

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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September 2, 2009

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 375** – New Cingular Wireless PCS, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 85 Paper Mill Road, Woodbury, Connecticut.

By its Decision and Order dated August 27, 2009, the Connecticut Siting Council granted a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 85 Paper Mill Road, Woodbury, Connecticut.

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

SDP/RDM/jbw

Enclosures (3)

c: State Documents Librarian

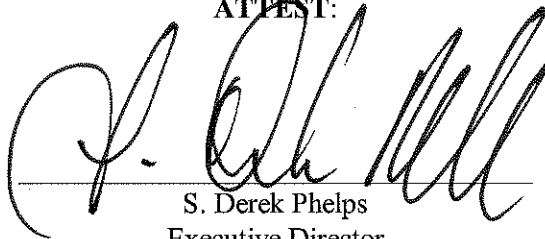
STATE OF CONNECTICUT)

ss. New Britain, Connecticut :

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.

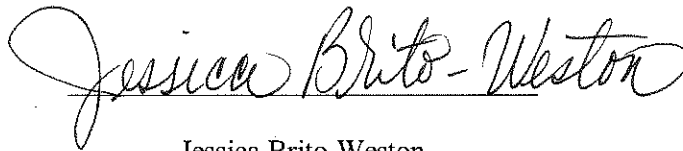
ATTEST:



S. Derek Phelps
Executive Director
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 375 has been forwarded by Certified First Class Return Receipt Requested mail, on September 2, 2009, to all parties and intervenors of record as listed on the attached service list, dated March 5, 2009.

ATTEST:



Jessica Brito-Weston
Office Assistant
Connecticut Siting Council

LIST OF PARTIES AND INTERVENORS
SERVICE LIST

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input type="checkbox"/> E-mail <input checked="" type="checkbox"/> U.S. Mail	New Cingular Wireless PCS, LLC	Christopher B. Fisher, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 th Floor White Plains, New York 10601
	<input type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail		
	<input type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail		
	<input type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail		
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DOCKET NO. 375 – New Cingular Wireless PCS, LLC } Connecticut
application for a Certificate of Environmental Compatibility and }
Public Need for the construction, maintenance and operation of a } Siting
telecommunications facility located at 85 Paper Mill Road, } Council
Woodbury, Connecticut. }

August 27, 2009

Findings of Fact

Introduction

1. New Cingular Wireless PCS, LLC (AT&T), in accordance with the provisions of Connecticut General Statutes (CGS) §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on February 4, 2009 for the construction, operation, and maintenance of a 150-foot wireless telecommunications facility located at 85 Paper Mill Road in Woodbury, Connecticut. (AT&T 1, pp. 1-2)
2. AT&T is a Delaware corporation with an office in Rocky Hill, Connecticut. AT&T is licensed by the Federal Communications Commission to construct and operate a personal wireless service system in Connecticut. (AT&T 1, p. 2)
3. The party in this proceeding is the applicant. (Transcript 1 – 05/12/09, 3:20 p.m. [Tr. 1], p. 5)
4. The purpose of the proposed facility is to provide wireless service for AT&T to Routes 47 and 132 and adjacent areas in the northwest section of Woodbury. (AT&T 1, p. 1)
5. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on May 12, 2009, beginning at 3:20 p.m. and continuing at 7:00 p.m. at the Nonnewaug High School, 5 Minortown Road, Woodbury, Connecticut. (Council's Hearing Notice dated April 13, 2009; Tr. 1, p. 2; Transcript 2 – 05/12/09, 7:10 p.m. [Tr. 2], p. 2)
6. The Council and its staff conducted an inspection of the proposed site on May 12, 2009, beginning at 2:00 p.m. The applicant flew a four-foot diameter balloon at the site from 10:45 a.m. to 7:00 p.m. to simulate the height of the proposed tower. Favorable weather conditions were present during the morning and evening hours. Windy condition prevailed during the afternoon, preventing the balloon from reaching its intended height of 150 feet above ground level (agl). (Council's Pre-Hearing Conference memo dated April 24, 2009; AT&T late file of June 12, 2009)
7. Notice of the application was provided to all abutting property owners by certified mail. Public notice of the application was published in the Republican-American on January 29 and 30, 2009. (AT&T 1, Tab 9; AT&T 2, Q. 1, Q. 15)
8. AT&T installed a four-foot by six-foot sign describing the proposed project at the entrance to the site property driveway along Paper Mill Road. The sign also contained hearing and contact information. (AT&T late file of June 12, 2009)
9. Pursuant to CGS § 16-50l(b), AT&T provided notice to all federal, state and local officials and agencies listed therein. (AT&T 1, Tab 8)

State Agency Comment

10. Pursuant to General Statutes § 16-50j(h), on April 13, 2009 and May 15, 2009, the following State agencies were solicited to submit written comments regarding the proposed facility: Department of Environmental Protection (DEP), Department of Public Health (DPH), Council on Environmental Quality (CEQ), Department of Public Utility Control (DPUC), Office of Policy and Management (OPM), Department of Economic and Community Development (DECD), the Department of Transportation (DOT) and the Department of Agriculture (DOAg). (Record)
11. The Council received a written response from the DOT's Bureau of Engineering and Highway Operations on May 5, 2009, stating that the DOT has no comment. (Record)
12. No response was received from the DPH, DOAg, DEP, CEQ, DPUC, OPM, or DECD. (Record)

Municipal Consultation

13. AT&T filed a technical report with the Town of Woodbury on October 21, 2008. AT&T sent correspondence to the town on November 20, 2008, that stated AT&T would offer lease free space on the tower for emergency communications equipment. The town responded by indicating they were interested in placing equipment at the site in the future. (AT&T 1, pp. 7, 15-16, Tab 6)
14. At the request of the Woodbury Zoning Commission, AT&T attended a public zoning meeting on March 10, 2009 to discuss the proposal. The zoning commission did not comment on the proposal at the hearing. (AT&T 4)
15. The Woodbury Land Use office, through First Selectman Paul Hinckley, provided a limited appearance statement to the Council on June 10, 2009. The statement presented an analysis of how the proposed facility complies with the Town's Zoning Regulations in regards to the siting of telecommunication facilities. (Town of Woodbury limited appearance statement of June 10, 2009)

Public Need for Service

16. 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. 7)
17. 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. 7)
18. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)
19. The Telecommunications Act of 1996, a Federal law passed by the United States Congress, prohibits any state or local entity 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. This Act also blocks the Council from prohibiting or acting

with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice Item No. 7)

20. In an effort to ensure the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999. The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (AT&T 1, pp. 5-6)
21. AT&T would be able to provide enhanced 911 services to the target service area. (AT&T 1, p. 5)

Site Selection

22. AT&T established a search ring for the target service area in 2007. The search included identification of potential structures that could be used for telecommunications purposes, discussion with town officials regarding suitable land for development, and the examination of town records to identify potential telecommunications sites. (AT&T 1, pp. 6-7)
23. The original search ring consisted of a 1.8-mile diameter circle centered north of the Hotchkissville section of Woodbury. The ring was revised to an approximate 0.5-mile diameter circle centered on the south end of Kavanaugh Hill in the Hotchkissville area. (AT&T 1, Tab 2, Tab 3)
24. The nearest existing tower facility to the proposed site is a 150-foot monopole located at 478 Good Hill Road in Woodbury, approximately 1.8 miles southeast of the proposed site. AT&T is located at the 124-foot level of this facility; coverage does not extend to the target service area. (AT&T 1, Tab 1)
25. AT&T did not identify any structures suitable to provide coverage to the target service area. (AT&T 1, p. 6)
26. After determining there were no viable structures within the search area, AT&T searched for properties suitable for tower development. AT&T investigated 16 parcels and selected one for tower development. The 15 rejected parcels and reasons for their rejection are as follows:
 - a) Firehouse on Route 47, Woodbury – parcel too small, visual impact high;
 - b) Tufte Sites 1 & 2, Woodbury – would not achieve coverage objectives;
 - c) Tietz Sites 1 & 2, Woodbury – would not achieve coverage objectives;
 - d) Gibbons Property, Weekepeemee Road, Woodbury – would not achieve coverage objectives;
 - e) Flanders Land Trust (various locations), Woodbury - would not achieve coverage objectives;
 - f) Green Property, Woodbury - no response from owner;
 - g) Lizbro Inc. Property, Woodbury – parcel too small;
 - h) Siemon Property, Woodbury - no response from owner;
 - i) Graham Property, Woodbury – would not achieve coverage objectives;
 - j) Good Property, Woodbury - would not achieve coverage objectives;
 - k) Poskas Property, Woodbury - would not achieve coverage objectives;
 - l) Palesty Property, Woodbury - would not achieve coverage objectives; and
 - m) Ram Property (various), Woodbury – would not achieve coverage objectives.(AT&T, Tab 2; Tr. 1, pp. 47-49)

Facility Description

27. The proposed facility is located on a 34.1-acre parcel owned by Jodie Bryan at 85 Paper Mill Road in Woodbury (refer to Figure 1). The property is developed with a residence and several outbuildings (refer to Figures 1 & 2). (AT&T 1, p. 8; AT&T 2, Q. 3)
28. The parcel is zoned Open Space-100, a designation for two-acre residential lots. (AT&T 1, p. 8; Tr. 1, pp. 49-50)
29. The tower site is located in the central portion of the property, at the top of the southerly extension of Kavanaugh Hill, a north-south oriented ridge. (AT&T 1, Tab 3)
30. The property is developed with a single-family residence and several outbuildings, accessed from Paper Mill Road. (AT&T 1, Tab 3)
31. AT&T proposes to construct a 150-foot self-supporting monopole at the site in a level, semi-open area. (AT&T 1 p. 8, Tab 3)
32. The tower would be designed to support four levels of antennas and Town of Woodbury emergency communication antennas. (AT&T 1 pp. 7-8; Tr. 1, p. 22)
33. The tower and foundation would be designed to support a possible 10 to 20 foot extension but any such an extension would require Council approval. (AT&T pp. 20-22; pp. 33-36)
34. AT&T proposes to construct a 50-foot by 75-foot equipment compound within a 60-foot by 100-foot lease area at the base of the tower, sufficient space to accommodate four telecommunication carriers. The compound would be enclosed by an eight-foot high chain link fence. (AT&T 1, pp.7-8, Tab 3)
35. Access to the compound would originate from an existing 1,570-foot long gravel driveway off Paper Mill Road, which services not only the proposed site but also the residence of an abutting property owner (Montalbano). A new gravel drive, 12 feet wide and 135 feet long, would extend southward from the existing drive, beyond a barn and pasture, to the tower site. (AT&T 1, p. 8, Tab 3)
36. AT&T's lease for the site includes access via the existing driveway and the proposed new driveway. AT&T would perform certain upgrades of the existing driveway to make it passable for construction vehicles. These upgrades would be addressed in the Development and Management Plan to be submitted to the Council, should the tower application be approved. (Tr. 1, pp. 68-70)
37. The property owner and the adjacent property owner (Montalbano) maintain the driveway. AT&T would not be responsible for maintaining the existing driveway once construction of the site is completed. (AT&T 1, pp. 70-71)
38. Underground utilities would service the compound from an existing transformer and telecommunication pedestal located adjacent to the on-site barn. (AT&T 1, p. 8, Tab 3)
39. AT&T proposes to install six panel antennas on a platform at a centerline height of 147 feet agl. (AT&T 1, p. 8)
40. AT&T proposes to install a 12-foot by 20-foot equipment shelter on a concrete pad within the compound. Emergency power would be provided by a battery that could power the site for approximately eight hours. (AT&T 1, Tab 3; Tr. 1, pp. 27-28)

41. The tower is approximately 720 feet from the north property line (Dolan property), 707 feet from the southern property line (Testanero property), 320 feet to the western property line (Takahshi property) and 405 feet from the east property line (Platt property). (AT&T 1, Tab 3; Tr. 1, p. 23)
42. The tower radius would be contained within the site property. (AT&T 1, Tab 3)
43. The nearest off-site residence to the proposed tower site is approximately 670 feet to the northeast, owned by Vincent and Catherine Montalbano, located at 83 Paper Mill Road. (AT&T 1, Tab 3; AT&T 2, Q. 4)
44. There are fifteen residences within 1,000 feet of the tower site. (AT&T 1, Tab 3)
45. Land use within a quarter-mile of the site is a mix of undeveloped land and residential parcels. (AT&T 1, Tab 3)
46. The tower site is located at an elevation of 526 feet above mean sea level (amsl). Surrounding terrain consists of rolling hills with elevations ranging from 250 feet amsl in the valleys to 900 feet amsl on the surrounding hilltops. (AT&T 1, Tab 3)
47. The estimated construction cost of the facility, not including AT&T's antennas and radio equipment, is:

Tower and foundation	\$200,000.
Site development	60,000.
<u>Utilities</u>	<u>40,000.</u>
<u>Total estimated cost</u>	<u>\$300,000.</u>

(AT&T 1, p. 17)

Environmental Concerns

48. The proposed site is approximately 0.25 miles north and west of the Hotchkissville National Register Historic District, which is located in portions of the Weekepeemee River valley below the south end of Kavanaugh Hill. (AT&T 1, Tab 4; AT&T 2, Q. 9, Q. 11)
49. The State Historic Preservation Office stated the proposed facility would have no adverse effect on cultural resources within the Hotchkissville Historic District. (AT&T 2, Q. 11)
50. AT&T sent correspondence to the Old Woodbury Historical Society and the Woodbury Town Historian, soliciting comment regarding the proposed facility. No response was received from either request. (AT&T 1, Tab 6, Tab 7)
51. The site is not within any designated area indicating the presence of Federally threatened or endangered species or State endangered, threatened or special concern species. (AT&T 1, p. 10)
52. Two oak trees with a diameter of six inches or greater at breast height would be removed to develop the site. (AT&T 1, Tab 3)
53. The site is not near any inland wetland or watercourse or within a designated flood zone. (AT&T 1, p. 16)

54. Minimal filling and grading would be required. Site blasting is not anticipated; any ledge encountered could be removed through chipping. (AT&T 1, Tab 3; AT&T 2, Q. 12)
55. Aircraft hazard obstruction marking or lighting of the tower is not required or proposed. (AT&T 1, Tab 3)
56. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of the proposed AT&T antennas is calculated to be 6% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (AT&T 1, Tab 3)

Visibility

57. The proposed tower would be visible year-round from approximately 61 acres within two miles of the proposed site (refer to Figure 3). The tower would be seasonally visible from an additional 23 acres. (AT&T 1, Q. 7)
58. The tower would not be visible from any known hiking trails maintained by the DEP or the Connecticut Forest and Parks Association. A private trail is located on a conservation parcel off Flanders Road, over a mile east of the site, but the tower would not be visible from this area. (AT&T 1, Tab 4; AT&T 2, Q. 6, Q. 7)
59. The tower would be visible year-round from northern areas of the Hotchkissville Historic District, located approximately 0.25 miles southeast of the site. (AT&T 1, Tab 4; AT&T 2, Q. 7)

60. Visibility of the proposed tower from specific locations within a two-mile radius of the site is as follows:

Specific Location and Area Receptors	Visible	Approximate Portion of Tower Visible	Approx. Distance from Tower
Route 47 and Cam Ave intersection 23 residences within this area. 750 feet of roadway.	Yes	75 feet – unobstructed	1.6 miles southeast
Route 47 at #308 1 residence within this area. 600 feet of roadway.	Yes	30 feet – through trees	0.6 miles southeast
Hoop Pole Hill Road at #187 1 residence within this area 320 feet of roadway	Yes	10 feet – unobstructed with hillside as backdrop	0.8 miles west
Hoop Pole Hill Road at #304 2 residences within this area. 440 feet of roadway.	Yes	20 feet – unobstructed with hillside as backdrop	1.2 miles west
Hazel Plain Road at #175 and #142 3 residences within this area. Another 6 residences would have seasonal views. Two sections of roadway totaling 940 feet.	Yes	20 feet - unobstructed with hillside as backdrop	1.3 miles west
Peter Road 360 feet of roadway.	Yes	20 feet – unobstructed	0.9 miles north
Route 132 and Bushy Hill Road intersection 1 residence within this area. 360 feet of roadway.	Yes	75 feet - unobstructed	0.9 miles north
Route 132 near # 74/76 2 residences within this area. 500 feet of roadway.	Yes	75 feet unobstructed	0.3 miles southeast
83 Paper Mill Road, rear deck	Yes	Through trees	670 feet northeast

(AT&T 1, Tab 4; AT&T 2, Q. 7; Tr. 2, pp. 18-20; AT&T late file of June 11, 2009)

AT&T - Existing and Proposed Wireless Coverage

61. AT&T operates in both the cellular (800 MHz) and PCS (1900 MHz) frequency bands. AT&T is designing the site with a signal level threshold of -82 dBm, sufficient for in-vehicle coverage. (AT&T 3, Q. 4; AT&T late file of June 12, 2009)
62. AT&T currently has no reliable, continuous coverage in Woodbury along Routes 47 and 132 north of Hotchkissville (refer to Figure 4). AT&T's existing signal level in this area ranges from -82 dBm to -105 dBm (800 MHz system). (AT&T 2, Q. 13)
63. Installing antennas at the 150 feet agl would provide approximately 2.5 miles of reliable coverage (800 MHz) to Route 47 and approximately 2.8 miles of reliable coverage to Route 132 (refer to Figure 5). Coverage would also be provided to portions of Hoop Pole Bridge Road, Sprain Brook Road, Paper Mill Road, Peter Road, Cross Brook Road, Painter Hill Road, and Hazel Plain Road. (AT&T 2, Q. 13)

64. The site would provide a cellular coverage footprint of 11.8 square miles with an antenna height of 150 feet. (AT&T late file of June 12, 2009)
65. Reducing the antenna height to 140 or 130 feet agl would cause a slight degradation of coverage along the periphery of the cellular coverage footprint. The cellular coverage footprint at 140 feet and 130 feet is approximately 11.3 square miles and 10.8 square miles, respectively. (AT&T 2, Q. 13, Q. 14; AT&T late file of June 12, 2009; Tr. 1, pp. 30-31, 52-54)
66. An antenna height of 130 feet would allow for cellular handoff to AT&T sites to the south and southeast. There are no AT&T sites to the north. (AT&T 2, Q. 13, Q. 14; Tr. 1, pp. 63-64)

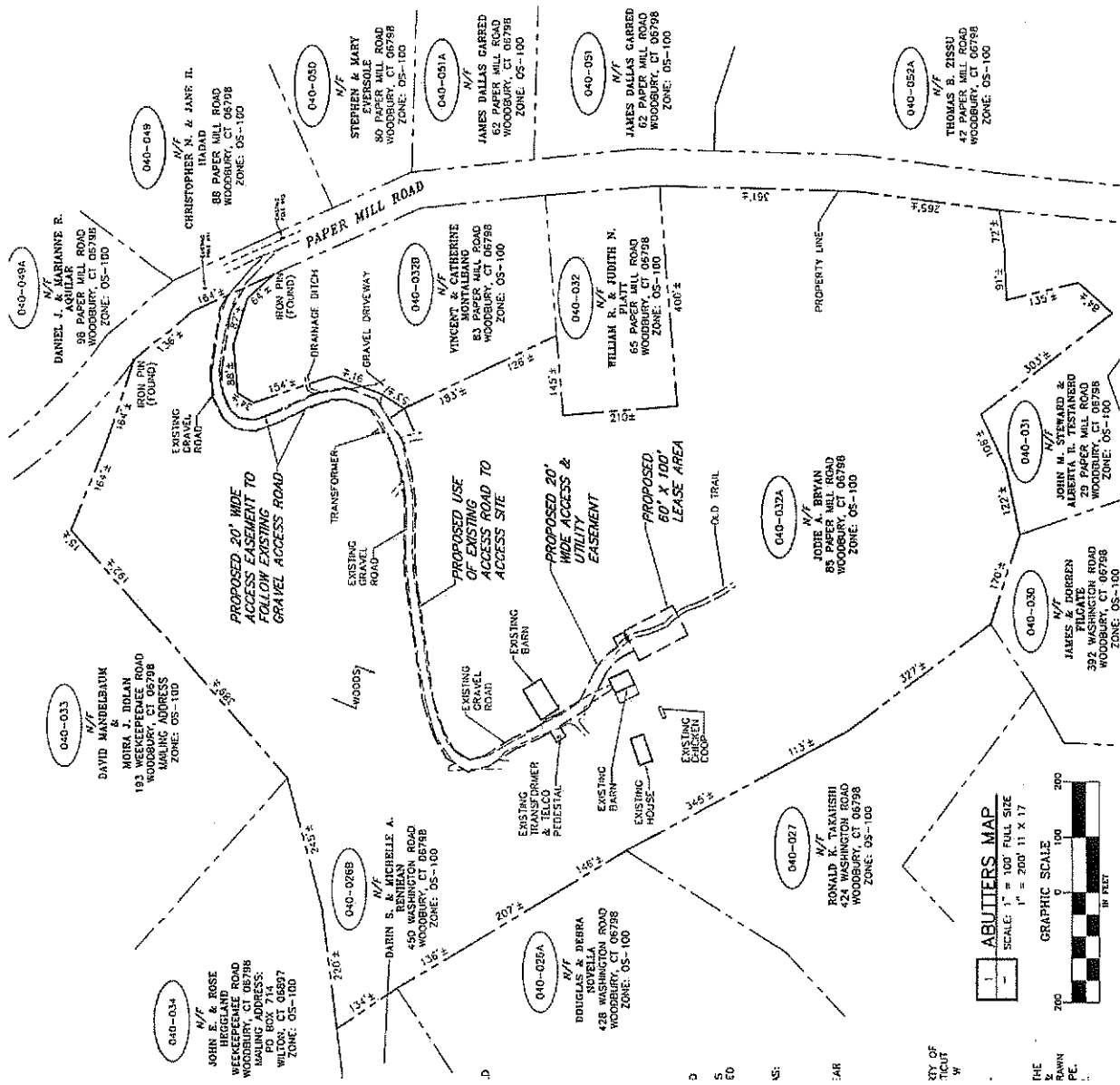


Figure 1: Location of site at 85 Paper Mill Road, Woodbury. (AT&T 1, Tab 3)

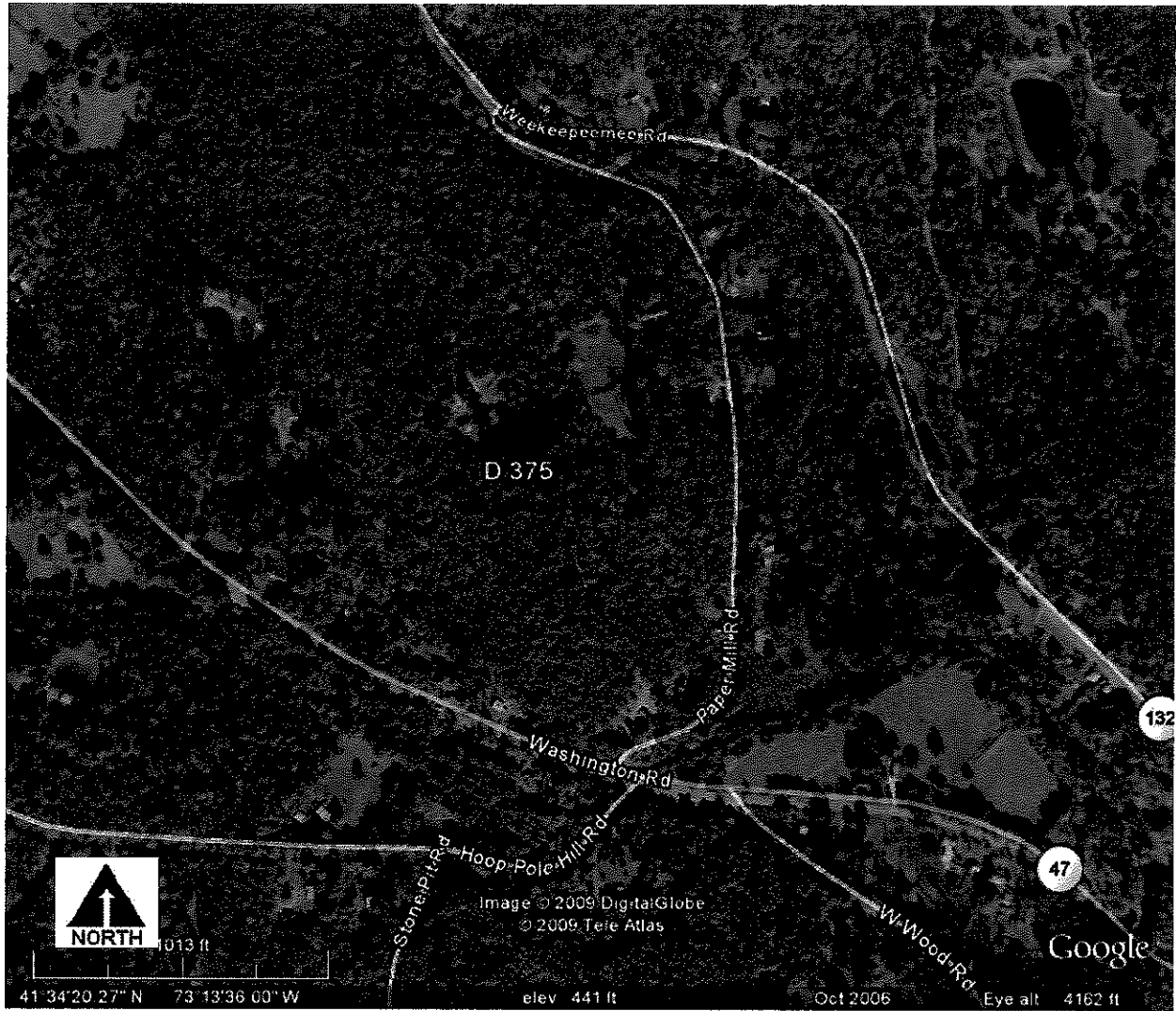


Figure 2: Location of site at 85 Paper Mill Road, Woodbury.
(AT&T 1, Tab 3)

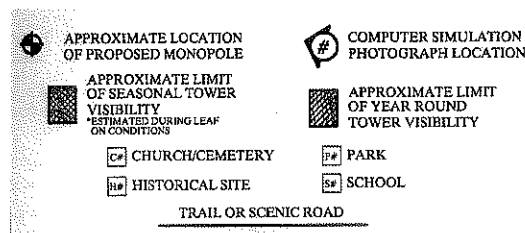


Figure 3: Projected visibility of proposed site. (AT&T 2, Tab D)

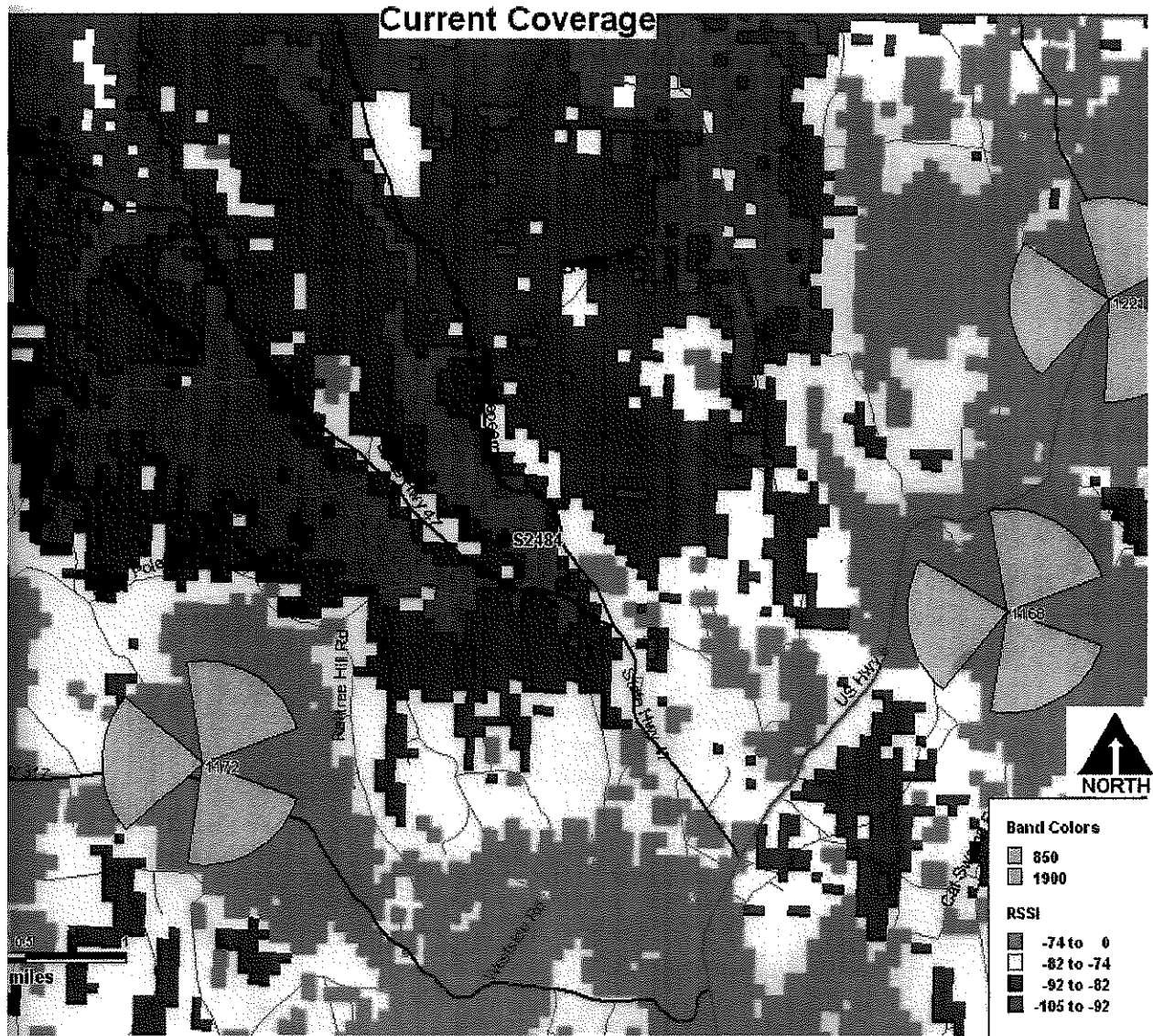


Figure 4: AT&T existing cellular coverage. (AT&T 2, Tab I)

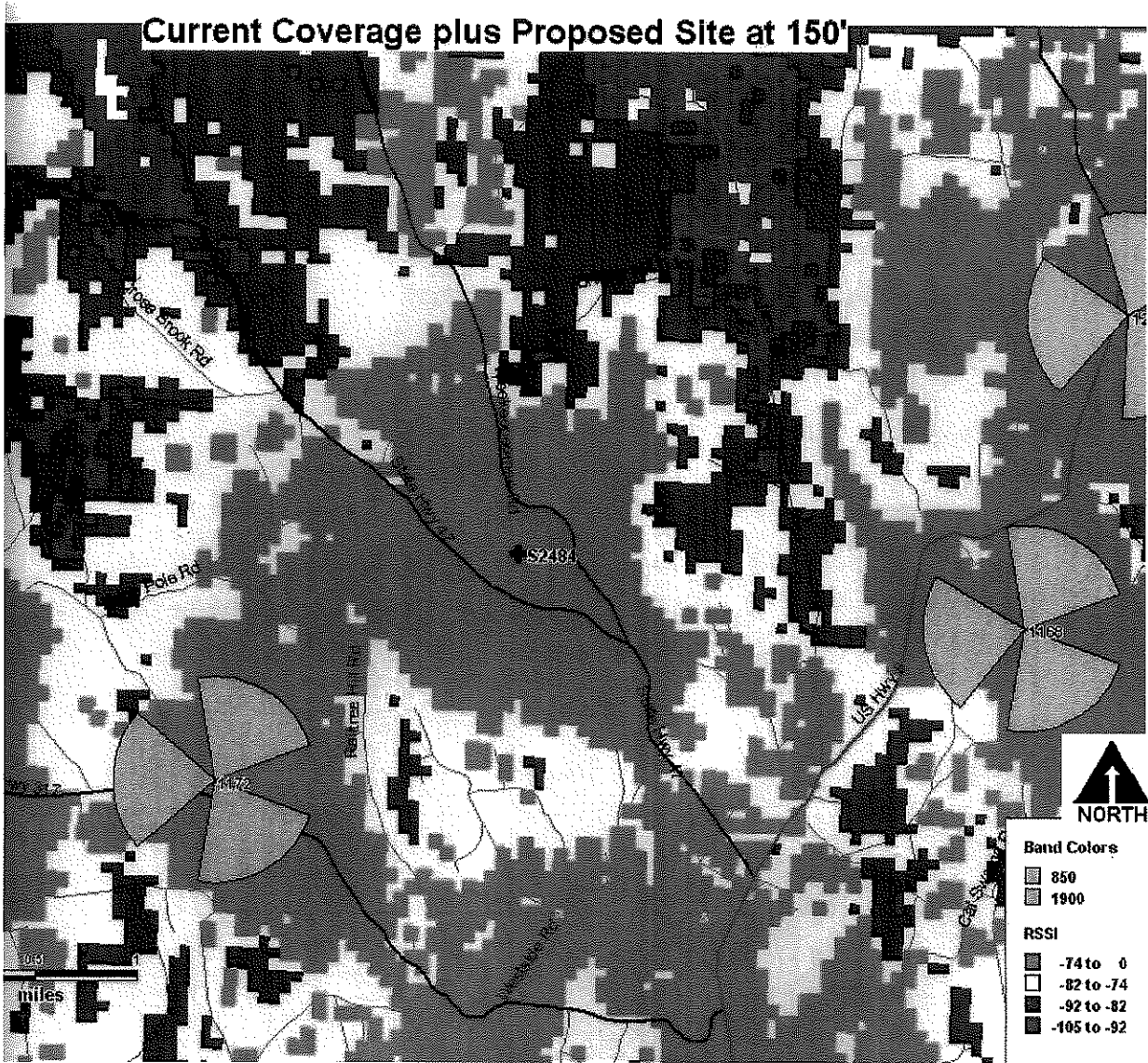


Figure 5: AT&T proposed cellular coverage with antennas mounted at 150 feet agl. (AT&T 1, Tab I)

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August 27, 2009

Opinion

On February 4, 2009, New Cingular Wireless PCS, LLC (AT&T) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a wireless telecommunications facility located at 85 Paper Mill Road in Woodbury, Connecticut. The proposed facility would provide AT&T with wireless service to Routes 47 and 132, and adjacent areas in the Hotchkissville section of Woodbury.

AT&T proposes to construct a 150-foot monopole and an associated compound on a 34-acre residentially developed parcel that is located on the south summit of Kavanaugh Hill, northeast of Route 47. Paper Mill Road, a residentially developed road, is located in the valley below the hill. The tower site is located near a small pasture on the property. The nearest residence (Montalbano property) is located 670 feet northeast and downhill from of the tower site. The tower radius would be contained within the site parcel. AT&T would construct a 50-foot by 75-foot equipment compound at the base of the tower.

The tower site would be accessed by an existing driveway that serves the host property and the Montalbano property and a new 135-foot gravel drive extending from where the current driveway ends at an outbuilding and a pasture. The town has indicated to the Council that the existing driveway serving the residences does not conform to town specifications. Aware of this problem, AT&T plans to upgrade portions of the existing driveway to allow for construction vehicles to access the site. After the tower is constructed, the maintenance of the driveway will revert back to the property owner.

AT&T proposes to install six panel antennas on a platform at a centerline height of 147 feet. The town expressed interest in placing emergency communication whip antennas on top of the tower but no formal installation plan has yet been presented.

AT&T proposes to operate 800 MHz (cellular) and 1900 MHz (PCS) equipment at this site. AT&T currently has no reliable, continuous cellular or PCS coverage on Routes 47 or 132 north of the site. The proposed site would provide coverage to 2.5 miles of Route 47 and 2.8 miles of Route 132. Although an examination of coverage models indicates a lower tower height would only degrade coverage to the north, a 150-foot tower would provide sufficient height for other telecommunication companies to meet similar coverage objectives.

Based on the lack of suitable existing structures and gaps in AT&T's coverage network, the Council finds a need for a new tower. As to the height, the Council finds a 150-foot tower would provide AT&T sufficient coverage to the target service area while allowing tower space for other telecommunication providers that may wish to locate at this site in the future. In addition, AT&T would provide space on the tower for no compensation for any municipal emergency service communication antennas, provided such antennas are compatible with the structural integrity of the tower. Such antennas are expected to be 15 to 20-foot whip antennas installed at the top of the tower.

Development of the site would only require the removal of two mature trees. The site is not within any known habitat of federally threatened or endangered species or State endangered, threatened or special concern species. Although the site is adjacent to the north boundary of the Hotchkissville Historic District, the State Historic Preservation Office determined the proposed tower would have no effect on this cultural resource area.

Development of the site would not affect any wetlands or watercourses. The condition of the access road is of concern of the Council, where steep grades and rough travel surface could lead to runoff issues on Paper Mill Road or adjacent private property. The Council will order that AT&T consult with the Town to resolve issues associated with the existing driveway prior to the submission of the Development and Management Plan. Additionally, proper erosion and sedimentation control measures shall be incorporated into any upgrades to the existing travel surface.

Views of the tower would be from spot areas ranging from 0.3 miles to 1.6 miles away from the tower, with the exception of a near range view of the tower through trees from the rear deck of the abutting Montalbano property. Other residential year-round views include isolated areas where generally one or two homes would have views of the upper portions of the tower, with the closest such area approximately 0.3 miles to the southeast. One residential area with year-round visibility that contains 23 residences is 1.6 miles southeast of the site but the tower would be slightly discernable at such a distance.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined radio frequency power density levels of AT&T's antennas proposed to be installed on the tower have been calculated to amount to 6% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. If federal or state 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 carriers 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.

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 site, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish 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, operation, and maintenance of a 150-foot monopole telecommunications facility at 85 Paper Mill Road in Woodbury, Connecticut.

<p>DOCKET NO. 375 – New Cingular Wireless PCS, LLC } application for a Certificate of Environmental Compatibility and } Public Need for the construction, maintenance and operation of a } telecommunications facility located at 85 Paper Mill Road, } Woodbury, Connecticut. }</p>	<p>Connecticut Siting Council</p>
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August 27, 2009

Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, operation, and maintenance of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish 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, as provided by General Statutes § 16-50k, be issued to New Cingular Wireless PCS, LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility located at 85 Paper Mill Road, Woodbury, Connecticut.

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, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of the Certificate Holder and other entities, both public and private, but such tower shall not exceed a height of 150 feet above ground level.

2. The Certificate Holder 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. Prior to the submission of the D&M Plan to the Council, the Certificate Holder shall discuss and resolve issues pertaining to the existing driveway that serves the site property with the Town of Woodbury. Once the driveway issues are resolved, the D&M Plan shall be served on the Town of Woodbury for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line, and landscaping; and
 - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

3. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities’ antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder 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 Decision and Order.

4. Upon the establishment of any new State or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
5. The Certificate Holder 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.
6. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of Woodbury public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
7. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder 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.
8. Any request for extension of the time period referred to in Condition 7 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 Woodbury. Any proposed modifications to this Decision and Order shall likewise be so served.
9. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder 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.
10. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.
11. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction and the commencement of site operation.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the Republican-American and Voices.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

Applicant

New Cingular Wireless PCS, LLC

Its Representative

Christopher B. Fisher, Esq.
Cuddy & Feder LLP
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White Plains, New York 10601