

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

APPLICATION OF NEW CINGULAR WIRELESS
PCS, LLC (AT&T) FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION,
MAINTENANCE AND OPERATION OF A
TELECOMMUNICATIONS TOWER FACILITY
AT 85 PAPER MILL ROAD IN THE TOWN OF
WOODBURY

DOCKET NO. 375

May 6, 2009

SUPPLEMENTAL SUBMISSION

1. 'Unapproved Draft Minutes – Not Yet Approved by Commission' from the March 10, 2009 Town of Woodbury Zoning Commission Meeting.
2. Certificate of Mailing sent on April 30, 2009 to all of the abutting neighbors providing the Hearing Notice for the Connecticut Siting Council's May 12, 2009 hearing on Docket 375. This notice was mailed as requested of AT&T by the Town of Woodbury Zoning Commission at their March 10, 2009 meeting.

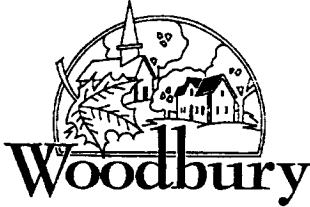
TOWN OF WOODBURY

Zoning Commission

297 Main Street South

Post Office Box 369

Woodbury, Connecticut 06798-0369



First land deed from the Indians
April 12th 1659

TELEPHONE: (203) 263-3467

FAX: (203) 263-5076

MINUTES

PUBLIC HEARING/REGULAR MEETING

TUESDAY, MARCH 10, 2009

7:30 P.M.

TOWN ANNEX

MEMBERS PRESENT:

Martin Overton
Barbara Perkinson
Ted Tietz
Robert Clarke

ALTERNATES ABSENT:

Alan Green
Chris Conto
Roberta Zulpa

MEMBERS ABSENT:

Chuck Cosgriff

ALSO PRESENT: Judi Lynch, Atty. Chris Fisher, Kevin Day, Atty. Gail McTaggart, Carol Winer, Russ Barton, Brian Baker, member of the press, and other interested residents.

I. PUBLIC HEARINGS

a. 09-ZC-9009/Bryant/AT&T/85 Paper Mill Road/Installation of Cell Tower (Tax Assessor's Map 040/Lot 032A)

Chr. Overton convened the public hearing at 7:30 p.m. Seated were Commissioners Overton, Perkinson, Tietz, and Clarke. Reference was made to Section 8-11, Connecticut General Statutes, and Section 901 of the Woodbury Town Charter, Conflict of Interest. The legal notice, which was published in the Waterbury Republican-American on Saturday, March 7, 2009, was read. Chr. Overton said a public hearing was scheduled to allow the public to be informed of the application.

Atty. Chris Fisher and Kevin Day, consultant, were present for the application. Atty. Fisher said the adjoining property owners were contacted on or about January 29, 2009, to inform them about the intent to file an application for the installation of a cell tower at 85 Paper Mill Road. Atty. Fisher said the application is not subject to a public hearing and said a technical report was filed with the Town of Woodbury in October 2008. Atty. Fisher said the State Siting Council will hold a public hearing in April or early May. Chr. Overton asked if notification to property owners is going to be required for that public hearing. Atty. Fisher said the letters of intent are acceptable and that the onus is on the property owners to follow up on the procedures for the application process. Chr. Overton asked if he requested that the property owners be notified, would Atty. Fisher do it. Atty. Fisher said he would do it, although the law does not require it to be done. Atty. Fisher said a formal notice of the hearing would also be submitted, so properties owners have many forms of notice along the way. Chr. Overton said he would rather see that property owners be notified. Chr. Overton said the Zoning Commission has no authority on the Siting Council's actions, but he does want citizens of Woodbury to be informed.

UNAPPROVED DRAFT MINUTES – NOT YET APPROVED BY COMMISSION

Atty. Fisher explained that the tower would be 150 feet tall and located at 85 Paper Mill Road atop a hill on the parcel. The existing access to the property would be utilized for access, which one would travel past a home and barn to reach the site. The compound would be 60 x 100 feet and consist of the monopole and necessary equipment and buildings.

Atty. Fisher said when the Board of Selectmen was consulted, the Selectmen said they may want to reserve a spot on the tower for their emergency communications. Atty. Fisher said that spot on the tower would be given to the town free of charge.

Atty. Fisher said this spot was chosen because of the dead zones in that area of town, and because of the ridges and terrain of the property, this site will fill in those dead zones.

Atty. Fisher said a comprehensive visual study was done within a two-mile radius, at which time a balloon was floated, and someone drove the area to see where the tower would possibly be viewed from in the area. Atty. Fisher said overall the study showed that because the nearby homes are in close proximity they will not be able to see the tower because of the terrain. Atty. Fisher showed pictures of sites where the tower would be minimally seen, which included sites at Route 47 and Route 132, Route 47 and Cam Avenue, and on Hoop Pole Hill Road. At these sites the tower would be seen silhouetted against the ridge just over the tree line in the distance. Chr. Overton asked how it is known for sure that there are not 30 more sites that the tower could be seen at. Atty. Fisher said it was only surveyed in a two-mile area. Chr. Overton asked if the balloon test was done by AT&T. Atty. Fisher cited the company that performed the survey, which is in the file. Chr. Overton said when Sprint put up their towers they informed the public when the balloon test would be done, so residents could see if they would be able to see the tower from their properties. Atty. Fisher said on the day of the Siting Council's public hearing a balloon could be flown, but there is no promise that it would be a good weather day to do it.

Atty. Fisher said it was determined by a radio frequency engineer that a site was needed in that area, and it was believed that a good site was found at 85 Paper Mill Road. Atty. Fisher said this site meets all zoning compliance. Chr. Overton asked if Woodbury's ZEO has reviewed the application. Atty. Fisher said the Siting Council reviews it and their review includes an analysis of Woodbury's Plan of Conservation and Development and the Zoning Regulations.

Commissioner Robert Clarke asked if AT&T already has a receiver on one of the cell towers in town. Atty. Fisher said AT&T is on a tower in Roxbury on Lower Country Road, and in Woodbury on Good Hill Road, Great Hollow Road, Minortown Road, and Main Street North. Commissioner Clarke asked if they anticipate erecting more than one tower in the near future in town. Kevin Day said for this coming year there are no more towers schedule in Woodbury.

Chr. Overton asked if this tower would need another tower to be effective. Atty. Fisher explained the process of trying to get the most coverage in an area with the least amount of dead zones, and said with the way towers are built today, they are not reliable on other towers.

Chr. Overton asked if 150 feet is as tall as this proposed tower will get. Atty. Fisher said he hates to say absolutely, but if a ten foot increase is needed, the Siting Council will submit a proposal for a modification.

Chr. Overton asked if the Historic District was taken into consideration for the viewsheds. Atty. Fisher said the Historic District was evaluated by contact with Fred Strong and an analysis in the Hotchkissville historic district. Atty. Fisher said it was determined that there would be no adverse affect on the Historic District itself.

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UNAPPROVED DRAFT MINUTES – NOT YET APPROVED BY COMMISSION

Commissioner Clarke asked if this tower would provide service into Washington. Atty. Fisher said the service would not be perfect through that area and showed on the coverage map where service would be lost going uphill on Route 47.

Kevin Day said there is a new site being proposed in Washington, although he has not visited the site yet.

There were no public comments or information submitted in favor of or in opposition to the application.

Chr. Overton thanked Atty. Fisher and Mr. Day for their thorough explanation. The Commission agreed to close the public hearing.

MOTION:

To close the public hearing at 8:15 p.m. for Application 09-ZC-9009 submitted by Bryant and AT&T for the installation of a cell tower at 85 Paper Mill Road. (Tax Assessor's Map 040/Lot 032A)

Made by Overton, seconded by Tietz.

Vote 4-0 in favor.

II. REGULAR MEETING

Chr. Overton convened the Regular Meeting of the Woodbury Zoning Commission at 8:15 p.m. Seated were Commissioners Overton, Perkinson, Tietz, and Clarke.

08-ZC-8031/Town of Woodbury/Main Street South/Aquifer Protection District/Level A

Chr. Overton said there would be no discussion tonight and explained that the members of the Zoning Commission have to meet as the Aquifer Protection Agency to take up this item, and the meeting must be noticed. Judi Lynch said she would make a draft of the regulations available on line. Commissioner Clarke compiled the cross references in the regulations to hopefully allow for an easier understanding of the regulations for discussion. Chr. Overton said he felt the State has not given the Commission an appropriate amount of time for the review process.

A. PENDING APPLICATIONS

a. 09-ZC-9004/Watertown Fire District/112 Bethlehem Road/EE Permit/Removal of Sediment from Nonnewaug River (Tax Assessor's Map 14/Lot 33)

A public hearing will be held on Tuesday, March 24, 2009.

b. 09-ZC-9007/Breakell/391 Flanders Road/Nursery/Farm/Section 3.4 WZR (Tax Assessor's Map 094/Lot 001A)

A public hearing will be held on Tuesday, March 24, 2009.

c. 09-ZC-9008/Martland/Quassuk Road/EE Permit for Removal of Muck and Eskar (Tax Assessor's Map 090/Lot 010A)

Chr. Overton said the law requires the Zoning Commission to act to approve the proposed settlement and said the Commission could condition the settlement to include items such as requiring a flagman. Chr. Overton said the attorneys are saying no public hearing is needed, but stated it should be discussed under Privilege of the Floor to allow public comments. Discussion will continue on March 24, 2009.

MOTION:

To adjust the agenda to accommodate those people present.

Made by Overton, seconded by Perkinson.

Vote 4-0 in favor.

ZC/3/10/09

UNAPPROVED DRAFT MINUTES – NOT YET APPROVED BY COMMISSION

F. PRIVILEGE OF THE FLOOR

a. 09-ZC-INFO/Winer/7 Main Street South/Interpretation of 5.1.8(A) (Tax Assessor's Map 103/Lot 048)

Carol Winer, Russ Barton, Atty. Gail McTaggart, and Brian Baker were present for the discussion. Atty. McTaggart explained that Carol and Russ are considering creating a country inn and restaurant at the site of the Samuel Bull Homestead at 7 Main Street South. Atty. McTaggart said she had met with Chris Wood and Judi Lynch to review the regulations and Plan of Conservation and Development to determine the best way to accomplish it.

Atty. McTaggart said the barn, which houses an antiques store would become a restaurant, with no exterior changes made to the streetscape and building. There would also be on site catering for events, but the primary use would be a restaurant. Parking would in the back of the barn. The house would become a 4-room country inn, and include an apartment for Ms. Winer. Ms. Winer would also like to have an antiques boutique in the inn.

Atty. McTaggart said with the recession the antiques businesses have been hit hard, and said this is a way for Ms. Winer to keep the property viable.

Brian Baker explained that the property is in two zones – Main Street Design in the front, and OS-60 in the back. Atty. McTaggart said because of this the restaurant would be bleeding out into the OS-60 zone, and said in looking at Regulation 5.1.8 it means to her that the Zoning Commission has substantial discretion to allow this project to be carried out, and that Regulation 5.1.6D means to her that the combination of uses are complementary. Atty. McTaggart asked if the Commissioners felt as she does, or if this project is restrained by the two uses.

Chr. Overton said in the Country Inn regulations, 7.1.1, is for a one use country inn with restaurant. Atty. McTaggart said the restaurant would not make it at 48 seats as the regulation states. Chr. Overton said the size of the restaurant determines the number of parking spaces needed.

Atty. McTaggart said perhaps the whole property should be rezoned to Main Street Design with the hope to start with the inn and restaurant and then someday allow up to 12 cottages on the property (8 cottages if the house continues to have guest rooms), which would be done by modifying the special permit. Brian Baker said he looked at where the zoning lines could be moved to, and said perhaps at the existing driveways.

Atty. McTaggart said another way to go about this is to change the country inn regulations to allow a larger restaurant, but said that the regulation would then apply all over Woodbury.

Chr. Overton asked how many seats are planned for the restaurant. Atty. McTaggart said 80-100.

Carol Winer said there is currently a tenant in the guest house, but there are no plans to change the guest house and would remain as a residential use.

Judi Lynch questioned if according to the country inn regulations the owner has to live there.

Commissioner Barbara Perkinson asked when special events were held at the site how many people have been in attendance. Ms. Winer said 300-400 people, and noted they were charitable events and there were never traffic problems.

UNAPPROVED DRAFT MINUTES – NOT YET APPROVED BY COMMISSION

Commissioner Clarke asked if Atty. McTaggart could define “cottage.” Atty. McTaggart compared a cottage to the ones at Winvian or Mayflower – separate, single story buildings with no kitchen. Ms. Winer said she would like the cottages to have a colonial feel. Atty. McTaggart said the cottages would be a second step to the application though. Commissioner Perkinson asked how big of a footprint would each cottage have. Atty. McTaggart said that has not been discussed yet.

Chr. Overton said a country inn, restaurant, and boutique are normally separate uses, but said he feels these are ancillary uses.

Commissioner Clarke asked if the existing septic system would be good enough for an 80-100 seat restaurant. Brian Baker said new septic systems would be needed. Judi Lynch asked if there would be separate septic systems for each cottage. Mr. Baker said the cottages would probably have a community septic system.

Ms. Winer explained what she has done with the property, stating that when she took it over in 1996 she donated the property for a month to Paul Newman’s foundation, stating she bought this property to be able to share with people and that people from all over the world have passed through the property. Ms. Winer said the house was built in 1706 and was owned by the first blacksmith in Woodbury. Ms. Winer said the gardens also play an important part of the property.

Chr. Overton asked Ms. Winer if she spoke with neighbors to inform them of her plans. Ms. Winer said she has not.

Chr. Overton asked the Commission to think about what their sense of this project is – to rezone the OS-60 portion of the property to Main Street Design or to move the property lines.

Judi Lynch asked Atty. McTaggart if she would like this item to be on the Planning Commission and Historic District Commission agendas for discussion under Privilege of the Floor. Atty. McTaggart agreed and Ms. Lynch said she would put it on the April 1 Planning agenda and the April 6 Historic agenda. Atty. McTaggart said she would like to be able to put together a proposal within the next six months.

C. OTHER BUSINESS

a. 06-ZC-6038/Town of Woodbury/Land Use Office/2007 Regulation Revisions

There was no discussion.

D. PLAN OF CONSERVATION AND DEVELOPMENT UPDATE

Judi Lynch said the Planning Commission held 3 focus group meetings so far, and that the survey has been made available again to the public through a press release, is on the website and paper copies are available in Town offices. Mrs. Lynch said it is hoped that the 7% response rate could be increased. Chr. Overton said the survey is meaningless with such a low number of responses.

F. PRIVILEGE OF THE FLOOR

b. 09-ZC-INFO/Kirk/34 Hollow Road/Floral Shop/Home Based Business (Tax Assessor’s Map 104/Lot 007)

Judi Lynch explained that Wildflowers has moved from the shop on Hollow Road to her home at 34 Hollow Road and said the owner would like to run her business out of her home. Commissioner Clarke said the woman should come before the Commission, although he would tend to say no. Chr. Overton said he felt she should submit a change of use application from residential to home-based business.

ZC/3/10/09

UNAPPROVED DRAFT MINUTES – NOT YET APPROVED BY COMMISSION

G. CONSIDERATION OF MINUTES

Regular Meeting – February 24, 2009

The following change was made:

Page 3 - In the motion for Application 09-ZC-9001 the correct date in Item 1 should be August 14, 2009.

MOTION:

To approve the minutes of the Tuesday, February 24, 2009, Regular Meeting of the Woodbury Zoning Commission, as amended.

Made by Overton, seconded by Perkinson.

Vote 4-0 in favor.

H. CORRESPONDENCE

None

I. ADJOURNMENT

MOTION:

To adjourn the meeting at 9:45 p.m.

Made by Clarke.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Karen Blanchet, Clerk

ADJACENT PROPERTY OWNERS
85 Paper Mill Road, Woodbury, Connecticut

CERTIFICATION OF SERVICE

I hereby certify that on the 30th day of April 2009 a copy of the Connecticut Siting Council's Notice for the May 12th, 2009 hearing for Docket 375 was mailed by certified mail to each of the abutting properties owners on the accompanying list.

May 6, 2009
Date



Daniel M. Laub
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601

Attorneys for:
AT&T

ADJACENT PROPERTY OWNERS
85 Paper Mill Road, Woodbury, Connecticut

The following information was collected from the Town of Woodbury's Tax Assessors' records

Property Owners and Mailing Addresses

Tax ID: 040-027

Name: Ronald K. Takahashi
Address: 424 Washington Road
Woodbury CT, 06798-1904

Tax ID: 040-051A/B

Name: Linda M. James & Mark H. Schocken
Address: 72 Paper Mill Road
Woodbury CT, 06798-2005

Tax ID: 040-028

Name: Mark L. & Catherine S. Heilshorn
Address: 410 Washington Road
Woodbury CT, 06798

Tax ID: 040-031

Name: John M Steward & Alberta R. Testanero
Address: 29 Paper Mill Road
Woodbury CT, 06798-2006

Tax ID: 040-051/A

Name: James Dallas Garred
Address: 62 Paper Mill Road
Woodbury CT, 06798-2005

Tax ID: 040-031A/3

Name: Thomas & Linda J. Woodward
Address: P.O. Box 842
Woodbury CT, 06798-0842

Tax ID: 040-026A/2

Name: Douglas & Debra Novella
Address: 428 Washington Road
Woodbury CT, 06798

Tax ID: 040-032

Name: William R. & Judith N. Platt
Address: 65 Paper Mill Road
Woodbury CT, 06798-2006

Tax ID: 040-048A

Name: Leo McGovern
Address: 127 Main Street North
Woodbury CT, 06798

Tax ID: 040-049A

Name: Daniel J. & Marianne R. Aquilar
Address: 98 Paper Mill Road
Woodbury CT, 06798-2005

Tax ID: 040-037A/B

Name: Andrew & Michelle Predzimirski, III
Address: 174 Washington Road
Woodbury CT, 06798-2003

Tax ID: 040-050

Name: Stephen & Mary Eversole
Address: 80 Paper Mill Road
Woodbury CT, 06798-2005

Tax ID: 040-033

Name: David Mandelbaum & Moira J. Dolan
Address: 193 Weekepeemee Road
Woodbury CT, 06798-2004

Tax ID: 040-048A

Name: Ronald M. & Deborah L. Fish
Address: 168 Weekepeemee Road
Woodbury CT, 06798-2001

Tax ID: 040-032B/A

Name: Vincent & Catherine Montalbano
Address: 83 Paper Mill Road
Woodbury CT, 06798-2006

Tax ID: 040-049

Name: Christopher N. & Jane H. Hadad
Address: 88 Paper Mill Road
Woodbury CT, 06798-2005

ADJACENT PROPERTY OWNERS
85 Paper Mill Road, Woodbury, Connecticut

Tax ID: 040-030/1
Name: James & Doreen Filgate
Address: 392 Washington Road
Woodbury CT, 06798

Tax ID: 040-026B/2
Name: Darin S. & Michelle A. Renihan
Address: 450 Washington Road
Woodbury CT, 06798-1904

Tax ID: 040-030A/2
Name: Todd A. & Karen F. Woodward
Address: 385 Washington Road
Woodbury CT, 06798

Tax ID: 040-034
Name: John E. & Rose Heggland
Address: P.O. Box 714
Woodbury CT, 06798-0714

Tax ID: 040-052A
Name: Thomas B. Zissu
Address: 42 Paper Mill Road
Woodbury CT, 06798-2005