



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

Web Site: portal.ct.gov/csc

VIA ELECTRONIC MAIL & CERTIFIED MAIL

April 12, 2024

Lucia Chiocchio, Esq.
Daniel Patrick, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
Phone (914) 761-1300
lchiocchio@cuddyfeder.com
dpatrick@cuddyfeder.com

David A. Ball, Esq.
Philip C. Pires, Esq.
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
Phone (203) 368-0211
dball@cohenandwolf.com
ppires@cohenandwolf.com

RE: **DOCKET NO. 518** - New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, Connecticut. **Final Decision.**

Dear Attorneys Chiocchio, Patrick, Ball, and Pires:

By its Decision and Order dated April 11, 2024, 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 99 Dart Hill Road, South Windsor, Connecticut.

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

Sincerely,

Melanie A. Bachman
Executive Director

MAB/IN/laf

Enclosures (4)

c: Service List dated August 22, 2023
State Documents Librarian (csd.cda@ct.gov)



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CERTIFICATE
OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
DOCKET NO. 518

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 III, LLC for the construction, maintenance, and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, 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 April 11, 2024.

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

Melanie A. Bachman, Executive Director

April 11, 2024



STATE OF CONNECTICUT)

: ss. Southington, Connecticut April 12, 2024

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:



Melanie A. Bachman
Executive Director
Connecticut Siting Council

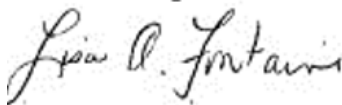
STATE OF CONNECTICUT)

: ss. New Britain, Connecticut April 12, 2024

COUNTY OF HARTFORD)

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 518 has been forwarded by Certified First Class Return Receipt Requested mail, on April 12, 2024, to each party and intervenor, or its authorized representative, as listed on the attached service list, dated August 22, 2023.

ATTEST:



Lisa Fontaine
Fiscal Administrative Officer
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)
Applicants	<input checked="" type="checkbox"/> E-mail	New Cingular Wireless PCS, LLC (AT&T) and Tarpon Towers III, LLC	Lucia Chioocchio, Esq. Daniel Patrick, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14th Floor White Plains, New York 10601 Phone (914) 761-1300 lchioocchio@cuddyfeder.com dpatrick@cuddyfeder.com David A. Ball, Esq. Philip C. Pires, Esq. Cohen and Wolf, P.C. 1115 Broad Street Bridgeport, CT 06604 Phone (203) 368-0211 dball@cohenandwolf.com ppires@cohenandwolf.com

DOCKET NO. 518 – New Cingular Wireless PCS, LLC d/b/a AT&T } Connecticut
and Tarpon Towers III, LLC application for a Certificate of }
Environmental Compatibility and Public Need for the construction, } Siting
maintenance, and operation of a telecommunications facility located at }
99 Dart Hill Road, South Windsor, Connecticut. } Council

April 11, 2024

Findings of Fact

Introduction

1. New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC (Applicants), in accordance with provisions of Connecticut General Statutes (C.G.S.) § 16-50g, *et seq.*, applied to the Connecticut Siting Council (Council) on August 22, 2023, for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 165-foot monopole wireless telecommunications facility at 99 Dart Hill Road, South Windsor, Connecticut (refer to Figures 1 and 2). (Applicants 1, pp. 1, 2)
2. Tarpon Towers III, LLC (TT) is a Delaware limited liability company with an office at 8916 77th 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 Applicants are the only party to this proceeding. (Record)
6. There are no Connecticut Environmental Protection Act (CEPA) Intervenors in this proceeding. (Record)
7. The purpose of the proposed facility is to provide reliable wireless communications services for AT&T customers and address significant coverage deficiencies in AT&T's networks in eastern and southeastern portions of South Windsor. (Applicants 1, p. 8, Attachment E; Applicants 3, response 31-exhibit 31; Transcript 1 – December 14, 2023 - 2:00 p.m. [Tr. 1], p. 28)
8. 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) (2023))
9. 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) (2023); C.G.S. §16-50aa (2023))

10. Pursuant to C.G.S. § 16-50l (b), Applicants provided public notice of the filing of the application that was published in the Journal Inquirer on August 17 and August 18, 2023. (Applicants 1, p. 7, Attachment C; Applicants 2)
11. Pursuant to C.G.S. § 16-50l (b), notice of the application was provided to all abutting property owners by certified mail on August 17, 2023. (Applicants 1 p. 7, Attachment D; Applicants 3, response 1)
12. On August 22, 2023, 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

13. 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. 57; C.G.S. §1-200, *et seq.* (2023))
14. 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. 57)
15. Upon receipt of the application, the Council sent a letter to the Town of South Windsor (Town) on August 23, 2023, as notification that the application was received and is being processed, in accordance with C.G.S. § 16-50gg. No comments from the Town were received (Record)
16. 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 (2023))
17. During a regular Council meeting on September 14, 2023, 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)
18. Pursuant to C.G.S. § 16-50m, on September 14, 2023, the Council sent a letter to the Town to provide notification of the scheduled public hearing via Zoom remote conferencing and to invite the municipality to participate. (Record)
19. Pursuant to C.G.S. § 16-50m, the Council published legal notice of the date and time of the public hearing via Zoom remote conferencing in the Journal Inquirer on September 16, 2023. (Record; Tr. 1, p. 5)

20. 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))
21. On October 26, 2023, 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 November 29, 2023, Applicants submitted such information in response to the Council's interrogatories. (Record; Applicants 3, Response 67)
22. On November 29, 2023, 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. (Applicants 3, Response 4)
23. On December 7, 2023, 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 5)
24. 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) (2023); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))
25. 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. 1, p. 7; C.G.S. §16-50p (2023); *Westport v. Conn. Siting Council*, 47 Conn. Supp. 382 (2001); *Goldfisher v. Conn. Siting Council*, 95 Conn. App. 193 (2006))
26. On November 1, 2023, the Council held a 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 public hearing via Zoom remote conferencing were also discussed. (Council Pre-Hearing Conference and Remote Hearing Procedure Memoranda, dated October 25, 2023)
27. In compliance with R.C.S.A. § 16-50j-21, Applicants installed a four-foot by six-foot sign along Dart Hill Road in the vicinity of the access drive for the proposed site on November 24, 2023. The sign presented information regarding the proposed telecommunications facility and the Council's public hearing. (Applicants 4; Tr. 1, p. 5; Record)
28. Pursuant to C.G.S. § 16-50m, the Council gave due notice of a public hearing to be held on December 14, 2023, beginning with the evidentiary session at 2:00 p.m. and continuing with the public comment session at 6:30 p.m. via Zoom remote conferencing. The Council provided information for video/computer access or audio only telephone access. (Council's Hearing Notice dated September 14, 2023; Tr. 1, p. 6; Transcript 2 – December 14, 2023 - 6:30 p.m. [Tr. 2], p. 1)
29. 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, p. 7; Tr. 2, p. 6; C.G.S. §16-50n(f) (2023))
30. No oral limited appearance statements were made during the public comment session of the Council's hearing held on December 14, 2023. (Tr. 2, p. 9)
31. 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 December 14, 2023 and January 2, 2024 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 September 14, 2024; Tr. 1; Tr. 2; Record)
32. 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 (2023))
33. 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 (2023); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25).
34. Pursuant to C.G.S. §16-50n(f), at the conclusion of the hearing session held on December 14, 2023, the Council closed the evidentiary record for Docket 518 and established January 13, 2024 as the deadline for public comments and the submission of briefs and proposed findings of fact. (Record)
35. On December 28, 2023, the Council requested an extension of time to render a final decision. On January 2, 2024, Applicants consented to the Council's request for an extension of time. (Record)
36. 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) (2023))
37. 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 (2023); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25 (2023))
38. On January 2, 2023, Applicants submitted a post-hearing brief. (Record)
39. 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

40. Pursuant to C.G.S. § 16-50j (g), on September 14, 2023, 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)
41. No state agencies responded with comment on the application. (Record)
42. 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) (2023); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007)).

Municipal Consultation

43. Pursuant to C.G.S. § 16-50l(f), TT commenced the 90-day pre-application municipal consultation process on March 23, 2023, by submitting a Technical Report to Town officials regarding the proposed facility. (Applicants 1, p. 2, 31; Attachment M; bulk filing Technical Report)
44. On April 10, 2023, Applicants met with Town officials to discuss the proposed facility. Following the meeting, the Town submitted an application to collocate on the tower. TT revised its proposed tower height from 155 feet to 165 feet above ground level (agl) to include the Town's antennas with adequate separation from AT&T's antennas. (Applicants 1, pp. 2, 31; Attachment F; Attachment M; Tr. 1, pp. 18, 29, 46, 47; Applicants 3, response 5 – exhibit #5)

Public Need for Service

45. 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)
46. 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)
47. 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)

48. 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)
49. 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)
50. 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)
51. 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)
52. 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)
53. 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)
54. 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)
55. 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 - Declaratory Ruling and Notice of Proposed Rulemaking, FCC 20-75, June 10, 2020)

56. 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 - 2, Report and Order, FCC 20-153, November 3, 2020)
57. 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 (2023))
58. The Town's 2300 (POCD) identifies wireless services as a benefit to community development and recommends that the Town should continue to work with communication providers to ensure that its communications infrastructure is up to date and able to meet the growing demands of its community. (Applicants 1, p. 28; Town Plan of Conservation and Development [POCD], p 96)
59. On September 14, 2023, 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 December 7, 2023. No carriers responded to the Council's solicitation. (Record)
60. The facility would be designed to accommodate four wireless carriers, the Town and local emergency service providers. (Applicants 1, pp.1, 2, 35, Attachment G)

AT&T's Existing and Proposed Wireless Services

61. AT&T has a significant coverage deficiency in its wireless communications network in the eastern and southeastern portions of South Windsor. The coverage deficiency was confirmed by coverage modeling and drive testing. (Applicants 1, p. 8, Attachment E p. 2; Applicants 3, response 34)
62. Roads in the area without adequate service include, but are not limited to, Route 74, Avery Street, Dart Hill Road and Miller Road. (Applicants 1, pp 8, 17, Attachment E)
63. AT&T proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3550 MHz and 3700 MHz frequencies at the site from a tower height of 150 feet agl. The 3500 MHz and 3700 MHz frequencies are capable of supporting 5G services. All frequencies would be capable of transmitting voice and data. (Applicants 1, Attachment E, Attachment J; Applicants 3, response 30; Tr. 1, p 16)
64. 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 3, response 32)
65. 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. All of AT&T's

licensed frequencies transmit voice and data services (Applicants 1, p 17, Attachment E; Applicants 3, response 31)

66. AT&T currently operates twelve 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). The proposed facility would interact with five of these sites. (Applicants 1, pp 8, 19, Attachments E, F; Applicants 3, responses 35, 36)
67. AT&T’s proposed installation at the 150-foot level of the proposed tower would provide an additional 1.15 square miles of 700 MHz coverage footprint at -83 dBm and 3.2 square miles at -93 dBm. Within the -93 dBm footprint, 2.27 miles of main roads and 24.8 miles of secondary roads would have reliable service (refer to Figures 4 & 5). (Applicants 1, Attachment E)
68. AT&T’s installation would provide reliable (-93 dBm) coverage to the proposed service area. Specific coverage for the proposed site is presented in the table below:

Street Name	700 MHz coverage in miles		850 MHz coverage in miles		1900 MHz coverage in miles		2100 MHz coverage in miles	
	RSRP - 83 dBm	RSRP - 93 dBm	RSRP - 83 dBm	RSRP - 93 dBm	RSRP - 83 dBm	RSRP - 93 dBm	RSRP - 83 dBm	RSRP - 93 dBm
Route 74	0.6	1.23	0.32	1.12	0.15	0.43	~0.03	0.25
Avery Street	0.25	1.03	0.2	0.7	~0.03	0.30	0	0.15
Dart Hill Road	0.9	1.3	0.8	1.05	0.3	0.83	0.22	0.30
Miller Road	0.45	0.6	0.37	0.63	~0.05	0.35	0	0.25
Overall Coverage Footprint (Square Miles)	2.54	4.75	2.0	3.9	0.28	2.16	0.15	0.28

(Applicants 1, Attachment E Applicants 3, response 31 – exhibit #31 & response 38)

69. The proposed facility would provide 700 MHz coverage for 1,489 additional residents within the surrounding area as well as the surrounding roads, neighborhoods and businesses. (Applicants 1, p 17, Attachment E, p. 6)
70. Lowering the height of AT&T’s proposed antennas would reduce the coverage footprint and create coverage gaps between the existing coverage and the coverage of the proposed site. (Applicants 1, Attachment E; Applicants 3, response 33)

Site Selection

71. Tarpon Towers II, LLC entered into a lease agreement with the parcel owner for 99 Dart Hill Road in December of 2015. AT&T established a search ring for the proposed service area on April 27, 2022, and coordinated with TT in selecting a suitable site for tower development within the search radius. The search ring was centered at 99 Dart Hill Road and had a radius of about 0.15 miles. The lease was reassigned to TT in June of 2022. (Applicants 1, Attachment O; Applicants 3, responses 4, 9)

72. The host parcel is located adjacent to an existing Eversource Right of Way (ROW) which exits the Barbour Hill Substation and heads southeast towards Rockville Substation in the Town of Vernon. The ROW passes through the central portion of the host parcel. (Applicants 1, pp. 7, 8, Attachment G; Tr. 1, p. 20)
73. The ROW features 55-foot-tall wood poles supporting three 115-kilovolt electric transmission lines. The wood poles are not tall enough or structurally sufficient to support telecommunications attachments. The ROW is approximately 50 feet east of the proposed compound and approximately 90 feet east of the proposed tower at their closest points. (Applicants 1, p. 19, Attachment E, Attachment F; Applicants 3, responses 11, 12, 28; Tr.1, p. 21)
74. There are no existing towers, buildings, utility poles or other structures within the search area that would meet coverage objectives for AT&T due to distances between existing sites, intervening topography, antenna height requirements and customer demand. (Applicants 1, p. 19, Attachment E, Attachment F; Applicants 3, response 12; Tr.1, p. 21)
75. Applicants investigated 6 sites within the search area as follows:
- a) **99 Dart Hill Road, South Windsor** (the proposed site): a 3.57 acre parcel zoned rural residential that TT selected as the proposed site and entered into a lease agreement with the property owner.
 - b) **244 Barber Hill Road, South Windsor**: a 57.9 acre parcel zoned rural residential and located approximately 0.88 miles northwest of the site. The property owner was not interested in a lease;
 - c) **2974 Ellington Road, South Windsor**: a 7.1 acre parcel zoned rural residential and located approximately 0.55 miles north of the site. The property owner was not interested in a lease;
 - d) **2985 Ellington Road, South Windsor**: a 1.88 acre parcel zoned rural residential and located approximately 0.56 miles north of the site. The property owner was not interested in a lease;
 - e) **41 Dart Hill Road, South Windsor**: a 4.5 acre parcel zoned rural residential and located approximately 0.12 miles west of the site. The property owner was not interested in a lease;
 - f) **2965 Ellington Road, South Windsor**: an 8.2 acre parcel zoned rural residential and located approximately 0.55 miles northeast of the site. The property owner was not interested in a lease;
- (Applicants 1, p. 19, Attachment F; Applicants 3, response 10; Tr 1, pp. 34, 35)
76. 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)(2023))
77. 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

78. 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 would enable AT&T to provide wireless service to a large area. (Applicants 3, response 14; Tr. 1, p. 17)
79. 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 3, response 14)
80. 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 3, response 14)
81. AT&T estimates at least 25 utility pole small cells would be required to provide service to the proposed service area. Small cell equipment at each pole would include antennas, radio and electrical equipment, a meter box, and cabling. The estimated cost of each small cell deployment is between \$50,000 to \$70,000. This estimate does not include front haul fiber connection to the small cell node and 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 3, response 14)
82. 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 3, response 14; Tr. 1, pp. 58-59)

Proposed Site

83. 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))
84. The proposed site is located on an approximately 3.57-acre irregular shaped parcel at 99 Dart Hill Road. The parcel is mostly landlocked with a little frontage on Dart Hill Road. (Applicants 1, p. 7; Applicants 3, Exhibit 52b)
85. The host parcel is zoned rural residential (RR) with existing access from Dart Hill Road and is undeveloped. The entrance to the existing access from Dart Hill Road is located north of the Eversource ROW and travels east then south through the ROW. An existing locked gate within the ROW is located approximately 400 feet from the existing entrance from Dart Hill Road. (Applicants 1, pp.7, 8, Attachment G, Attachment L; Applicants 3, Exhibit 67; Tr. 1, pp. 13, 15 & 41)

86. The site consists of a mostly wooded area including mixed-aged hardwoods and pine trees, some open grassland areas including along the electric transmission line ROW and the existing gravel access drive from Dart Hill Road. (Applicants 1, pp. 7, 8, Attachment I, Attachment L)
87. Land use immediately surrounding the site to the north, west, northeast and south is primarily rural residential with the electric transmission line corridor passing through the parcel from the northwest to the southeast. Abutting properties to the east and southeast are undeveloped Town owned parcels. Further to the southeast is Interstate 84 (I-84) approximately 1.83 miles from the site. (Applicants 1, p. 1, 28, Attachment I, Attachment L)
88. The proposed tower site is located in the southern portion of the host parcel, at an approximate ground elevation of 375 feet above mean sea level (amsl) with the electric transmission line ROW to the north and east of the facility (refer to Figure 8). (Applicants 1, pp. 7 & 28, Attachment G; Applicants 3, exhibit #31)
89. The site would be within a 75-foot by 75-foot (5,625 square foot) lease area. (Applicants 1, p. 1, 8, Technical Report, Attachment G; Applicants 3, response 7; Tr. 1, pp. 46 & 47)
90. The topography of the proposed site and the surrounding area would enhance coverage and minimize interference or loss of coverage due to terrain. (Tr. 1 p. 17)
91. Development of the site would disturb less than one acre of land (approximately 0.28 acres or an approximate 12,000 square foot area.) (Applicants 3, response 20)

Proposed Facility

92. The proposed facility would consist of a 165-foot monopole within a 60-foot by 60-foot (3,600 square foot) equipment compound. The tower would be designed to support four wireless carrier antennas as well as municipal emergency services antennas. (Refer to Figure 7). (Applicants 1, pp. 1, 2 & 31; Attachment G; Applicants 3, Exhibit #52b)
93. The tower would be at an approximate elevation of 375 feet above mean sea level (amsl). (Applicants 1, Attachment G; Applicants 3, Exhibit #31)
94. AT&T would install nine antennas on a platform antenna mount at a centerline height of 155 feet agl. (Applicants 1, pp. 1, 2, 8, Attachment G; Applicants 3, response 5 - exhibit #5; Tr. 1 p. 18)
95. The Town would install two omni antennas at a centerline height of 165 feet agl that would extend to a height of 183 feet agl. (Applicants 1, pp. 1, 2, 8, Attachment G; Applicants 3, response 5 - exhibit #5; Tr. 1 p. 18)
96. The compound would accommodate four wireless carriers and the Town. (Applicants 1, p. 1, 8, Technical Report, Attachment G; Applicants 3, response 7; Tr. 1, pp. 46 & 47)
97. AT&T would install one equipment cabinet and a 15-kilowatt diesel fueled emergency backup generator on concrete pads within a 12-foot by 20-foot area. The generator would have a double walled fuel tank. (Applicants 1, Attachment G, Technical report; Applicants 3, responses 39, 40 & 52, Exhibit #52a; Tr. 1, p. 47)
98. The proposed equipment compound will be surrounded by an eight-foot high chain link fence with a 14-foot wide double swing access gate that would be locked for security purposes. (Applicants 1, Attachment G, Technical Report; Applicants 3, Response 48)

99. Access to the tower site would be via the existing 20-foot wide gravel access drive from Dart Hill Road which extends along the electric transmission line ROW and a proposed 250 foot long extension from the electric transmission line ROW to the compound. (Applicants 1, p 8, 29, Attachment G, Technical Report; Applicants 3, responses 22, 59 and 67, Exhibit #67; Tr. 1, p. 23 & 24)
100. The existing access drive is used by Eversource to access its electric transmission line structures and would be resurfaced as needed and a 12-foot wide gravel vehicular driveway and a 12-foot by 20-foot vehicle turnaround at the facility entrance would be installed as part of the easement. The existing electric transmission line ROW is gated and an application for a permitted use of the ROW must be approved by Eversource. In October of 2023, TT filed a Permitted Use Application with Cornerstone Energy- an Eversource vendor. TT anticipates that the application would be approved within the first quarter of 2024. (Applicants 1, p 8, 29, Attachment G, Technical Report; Applicants 3, responses 22, 59 and 67, Exhibit #67; Tr. 1, pp. 14, 23)
101. The host parcel slopes gently towards the south with ground elevation ranging from 385 feet amsl on the northern portion of the property to 369 feet amsl on the southern portion of the property. The equipment compound would have a finished level of 375 feet amsl. The proposed point of access on Dart Hill Road for the facility is 350 feet amsl. (Applicants 1, Attachment G, Technical Report)
102. Power and telecommunications utilities would extend underground from the compound and along the access road to an existing utility pole (SNET 5159) on Dart Hill Road. (Applicants 1, Attachment G; Applicants 3, Exhibit #66 8a)
103. The site does not require water supply or wastewater utilities. There would be no water connection to the site. (Applicants 1, p. 25)
104. The tower and foundation would be designed to accommodate an increase in height up to 20 feet. The Applicants do not anticipate a future extension of the tower. (Applicants 3, responses 17 & 58)
105. 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. (Applicants 3, response 8)
106. 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 (2023); R.C.S.A. §16-50j-75, *et seq.*; *Town of Westport v. Conn. Siting Council*, 260 Conn. 266 (2002))
107. The geotechnical survey 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. No more than 3 trees would be removed for the ATV access. (Applicants 3, response 8)
108. TT does not anticipate any blasting to construct the site. If bedrock is encountered, a jack hammer would be used for rock removal. (Applicants 3, response 19; Tr. 1, p. 20)
109. Construction would require approximately 35-40 cubic yards of fill and 10 cubic yards of cut. (Applicants 1, Bulk filing - Technical Report)
110. There are 60 residences within 1,000 feet of the site. (Applicants 1, Attachment P)

111. The nearest residential property line from the compound is approximately 60 feet to the southeast at 40 Mara Trail. The proposed tower would be approximately 355 feet from the nearest residential building located at 35 Mara Trail south of the facility. (Applicants 1, Attachment G; Applicants 3, Exhibit #52b)
112. The nearest property line from the tower is approximately 72 feet to the east at 37 Paper Chase Road, which is Town-owned open space. (Applicants 1, Attachment G; Applicants 3, Exhibit #52b)
113. TT anticipates the facility could be constructed within fifteen weeks, followed by 2 weeks of site testing/integration for the carriers. (Applicants 1, p 33)
114. Site construction would commence following Council approval of a D&M Plan for the facility. (Applicants 1, p 33)
115. 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))
116. 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 (2023); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014); Council Administrative Notice Item No. 61)

117. 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	\$180,000
AT&T Construction	\$179,000
<u>Total Estimated Costs</u>	<u>\$684,000</u>

(Applicants 1, p 33; Applicants 3, response 6)

118. TT would recover construction costs associated with the facility by the revenue generated from leasing space on the facility to wireless service providers. (Applicants 3, response 7)
119. AT&T would recover the costs of its equipment as part of its business operations and services provided. (Applicants 3, response 6)
120. 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. TT and AT&T are private entities. (Applicants 3, response 3; C.G.S. §22a-1, *et seq.* (2023))

Public Health and Safety

121. 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)

122. The proposed facility would be in compliance with the requirements of the 911 Act and would provide Enhanced 911 services. (Applicants 1, p 8)
123. 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)
124. AT&T's proposed equipment installation would be capable of supporting text-to-911 service. (Applicants 3, response 49)
125. 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)
126. AT&T's proposed equipment would provide WEA services. (Applicants 3, response 50)
127. 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 1, p. 18)
128. 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 1, Attachment G; Applicants 3, response 15, response 18)
129. The tower would be designed to the Telecommunications Industry Association 222-H Structural Standards for Steel Antenna Towers and Antenna Supporting Structures. The maximum rated serviceable wind velocity for the antennas on the proposed tower is 60 mph. (Applicants 3, responses 15, 16)
130. By letter dated March 23, 2023, the Federal Aviation Administration (FAA) issued a Determination of No Hazard to Air Navigation for the proposed tower. The proposed monopole tower would not require notice to the FAA. (Applicants 1, p 32, Attachment N - FAA No Hazard Determination and FAA Summary Report)
131. Security measures at the site would include, but are not limited to, the proposed compound fence, a locked access gate, remote monitoring and silent intrusion alarms on the equipment cabinets. (Applicants 3, responses 48; Tr. 1, p. 21)
132. The tower setback radius* would extend beyond the boundary of the ROW to the north by 75 feet and the boundary of the subject property to the east by 93 feet. TT could design a tower yield point, to ensure the tower setback radius does not encroach upon the electric transmission line ROW and remains within the boundaries of the host parcel. (Attachment 3, response 28; Tr. 1, pp. 20, 21 & 33)

*The horizontal distance equal to the tower height that extends radially from the center of the tower.

133. Operational noise from the facility would comply with DEEP Noise Control Regulations. (Applicants 1, pp. 25, 26; Applicants 3, response 52-exhibit #52a & #52b)
134. Operational noise from the facility is limited to the equipment cabinets (cooling fans) and the emergency backup generator. Noise studies using computer modeling and sound data from equipment manufacturers indicate that with all equipment running the noise level at the closest abutting property line would be 44 dBA. Existing ambient noise levels at the site is 45 dBA. (Applicants 3, response 52-Exhibits #52a & 52b)
135. 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))
136. There would be no lighting of the facility except for a 20 watt work light for the equipment cabinet that is operated by motion. (Applicants 3, response 53)
137. The proposed site is not located within the Federal Emergency Management Agency designated 100-year or 500-year flood zone. (Applicants 1, p 26, Attachment I)
138. The proposed access road slope would allow for the passage of emergency and construction vehicles. (Applicants 3, response 54)
139. The site is not located within a state-designated aquifer protection area. (Applicants 3, response 51)
140. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T’s antennas is 3.6 percent of the standard for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, at a horizontal distance of approximately 677 feet from the tower using the proposed antenna configuration. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) using far-field methodology that assumes all channels would be operating simultaneously, which creates the highest possible power density levels. (Applicants 1, p 25, Attachment J; Council Administrative Notice Item No. 2 – FCC OET Bulletin No. 65)

Emergency Backup Power

141. 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)
142. Consistent with the findings and recommendations of the Panel, and in accordance with C.G.S. §16-50//, 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)

143. 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)
144. AT&T would install a 15-kW diesel-fueled emergency backup generator with a built-in 54-gallon double-walled fuel tank. The generator would be capable of providing 53 hours of runtime at full electrical load in the event of an outage. The generator would be remotely exercised for 30 minutes twice a week. The generator would be managed to comply with R.C.S.A. §22a-174-3b. (Applicants 1, p 26; Applicants 3, responses 39, 40, 43 & 47; Technical Report)
145. Natural gas, as a generator fuel source, is available on Dart Hill Road and the nearest interconnection point is 800 feet from the proposed facility. A natural gas or propane gas fueled generator must comply with National Fire Protection Association requirements. Applicants prefer a diesel fueled generator and have not considered the use of natural gas. (Applicants 1, p 26; Applicants 3, responses 41, 42; Tr. 1, p. 47)
146. AT&T would also utilize battery backup to prevent a reboot condition and provide between 3 to 4 hours of battery power in the event of an outage. (Applicants 3, response 44)
147. 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. (Applicants 3, response 46)
148. 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 Effects and Mitigation Measures

Air and Water Quality

149. Operation of the proposed facility would not produce air emissions, excluding operation of the emergency backup generator. (Applicants 1, pp. 25, 26)
150. 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. 25; Applicants 3, response 47; R.C.S.A. §22a-174-3b)
151. 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.* (2023))
152. 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 (2023))
153. 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 (2023))

154. A wetland inspection was conducted on September 23, 2022. No wetlands were identified within 100 feet of the site and the access road. The nearest watercourse is a pond located approximately 110 feet southeast of the proposed facility. (Applicants 1, pp. 27, 31, Attachment I).
155. No vernal pools were identified within the site. (Applicants 1, Attachment L; Tr. 1, p 77)
156. 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 3, response 6 – Exhibit #66)
157. Pursuant to C.G.S. §22a-430b, a DEEP Stormwater Permit is required for any disturbance greater than 1 acre. The construction limit of disturbance for the proposed site is approximately 12,000 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))
158. The proposed site is not located within a public water supply watershed. (Applicants 3, response 51; Council Administrative Notice Item No. 72; Town POCD)

Forests and Parks

159. Nevers Park is approximately 1.54 miles southeast of the site. (Applicants 1, Technical Report)
160. Development of the proposed site would require the removal of approximately 44 (0.6 acres) existing trees with a diameter of six inches or greater at breast height. (Applicants 1, p. 24, Attachments G & I)
161. No tree clearing would occur within core forest. (Applicants 3, response 26)

Fish and Wildlife

162. The site is not adjacent to a DEEP-designated cold-water habitat. Development of the site would not affect fish passage. (Council Administrative Notice Item No. 46; Applicants 1, Attachment I)
163. 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. 74)
164. The proposed facility is not located within a NDDB buffer area, and thus, TT did not consult with the DEEP NDDB program. (Applicants 3, response 65; Attachment I; Council Administrative Notice Item No. 74)
165. The site is within the range of the northern long-eared bat (NLEB), a federally-listed 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 facility. (Applicants 1, p. 24, Attachment I)
166. Applicants submitted information to the USFWS using its Information, Planning, and Conservation System (IPaC). At the time the IPaC analysis was conducted, the NLEB was a federally-listed threatened species. The USFWS re-listed the NLEB as federally-listed endangered on March 31, 2023. USFWS submitted correspondence dated April 21, 2023 to TT based on the IPaC submission

stating that the proposed project would not likely have an adverse effect on NLEB. (Applicants 1, p. 24, Attachment I)

167. The USFWS letter also indicated that other species that may occur within the vicinity of the site includes the monarch butterfly. TT would coordinate with the USFWS to ensure that the proposed project does not severely impact this species. (Applicants 1, Attachment I; Tr. 1, p. 19)
168. 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 Station 43 Marsh/Sanctuary in South Windsor located approximately 5.0 miles southwest of the proposed site. The proposed facility would not affect the IBA. (Applicants 1, p. 27, Attachment K)
169. Applicants complied with National Environmental Policy Act (NEPA) requirements for telecommunications facilities. (Applicants 1, pp. 32, Attachment I)
170. The proposed facility would comply with the USFWS telecommunications tower guidelines for minimizing the potential for impact to bird species. (Applicants 1, p. 27, Attachment I, USFWS Determination dated April 21, 2023)

Agriculture and Soils

171. The host parcel does not contain prime farmland soils. (Applicants 3, response 24)
172. No portion of the proposed site is currently in productive agricultural use. (Applicants 3, response 23)
173. The project area consists of well drained loamy soils that have been previously disturbed and areas that are covered by gravel. (Applicants 1, Attachment I)

Scenic, Historic and Recreational Values

174. By letter dated March 21, 2023, SHPO determined that the host parcel is not 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, pp. 26, 29, 32 and Attachment I, SHPO Determination dated March 21, 2023)
175. The Town POCD identifies scenic views, roads considered scenic in character, state-designated scenic roads and scenic areas. The POCD identifies Main Street which is approximately 5.2 miles southeast of the site as the only locally-designated scenic road in South Windsor. The proposed site is not within a state or locally designated scenic area. (Applicants 1, Town POCD)
176. There are no “blue-blazed” hiking trails maintained by the Connecticut Forest and Park Association within two-miles of the site. (Applicants 1, Technical Report; Council Administrative Notice Item No. 78)
177. 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) (2023))

178. No comments were received from the OPM or DEEP regarding any impacts to scenic quality or resources. (Record)

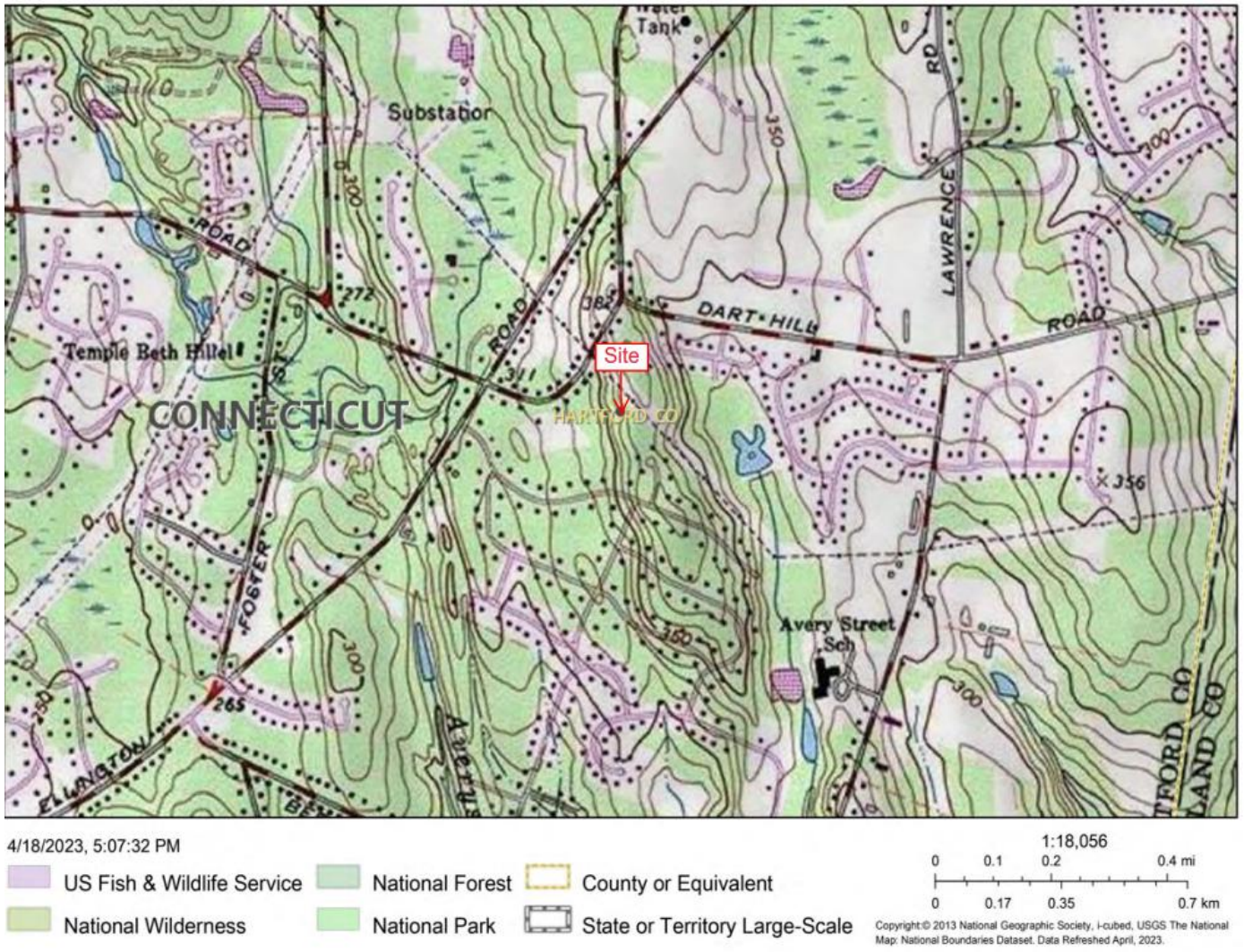
Visibility

179. 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 (2023))
180. 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)
181. On November 15, 2023, 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 three-foot diameter helium filled balloon to a height of approximately 155-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)
182. An additional visual analysis for a 165-foot tower was conducted to account for the change in tower height. (Applicants 1, p. 22, Attachment H)
183. Information obtained during the field reconnaissance was incorporated into a viewshed map that depicts areas with year-round visibility within a one-mile radius (4,021 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)
184. The average tree height within 300 feet of the project area is approximately 57 feet with a few trees extending to a height of 97 feet. (Applicants 3, response 63)
185. Based on the final viewshed analyses (refer to Figures 10 & 11), the proposed tower would be visible year-round (leaf-on conditions) from approximately 58 acres (2.89% of the Study Area). Year-round visibility would be primarily limited to immediately surrounding areas along Dart Hill Road and the existing Eversource ROW. (Applicants 1, p. 22, Attachment H)
186. The tower would be seasonally visible (leaf-off conditions) from approximately 88.3 acres (4.39%) of the Study Area. (Applicants 1, p. 22, Attachment H)
187. Approximately 129 residences within 0.5 miles of the proposed facility would have seasonal and year round views of the facility. 53 of those residences, mostly from the immediate northeast of the site including the host property, would have year-round views and 76 residences would have seasonal views. Most views would consist of the upper-most part of the tower. (Applicants 3, response 61)
188. A stealth monopine facility at the proposed site would be more visible above the existing tree line due to the comparably low height of the existing tree line. Installation of a stealth monopine at this site would be 70% more expensive than a regular monopole. However, the Applicants are willing to consider a monopine if so, ordered by the Council. (Applicants 3, response 62; Tr. 1, p. 22)

189. 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) (2023))

190. 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 Philip R. Smith Elementary School located on Avery Street approximately 0.5 miles southeast of the proposed facility site. (Applicants 1, p. 22; Attachment H, Technical Report)

Figure 1 – Site Location – Topographic Map



(Applicants 1, Attachment I)

Figure 2 – Site Location – Aerial Photograph

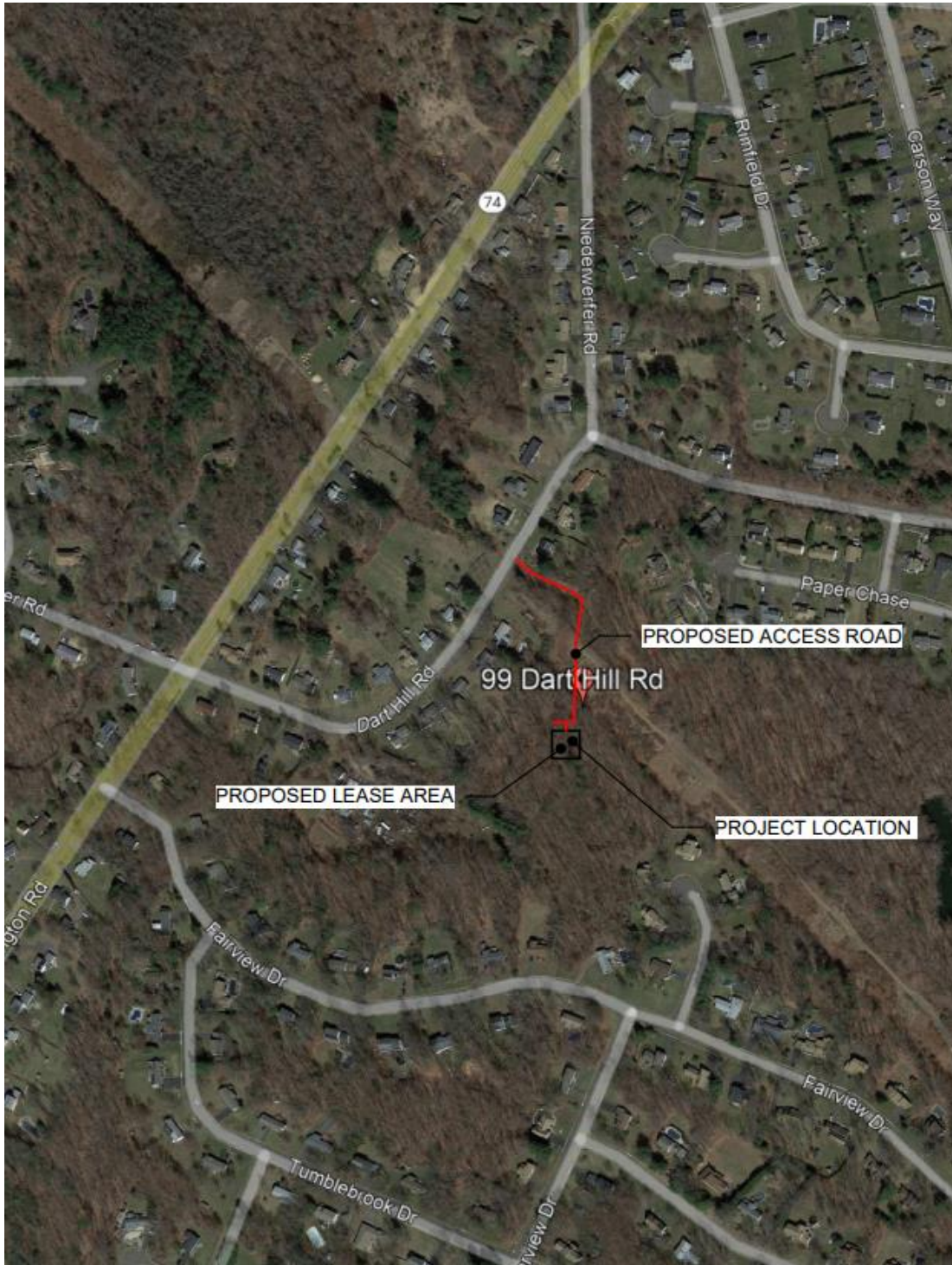


Figure 3 – AT&T Existing 700 MHz Coverage

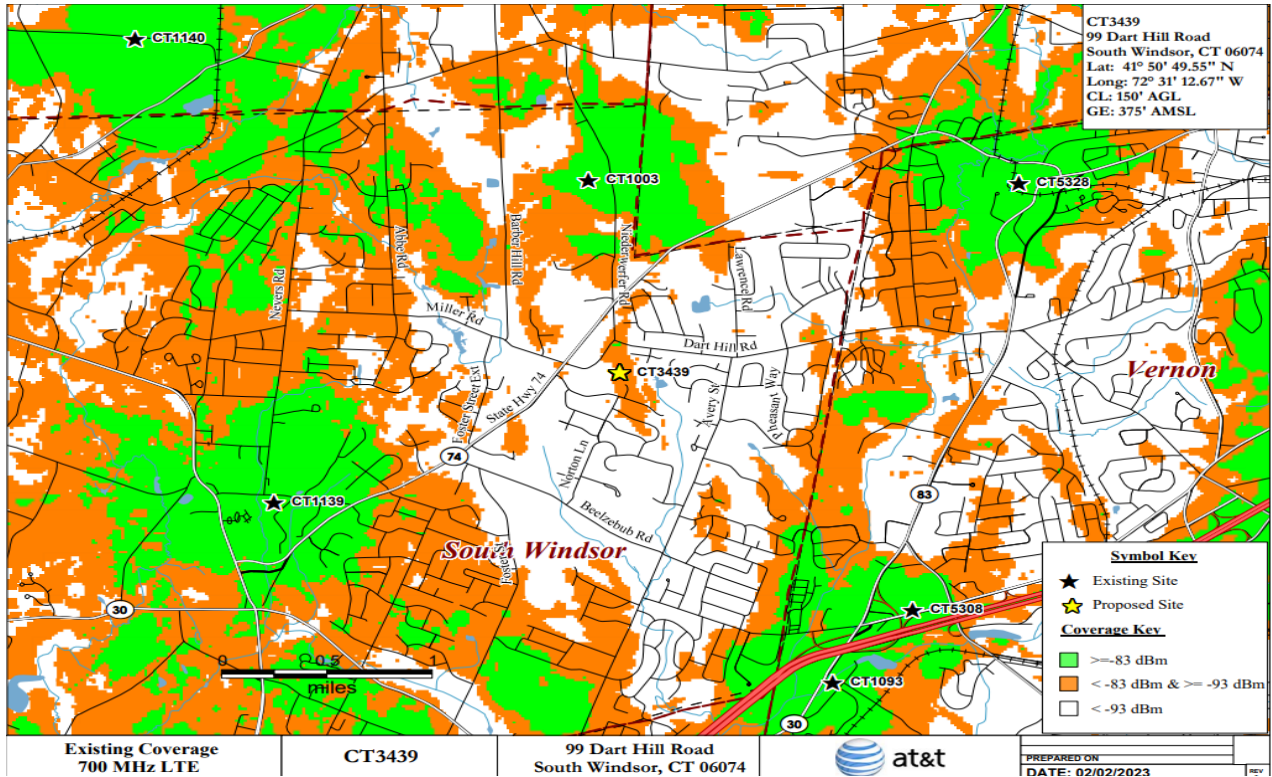


Figure 4 – AT&T Existing and Proposed 700 MHz Coverage

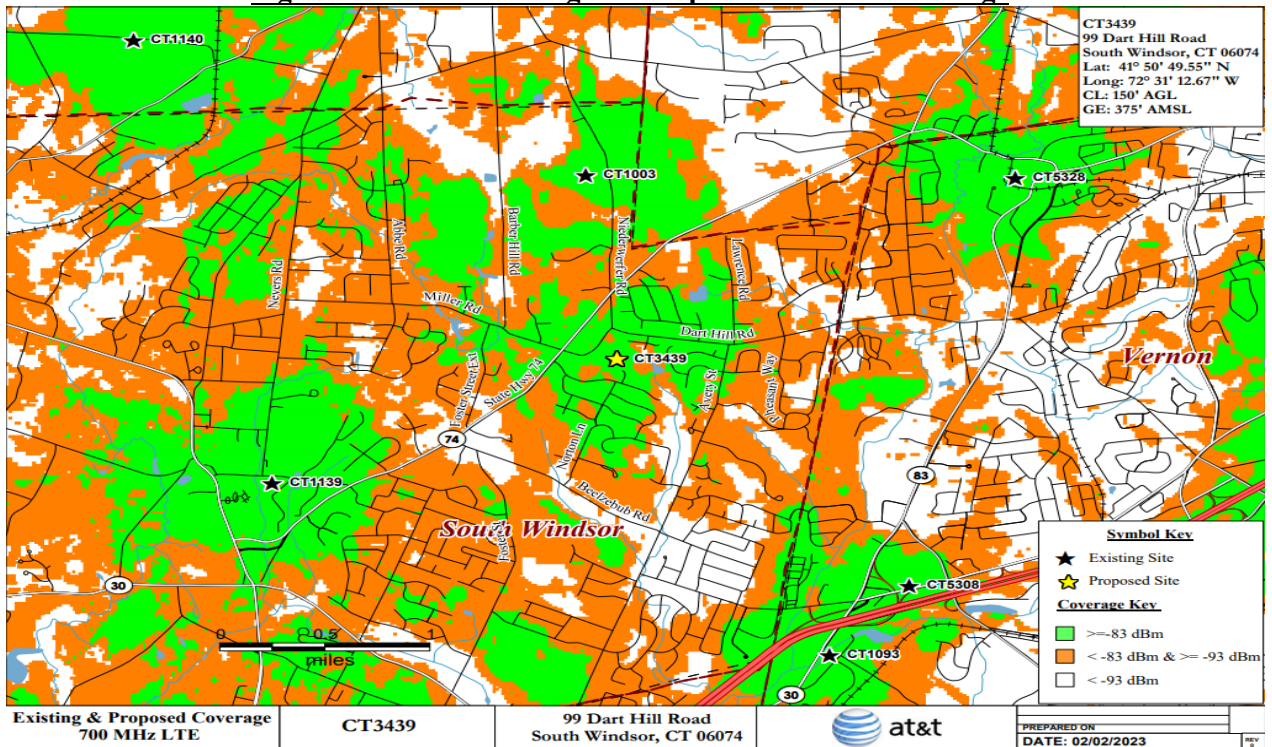
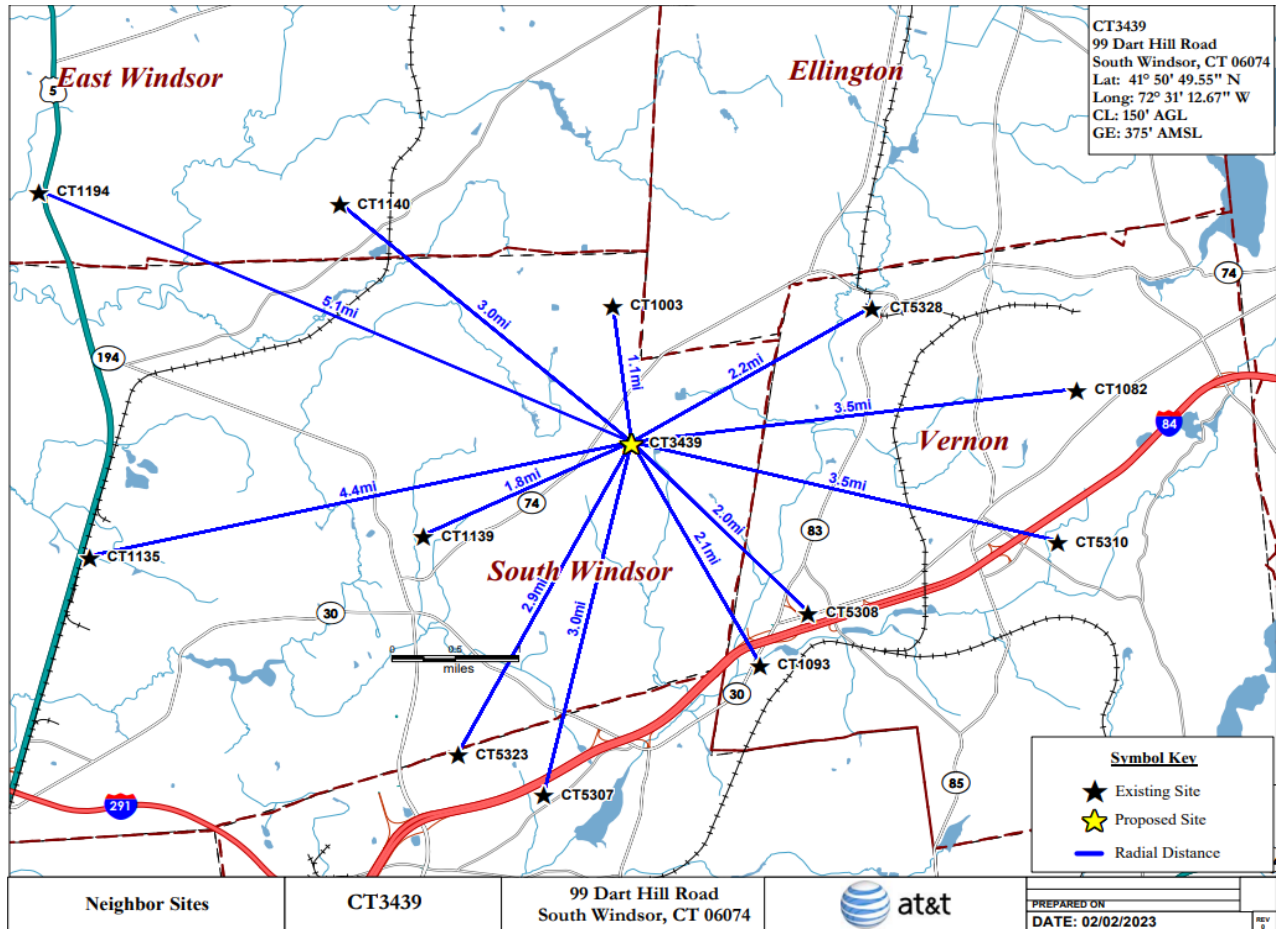
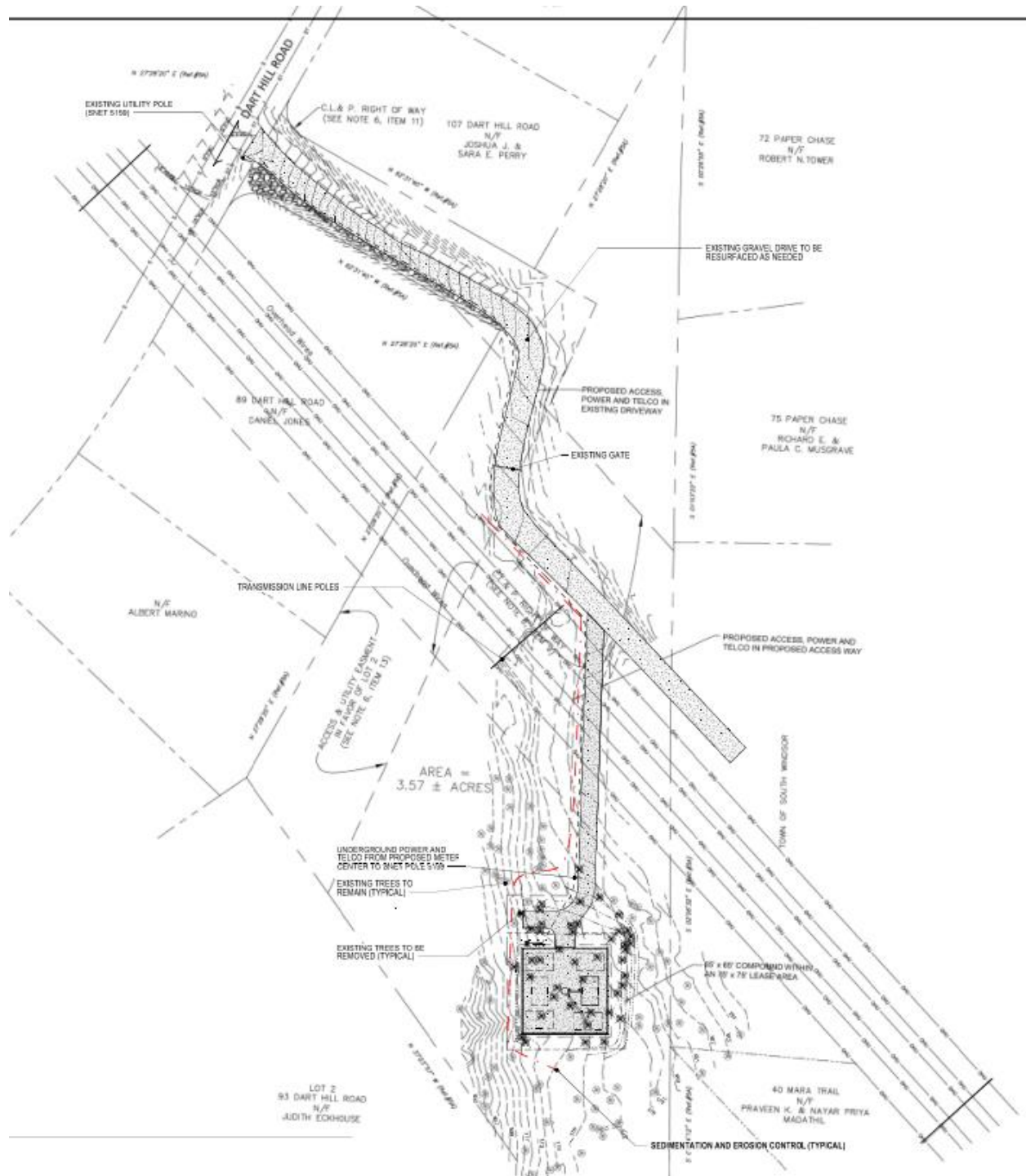


Figure 5 – Site Location with existing surrounding Sites



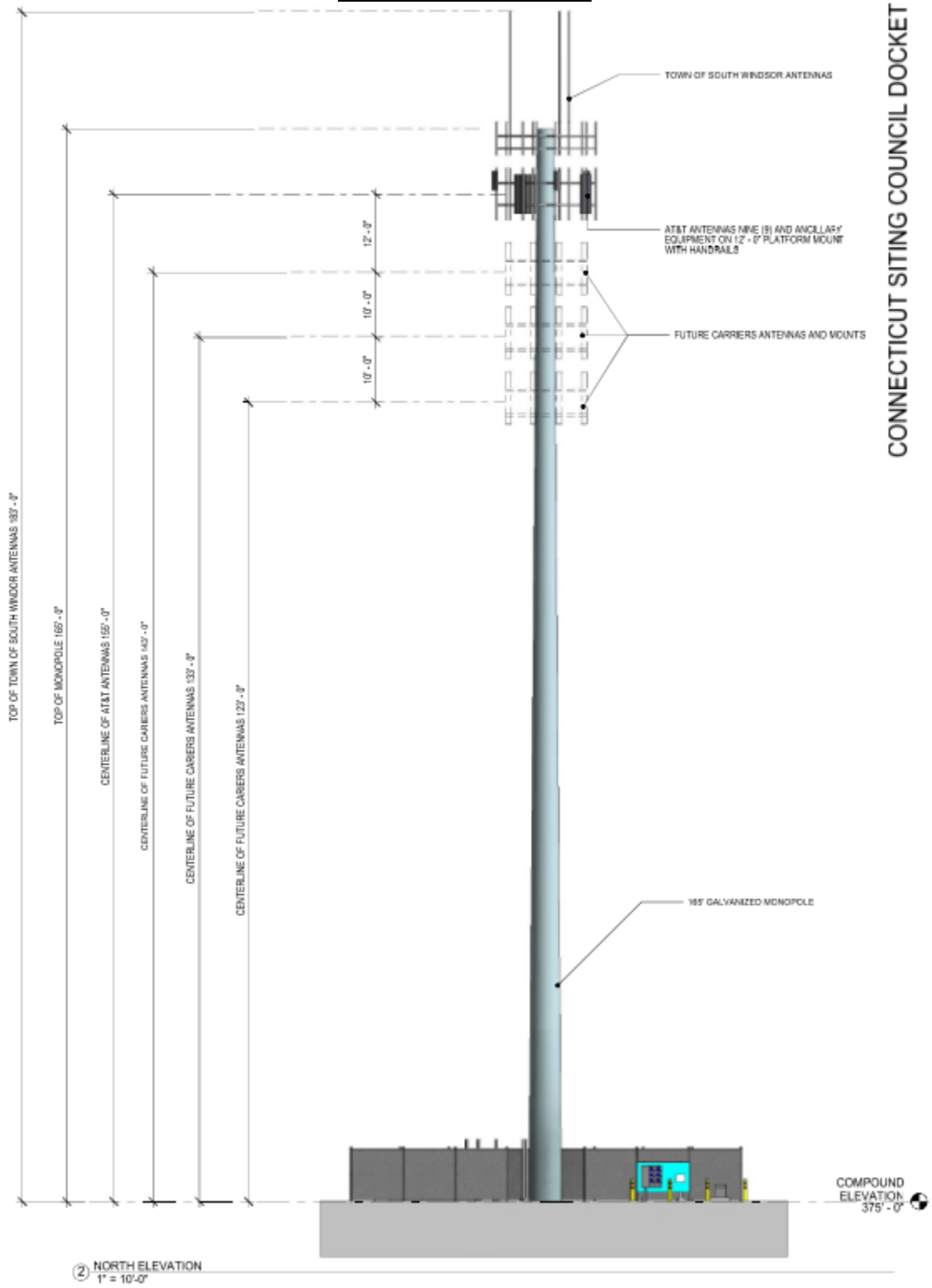
Site Name	Address	Town	Latitude	Longitude	Antenna Centerline (feet)	Structure Type	Status
CT1003	391 Niederwerfer Road	South Windsor	41.8636	-72.5231	77	Monopole	On-Air
CT1093	47 Main Street	Talcottville	41.8206	-72.5006	107	Watertank	On-Air
CT1135	300 Governors Highway	South Windsor	41.8335	-72.6030	162	Monopole	On-Air
CT1139	151 Sand Hill Road	South Windsor	41.8360	-72.5520	170	Monopole	On-Air
CT1140	50 Plantation Road	East Windsor	41.8756	-72.5648	111	Watertank	On-Air
CT1194	232 South Main Street	East Windsor	41.8772	-72.6108	170	Lattice	On-Air
CT5307	53-73 Skater Street	Manchester	41.8050	-72.5336	145	Monopole	On-Air
CT5308	281 Hartford Turnpike	Vernon Rockville	41.8268	-72.4932	50	Rooftop	On-Air
CT5323	209 Buckland Hills Drive	Manchester	41.8099	-72.5467	129	Watertank	On-Air
CT5328	777 Talcottville Road	Vernon	41.8633	-72.4834	147	Monopole	On-Air
CT1082	197 South Street	Windsor	41.8535	-72.4521	163	Monopole	On-Air
CT5310	60 Industrial Park Road	Windsor	41.8353	-72.4550	168	Monopole	On-Air
CT3439	99 Dart Hill Road	South Windsor	41.8471	-72.5202	150	Monopole	Proposed

Figure 6 –Site Plan



(Applicants 3, Exhibit #66)

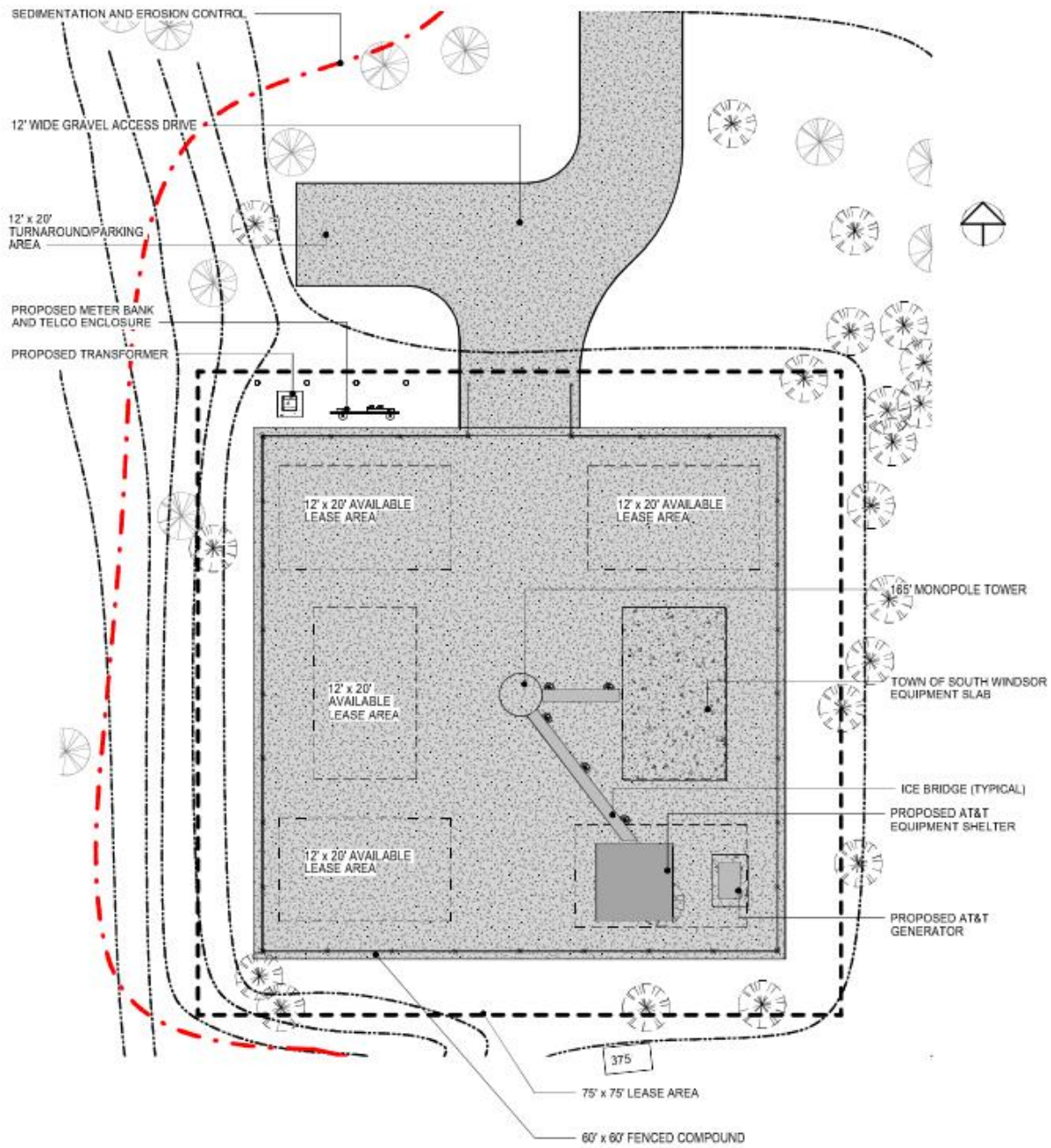
Figure 7 - Tower Profile



CONNECTICUT SITING COUNCIL DOCKET

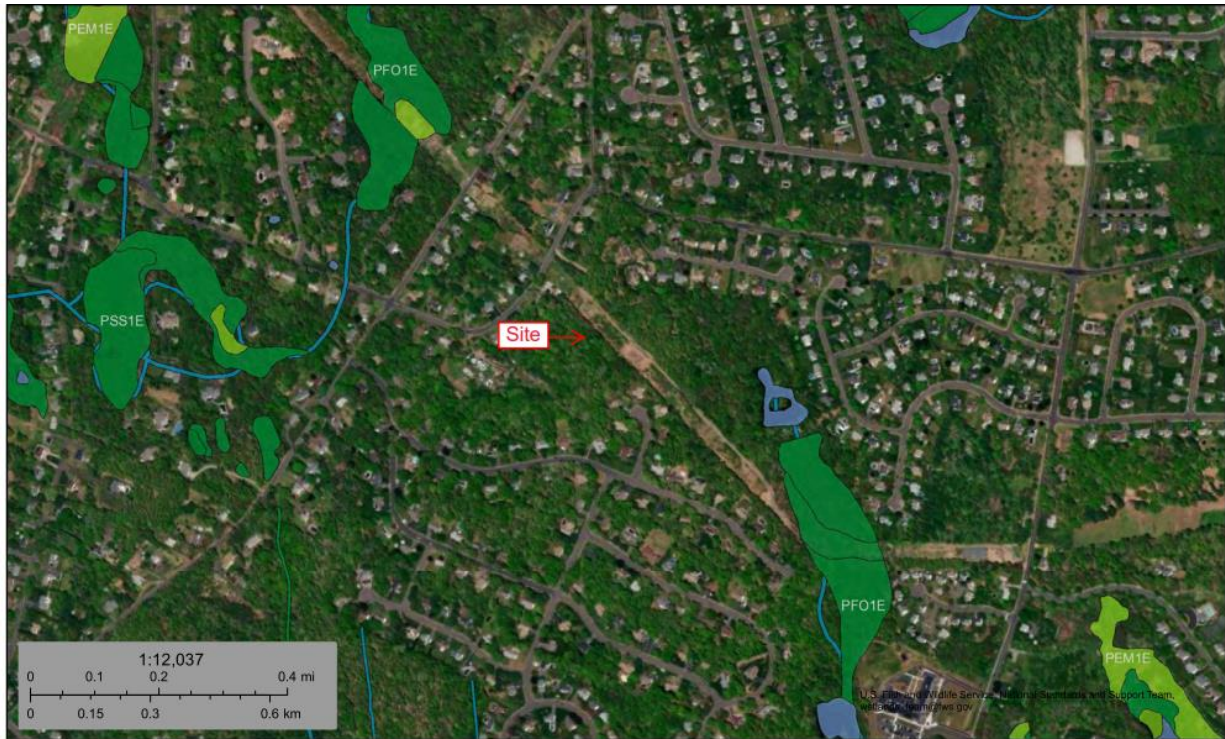
(Applicants 3, Exhibit #66)

Figure 8- Compound Plan



(Applicants 3, Exhibit #66)

Figure 9 – Wetland Location



December 27, 2022

Wetlands

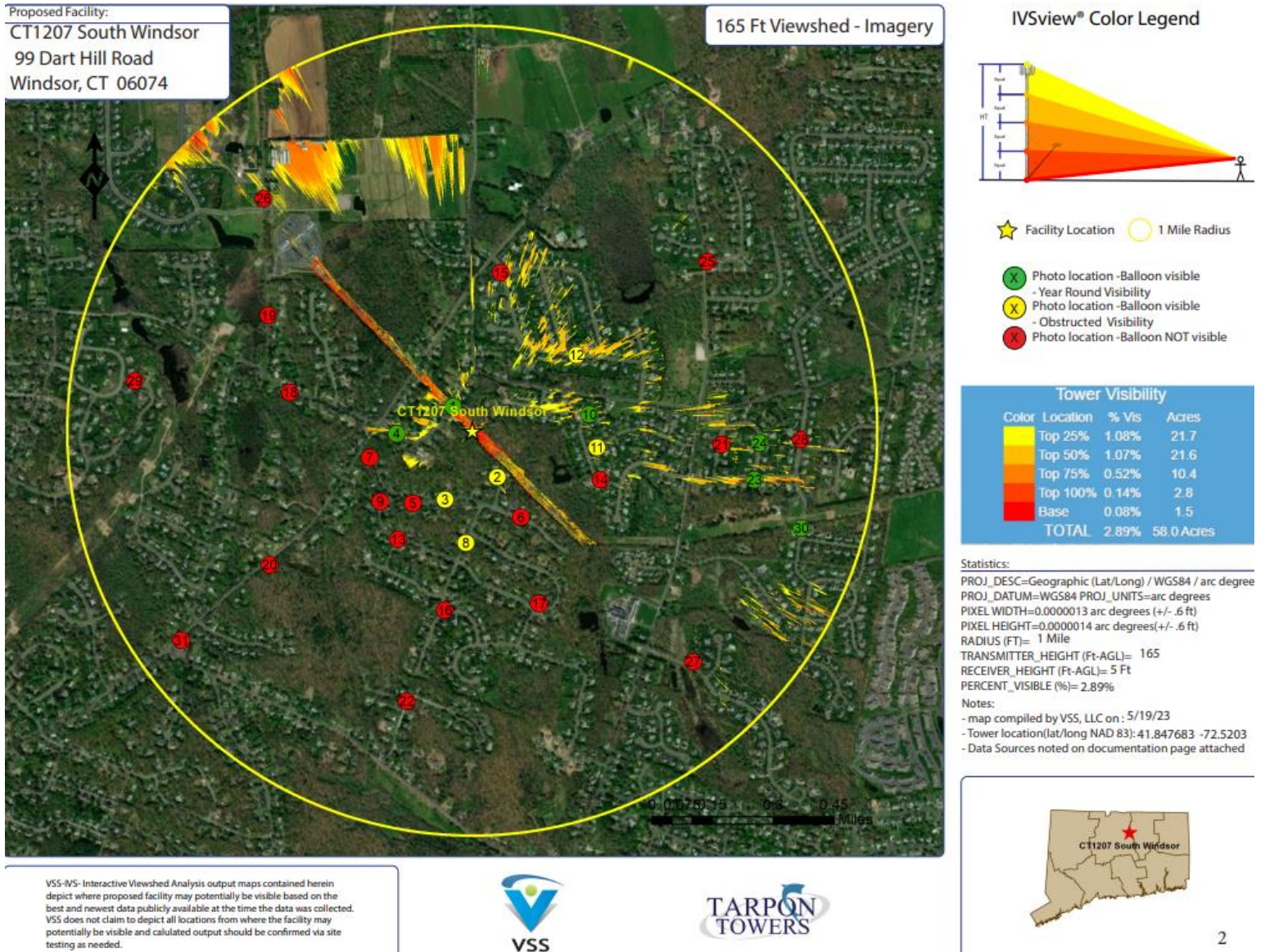
- | | | |
|--------------------------------|-----------------------------------|----------|
| Estuarine and Marine Deepwater | Freshwater Emergent Wetland | Lake |
| Estuarine and Marine Wetland | Freshwater Forested/Shrub Wetland | Other |
| | Freshwater Pond | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

(Applicants 1, Attachment I)

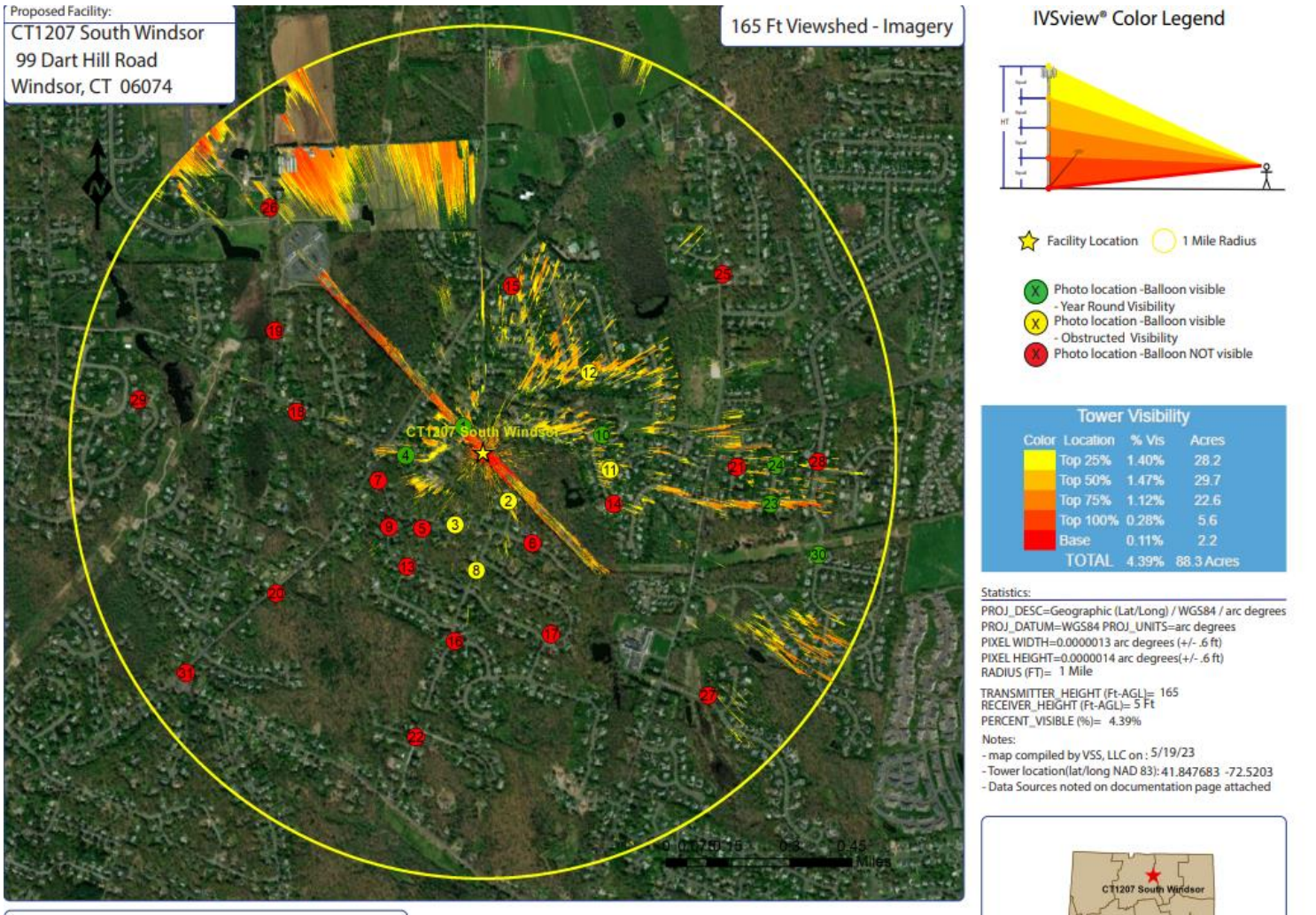
Figure 10 – Proposed Site Year Round(leaf on) Visibility Analysis Map



VSS-IVS- Interactive Viewshed Analysis output maps contained herein depict where proposed facility may potentially be visible based on the best and newest data publicly available at the time the data was collected. VSS does not claim to depict all locations from where the facility may potentially be visible and calculated output should be confirmed via site testing as needed.

(Applicants 1, Attachment H)

Figure 11 – Proposed Site Seasonal (leaf off) Visibility Analysis Map



(Applicants 1, Attachment H)

DOCKET NO. 518 – New Cingular Wireless PCS, LLC d/b/a } Connecticut
AT&T and Tarpon Towers III, LLC application for a Certificate of }
Environmental Compatibility and Public Need for the construction, } Siting
maintenance, and operation of a telecommunications facility }
located at 99 Dart Hill Road, South Windsor, Connecticut. } Council

April 11, 2024

Opinion

On August 22, 2023, New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T) and Tarpon Towers III, LLC (TT), collectively the 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 165-foot wireless telecommunications facility at 99 Dart Hill Road, South Windsor, Connecticut. The purpose of the proposed facility is to provide reliable wireless communications services for AT&T customers and address significant coverage deficiencies in AT&T's network in portions of eastern and southeastern South Windsor.

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

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.

The Applicants would construct, maintain and own the proposed facility and would be joint Certificate Holders. TT owns and operates numerous tower facilities in the state. AT&T is licensed by the FCC to provide personal wireless communications service throughout the state.

The total estimated cost of the proposed facility is \$684,000, inclusive of costs associated with AT&T'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. TT and AT&T are private entities.

AT&T's network does not have reliable service in portions of eastern and southeastern South Windsor including, but not limited to, Route 74, Avery Street, Dart Hill Road and Miller Road. AT&T provides wireless service to portions of South Windsor from twelve facilities within a four-mile radius of the proposed site. Due to distance and the geographical terrain, none of these facilities are able to provide adequate coverage and/or improve network reliability to the proposed service area.

Coverage objectives include the deployment of reliable in-vehicle service on roads, outdoors and within buildings in the proposed service area. AT&T would deploy 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3550 MHz and 3700 MHz wireless service at the site, all of which transmit voice and data services. The 3500 MHz and 3700 MHz wireless service band is designed to support 5G services.

AT&T's proposed installation at the 150-foot level of the proposed tower would provide an additional 1.15 square miles of 700 MHz coverage footprint at -83 dBm Reference Signal Received Power (RSRP) and 3.2 square miles at -93 dBm RSRP. Within the -93 dBm RSRP footprint, 2.27 miles of main roads and 24.8 miles of secondary roads would have reliable service.

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 limit the number of frequencies that can be deployed, limit structure sharing with other carriers, and lack space for emergency backup power. To provide wireless service to the proposed service area would require a significant number of small cell deployments either on existing utility poles or on new utility poles along roadways or on private parcels throughout the proposed service area and would not be economically viable as a replacement for a single tower site. Therefore, the Council finds small cells are not a feasible alternative to the proposed facility.

Based on a lack of reliable wireless service for AT&T in western, eastern and southeastern South Windsor and adjacent areas, the Council finds a specific need for a new tower to provide wireless services to the public.

Tarpon Towers II, LLC entered into a lease agreement for a site with the property owner of 99 Dart Hill Road in December of 2015. The lease was reassigned to TT in June of 2022. AT&T established a search ring for the proposed service area in April of 2022, and coordinated with TT in selecting a suitable site for tower development within the search radius. The search ring was centered at 99 Dart Hill Road and had a radius of about 0.15 miles.

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 Applicants investigated six sites. Except for the proposed site, none of the property owners were interested in a lease agreement for a wireless facility. The Council has no authority to compel a property 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 siting a facility.

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.

TT presented the Town of South Windsor (Town) with a technical report for the site in March 2023 and met with Town officials in April 2023 to discuss the proposed facility. As a result of that meeting, TT revised its proposed tower height from 155 feet to 165 feet above ground level (agl) to accommodate the Town's antennas.

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 is designed to accommodate four wireless carriers, including AT&T, and municipal antennas.

The host parcel is undeveloped and is mostly landlocked with frontage on Dart Hill Road. It is located adjacent to an existing Eversource electric transmission line right of way (ROW). The ROW passes through the central portion of the host parcel and features 55-foot-tall wood poles supporting three 115-kilovolt electric transmission lines. The wood poles are not tall enough or structurally sufficient to support telecommunications attachments.

The proposed facility consists of a 165-foot monopole within a 3,600 square foot compound located in the southern portion of the approximately 3.57-acre residentially zoned irregular shaped parcel. No other wireless carriers have expressed an interest in co-locating on the tower at this time.

AT&T proposes to install 9 antennas on an antenna platform at a tower centerline height of 155 feet agl. The Town would install two omni antennas at a centerline height of 165 feet agl that would extend to a height of 183 feet agl. AT&T would install one equipment cabinet and a diesel fueled emergency backup generator on a 12-foot by 20-foot concrete pad within the compound. The compound can support equipment for three other tenants. The compound would be enclosed by an eight-foot-tall chain link fence and accessed through a 14-foot wide double swing access gate that would be locked for security purposes.

In the event of an outage of commercial power, AT&T would rely on its 15-kilowatt diesel-fueled generator and associated 54-gallon double walled fuel tank that would provide approximately 53 hours of run time before refilling is necessary. AT&T would also utilize a battery backup power source to prevent a reboot condition and provide between 3 to 4 hours of battery power in the event that the generator does not start.

The compound would be accessed via the existing 20-foot wide gravel access drive extending from Dart Hill Road to the electric transmission line ROW and a new 250 foot long access drive to the compound. The proposed extension would include a 12-foot wide gravel driveway and a 12-foot by 20-foot vehicle turnaround at the facility entrance. The existing access drive from Dart Hill Road would be resurfaced as needed. Utilities servicing the facility would be installed underground along the access road to an existing utility pole on Dart Hill Road.

The existing electric transmission line ROW is gated and an application for a permitted use of the ROW must be approved by Eversource. TT filed a Permitted Use Application in October of 2023. The Council will order the Applicants to submit an approved application for permitted use of the ROW, or an alternative plan for access to the site, as part of the Development and Management (D&M) Plan.

There are 60 residences within 1,000 feet of the site. The nearest residential property line from the proposed compound is approximately 60 feet to the southeast at 40 Mara Trail. The nearest residential building from the proposed tower is approximately 355 feet to the south at 35 Mara Trail.

The nearest property boundary from the proposed tower is approximately 72 feet to the east at 37 Paper Chase Road, which is Town-owned open space. The Eversource ROW is approximately 50 feet east of the proposed compound and approximately 90 feet east of the proposed tower. The tower setback radius would extend beyond the boundary of the ROW to the north by 75 feet and the boundary of the host parcel to the east by 93 feet. The Council will order the Applicants to design the tower with a yield-point to ensure the tower setback radius does not encroach upon the ROW and remains within the boundaries of the host parcel.

A geotechnical survey would be performed prior to construction to evaluate existing subsurface conditions as part of the D&M Plan. No more than three trees would be removed to allow access for the drill rig to the boring locations.

The site slopes gently to the south with ground elevation ranging from 385 feet above mean sea level (amsl) on the northern portion of the property to 369 feet amsl on the southern portion of the property. The equipment compound would have a finished grade of 375 feet amsl. Construction at the site would require approximately 35-40 cubic yards of fill and 10 cubic yards of cut.

Blasting is not expected to be necessary to construct the facility. If bedrock is encountered, a jack hammer would be used for rock removal.

Development of the site would disturb an approximate 12,000 square feet (0.28-acre) area and would not require a DEEP-issued Stormwater Permit. The Applicants would develop a construction erosion and sedimentation control plan that is consistent with the *2002 Connecticut Guidelines for Soil Erosion and Sedimentation Control*.

Approximately 44 trees with a diameter of six inches or greater at breast height would be removed to develop the site.

No wetlands or vernal pools were identified within 100 feet of the site. The nearest watercourse is a pond located approximately 110 feet southeast of the proposed facility.

The proposed facility is not located within a DEEP Natural Diversity Data Base buffer area.

Although the northern long-eared bat (NLEB), a federally-listed and state-listed endangered species, is known to occur throughout Connecticut, there are no known NLEB hibernacula or known maternity roost trees within 0.25 miles and 150-feet, respectively, of the proposed facility. Additionally, the U.S. Fish and Wildlife Service (USFWS) determined that the proposed facility would not have an impact on the NLEB. The USFWS also indicated that other species that may occur within the vicinity of the site includes the monarch butterfly. TT would coordinate with the USFWS to ensure that the proposed facility would not have an impact on this species.

The proposed facility is not proximate to a National Audubon Society designated Important Bird Area (IBA). The nearest IBA to the proposed site is the Station 43 Marsh/Sanctuary in South Windsor located approximately 5.0 miles southwest of the proposed site. The proposed facility would comply with the USFWS guidelines for minimizing the potential for telecommunications towers to impact bird species.

The proposed facility would have no effect on sites listed on or eligible for listing on the National Register of Historic Places.

The site is not located within a public water supply watershed. The site is not within a flood zone, an aquifer protection area or within an area with prime farmland soil. Operation of the facility would comply with DEEP Noise Control Standards.

The Applicants prepared a visual impact assessment utilizing a one-mile radius study area (Study Area-4,021 acres). Based on the visual impact assessment, the proposed tower would be visible year-round (above the trees) from approximately 58 acres (2.89%) of the study area, which includes the immediately surrounding areas along Dart Hill Road and the Eversource ROW. The tower would be seasonally visible (leaf-off conditions) from approximately 88.3 acres (4.39%) of the study area.

Approximately 129 residences within 0.5 miles of the proposed facility would have views of the facility. 53 of those residences, mostly from the immediate area northeast of the site including the host parcel, would have year-round views and 76 residences would have seasonal views. Most views would consist of the upper-most part of the tower.

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's Plan of Conservation and Development identifies Main Street, which is approximately 5.2 miles southeast of the site, as the only locally-designated scenic road in South Windsor. The proposed tower would not be visible from Main Street. No comments were received from the Town, Office of Policy and Management or DEEP regarding any impacts to scenic quality or resources.

There are no Connecticut blue-blazed hiking trails or state designated scenic roads located within two miles of the proposed site.

Pursuant to CGS §16-50p(a)(3)(F), for a telecommunications facility 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 a 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. No schools or commercial child day care facilities are located within 250 feet of the proposed site.

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.

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's proposed antennas to be installed on the tower have been calculated to amount to 3.6 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure (MPE) using a far-field methodology for the proposed facility that accounts for a 6-foot tall person at ground level and the actual antenna patterns. This is conservatively based on the antennas emitting maximum power. This percentage is below federal standards established for the frequencies used by wireless companies.

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 at the proposed location, 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 165-foot monopole telecommunications facility, at 99 Dart Hill Road, South Windsor, Connecticut.

DOCKET NO. 518 – New Cingular Wireless PCS, LLC d/b/a } AT&T and Tarpon Towers III, LLC application for a Certificate of } Environmental Compatibility and Public Need for the construction, } maintenance, and operation of a telecommunications facility } located at 99 Dart Hill Road, South Windsor, Connecticut. }	Connecticut Siting Council
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April 11, 2024

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 III, LLC, hereinafter referred to as the Certificate Holders for the construction, maintenance and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, 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 165 feet above ground level to provide the proposed wireless services, sufficient to accommodate the antennas of New Cingular Wireless PCS, LLC d/b/a AT&T and other entities, both public and private. The height of the tower may be extended after the date of this Decision and Order (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 with privacy slats, ground equipment, access road, final 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) An approved application for permitted use of the Eversource right of way (ROW), or an alternative plan for access to the site;
 - d) A yield point on the tower to ensure the tower setback radius does not encroach upon the Eversource ROW and remains within the boundaries of the host parcel; and
 - e) 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 South Windsor.
11. If the facility ceases to be used for signal transmission or reception in the electromagnetic spectrum pursuant to a Federal Communications Commission license 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 signal transmission or reception. 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, including contact information for the individual acting on behalf of the transferee. 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 are 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 transfer 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 December 1, 2023, and notice of issuance published in the Journal Inquirer 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. 518** - New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, 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.	Recused
<u>/s/ Thomas Near</u> Thomas Near	Yes
<u>/s/ Chance Carter</u> Chance Carter	Yes

Dated at New Britain, Connecticut, April 11, 2024



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

Web Site: portal.ct.gov/csc

VIA ELECTRONIC MAIL

April 12, 2024

TO: Classified/Legal Supervisor
51820231214
The Journal Inquirer
306 Progress Drive
Manchester, CT 06045-0510
nhlegals@hearstmediact.com

FROM: Lisa Fontaine, Fiscal Administrative Officer 

RE: **DOCKET NO. 518** - New Cingular Wireless PCS, LLC d/b/a AT&T and Tarpon Towers III, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, Connecticut.

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.

LF



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NOTICE

Pursuant to General Statutes § 16-50p (a), the Connecticut Siting Council (Council) announces that, on April 11, 2024, 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 III, LLC for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 99 Dart Hill Road, South Windsor, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.