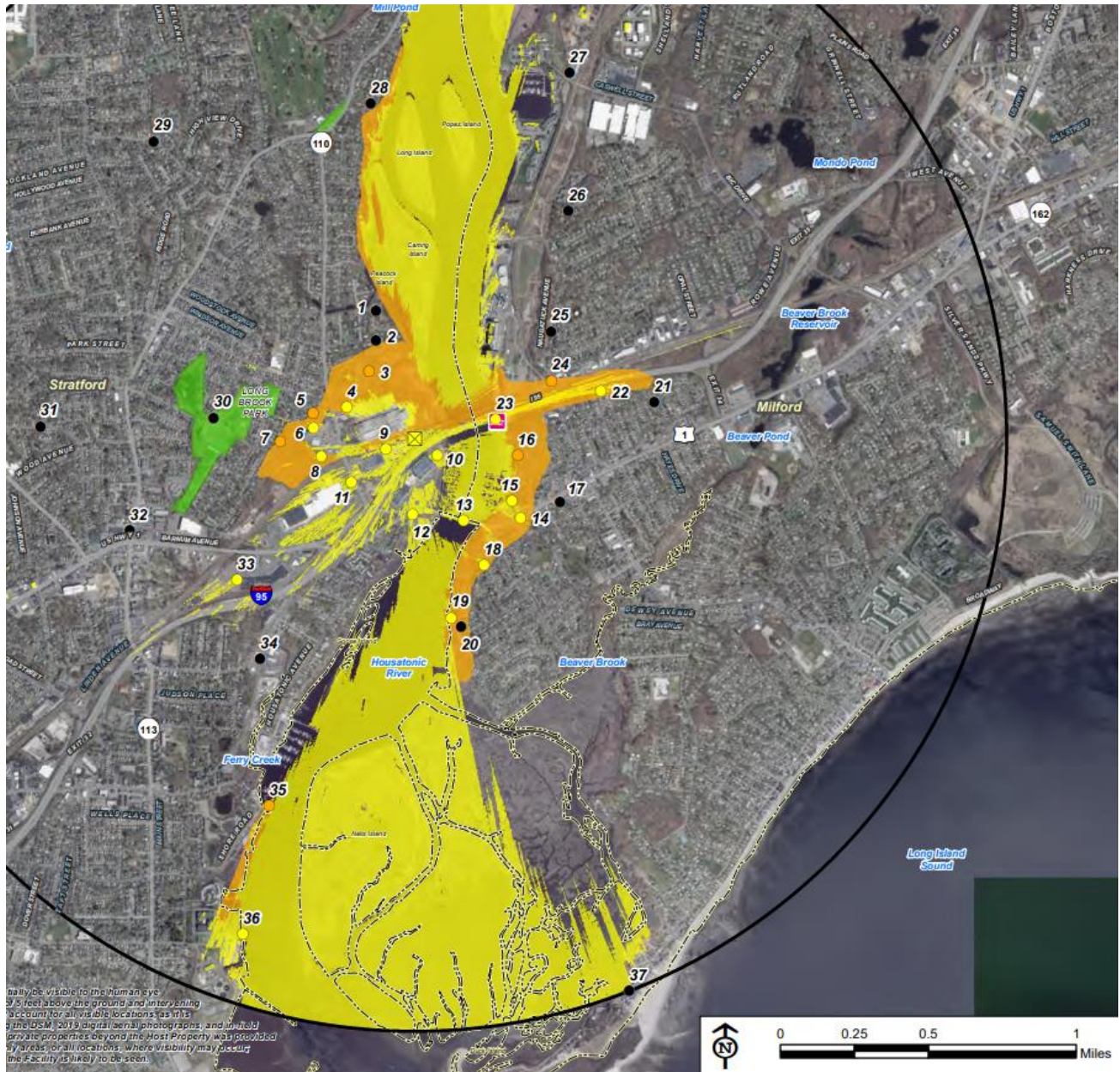


Figure 12 – Proposed Site Visibility Analysis



likely be visible to the human eye
 3.5 feet above the ground and intervening
 obstructions. Visible locations are marked
 on the DSM, 2019 digital aerial photographs, and unshaded
 private properties beyond the Host Property were provided
 by areas or all locations, where visibility may occur
 the Facility is likely to be seen.

Legend

- Proposed Site
- Study Area (2-Mile Radius)
- Predicted Year-Round Visibility (1,244 Acres; +/- 1,168 occurs over open water on the Housatonic River and associated tidal marsh areas)
- Areas of Potential Seasonal Visibility (197 Acres)
- Photo Locations (March 23, 2021)
 - Not Visible
 - Seasonal
 - Year-Round
 - 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

Visibility Analysis Map Photolog

Table 1 – Photo Locations

Photo	Location	Orientation	Distance to Site	Height of Facility Visible in Photograph	Visibility
1	Brookside Drive**	Southeast	± 0.45 Mile	N/A	Not Visible
2	Bittersweet Lane	Southeast	± 0.36 Mile	N/A	Not Visible
3	Platt Street	Southeast	± 0.28 Mile	60'-70''	Seasonal
4	Avery Street	Southeast	± 0.26 Mile	70'-80'	Year Round
5	Laughlin Road	Southeast	± 0.35 Mile	80'-90''	Seasonal
6	Patterson Avenue	East	± 0.34 Mile	70'-80'	Year Round
7	Patterson Avenue	East	± 0.46 Mile	10'-20'	Seasonal
8	Frog Pond Lane	East	± 0.32 Mile	60'-70'	Year Round
9	Stop & Shop Parking Lot – Adjacent to Host Property**	East	± 0.10 Mile	70'-80'	Year Round
10	Joey C's Boathouse Cantina & Grill – Adjacent to Host Property	Northwest	± 490 Feet	20'-30' above I-95; 40'-50' below I-95	Year Round
11	East Main Street	Northeast	± 0.26 Mile	70'-80'	Year Round
12	Barnum Avenue Cutoff**	North	± 0.25 Mile	80'-90'	Year Round
13	Bridgeport Avenue – Milford	Northwest	± 0.32 Mile	80'-90'	Year Round
14	Bridgeport Avenue – Milford	Northwest	± 0.45 Mile	70'-80'	Year Round
15	Riverside Drive – Milford	Northwest	± 0.38 Mile	80'-90'	Year Round
16	Riverside Drive at Sachem Street – Milford	West	± 0.35 Mile	60'-70' above I-95; 30'-40' below I-95	Seasonal
17	Spring Street at Bridgeport Avenue – Milford*	Northwest	± 0.53 Mile	N/A	Not Visible
18	Crescent Drive – Milford	Northwest	± 0.48 Mile	90'-100'	Year Round
19	Edgemont Road – Milford	Northwest	± 0.61 Mile	80'-90'	Year Round
20	Housatonic Drive – Milford	Northwest	± 0.66 Mile	N/A	Not Visible
21	Cowles Street at Strathmore Avenue – Milford	West	± 0.82 Mile	N/A	Not Visible
22	Elbon Street – Milford	West	± 0.65 Mile	10'-20'	Year Round
23	Housatonic River State Boat Launch – Milford	West	± 0.28 Mile	50'-60' below I-95	Year Round
24	Naugatuck Avenue – Milford	Southwest	± 0.50 Mile	80'-90''	Seasonal
25	West Avenue at Naugatuck Avenue – Milford	Southwest	± 0.58 Mile	N/A	Not Visible
26	Naugatuck Avenue – Milford	Southwest	± 0.92 Mile	N/A	Not Visible
27	Oronoque Road – Milford	Southwest	± 1.34 Miles	N/A	Not Visible
28	Bronson Drive at Bridgeview Place*	South	± 1.14 Miles	N/A	Not Visible
29	Highland Avenue**	Southeast	± 1.34 Miles	N/A	Not Visible
30	Glendale Road at Charlton Street, Long Brook Park	East	± 0.69 Mile	N/A	Not Visible
31	North Avenue	East	± 1.27 Miles	N/A	Not Visible
32	Main Street	Northeast	± 1.01 Miles	N/A	Not Visible
33	LA Fitness – Parking Lot	Northeast	± 0.77 Mile	40'-50'	Year Round
34	Ferry Boulevard	Northeast	± 0.91 Mile	N/A	Not Visible
35	Bond's Dock	Northeast	± 1.33 Miles	20'-30''	Seasonal
36	Birdseye Street Boat Launch	Northeast	± 1.77 Miles	40'-50'	Year Round
37	Milford Point Road – Milford	Northwest	± 2.00 Miles	N/A	Not Visible