

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

IN RE:

APPLICATION OF SBA TOWERS II LLC  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED FOR  
THE CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A TELECOMMUNICATIONS  
FACILITY AT 44 GAVITT ROAD,  
BARKHAMSTED, CONNECTICUT

DOCKET NO. 387

Date: January 11, 2010

**PROPOSED FINDINGS OF FACT**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, applicant SBA Towers II LLC (“SBA”) submits these Proposed Findings of Fact (“Proposed Findings”).

**Introduction**

1. SBA, in accordance with provisions of Connecticut General Statutes (“CGS”) §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the Regulations of Connecticut State Agencies (“RCSA”), applied to the Connecticut Siting Council (“Council”) on September 17, 2009 for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction, operation and maintenance of a 170-foot monopole wireless telecommunications facility (“Facility”) at 44 Gavitt Road, Barkhamsted, Connecticut (the “Property”). (SBA Exhibit 1 (“App.”) at 1).
2. The site is located in the northern portion of the Property and consists of a 70-foot by 70 foot equipment compound in a 70-foot by 70-foot leased area (the “Site”). (App. at 2, Exhibit B).
3. The purpose of the proposed Facility is to provide wireless coverage service to this area for New Cingular Wireless PCS, LLC (“AT&T”), Cellco Partnership d/b/a Verizon Wireless (“Verizon”) and two other wireless carriers. (App. at 1, Exhibit F; Verizon Exhibits 1 and 2; AT&T Exhibits 1 and 2).
4. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Thursday, December 10, 2009, beginning at 3:00

p.m. and continued at 7:00 p.m., at the Barkhamsted Senior Center, 109 West River Road, Barkhamsted, Connecticut (“Hearing”). (Hearing Notice; 3:00 p.m. Transcript (“Tr.”) at 3).

5. The Council and its staff made an inspection of the Site on December 10, 2009 at 2:00 p.m. (Hearing Notice).
6. SBA flew a balloon, four feet in diameter, at a height of 170 feet at the Site from 7:30 am to 4:30 pm on December 10, 2009. (7:00 p.m. Tr. at 21-22).

#### Need

7. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services. Through the Federal Telecommunications Act of 1996 (the “Act”), Congress seeks to promote competition, reduce regulation to encourage technical innovation, and foster lower prices for wireless telecommunications services. The Act pre-empts any state or local determination of public need. (App. at 5; 3:00 p.m. Tr. at 5; Telecommunications Act of 1996).
8. A Facility at the Site will provide coverage for a significant coverage gap experienced by AT&T and Verizon in Barkhamsted specifically along Routes 219 and 179 and the surrounding area. (App. at 1, Exhibit F; Verizon Exhibits 1 and 2; AT&T Exhibits 1 and 2).
9. Youghioghny Communications Northeast LLC d/b/a Pocket Wireless has expressed an interest in co-locating on the proposed Facility. (3:00 Tr. at 16).
10. The Town of Barkhamsted has expressed its interest in possibly locating its emergency services on the proposed Facility. (3:00 Tr. at 8; SBA Exhibit 3).

#### Coverage

11. AT&T has indicated that they need to locate at a minimum height of 167 feet above ground level (“AGL”) on the proposed Facility to minimize the number and height of future telecommunications towers in this area. (App. at Exhibit F; AT&T Exhibits 1 and 2).
12. Verizon testified that they need to locate at a minimum height of 157 feet AGL on the proposed Facility to minimize the number and height of future telecommunications towers in this area. (Verizon Exhibits 1 and 2).

13. The Town of Barkhamsted Fire Department has expressed that it may have need to locate its emergency services equipment on the proposed Facility. (SBA Exhibit 2).
14. SBA has offered the top of the proposed Facility, free of charge, for the Town of Barkhamsted's emergency services. (3:00 Tr. at 8).

#### **Site Search**

15. SBA determined that there were no existing structures of a suitable height or location from which the existing lack of coverage experienced by licensed telecommunications carriers in this area of Barkhamsted would be remedied. (App. at 7-8, Exhibit I; SBA Exhibit 4).
16. Only after determining that any existing structures were unavailable for co-location did SBA search for an appropriate location for a new telecommunications facility. (App. at 7-8; SBA Exhibit 4).
17. SBA conducted a survey of property within the area to identify the best possible location to serve the needs of wireless carriers. SBA's site search was limited by the existence of several large parcels of State and Water Company property located in this area of Barkhamsted, including the Tunxis State Forest, Enders State Forest and MDC watershed land. (SBA Exhibit 4).
18. The majority of the MDC watershed land in the vicinity of the site is class I or II watershed land and not available for development of a telecommunications facility (SBA late-file exhibit).
19. The Property was uniquely suited for the development of a Facility due to its large size, presence of natural screening and its commercial use. (SBA Exhibit 4).
20. At the request of the Town of Barkhamsted, SBA had investigated the possibility of locating the proposed Facility at the Barkhamsted East Fire Department. In follow-up, both AT&T and Verizon determined that a facility at this location would not satisfy their respective coverage needs. (SBA Exhibit 4).

#### **The Site**

21. SBA proposes to construct the Facility at the Site located in the northern portion of a 36 acre parcel of land owned by Karen and Richard Langer known as 44

- Gavitt Road, Assessors Map 26 Block 33 Map 15A of the Barkhamsted Tax Assessor's Records. (App. at 2, Exhibit B).
22. The Property is located within the RA-20 residential zone. The Barkhamsted Zoning Regulations (the "Regulations") do not prohibit facilities in residential zones. (App. at 2, Exhibit B; Town of Barkhamsted Zoning Regulations (bulk file)).
  23. The Property is currently undeveloped. (App. at 2; 12/10/09 Field Review).
  24. The area surrounding the Property is primarily residential and contains several large tracts of undeveloped land. (App. at Exhibit G).
  25. The proposed Facility has been designed to accommodate AT&T, Verizon and the equipment of two (2) other telecommunications carrier as well as the Town of Barkhamsted emergency services equipment. (App. at 2, Exhibit B).
  26. The proposed Facility will accommodate the antennas and equipment of AT&T at an antenna centerline of 167 feet AGL, Verizon at an antenna centerline of 157 feet AGL and two (2) other wireless carriers at antenna centerline heights of 147 feet AGL and 137 feet AGL. (App. at 2, Exhibit B).
  27. The compound area at the base of the Facility will include locations for AT&T, Verizon and the equipment of two (2) other telecommunications carriers. The compound will be enclosed by a new eight-foot security fence. (App. at 2, Exhibit B).
  28. The Town of Barkhamsted fire Department has expressed that it may have future interest in locating its emergency service equipment on the proposed Facility. (SBA Exhibit 2).
  29. Vehicular access is proposed from Gavitt Road over an existing but upgraded driveway. (App. at 2, Exhibit B; SBA Exhibit 5).
  30. Utility service will run underground from existing utility service currently located on Gavitt Road. No water or sanitary facilities are required and, once built, the Facility will generate minimal traffic because each of the co-locating entities will only need to visit the Site about once a month to perform routine maintenance and inspection. (App. at 9-12, Exhibit B).

31. SBA's total estimated cost of the proposed Facility is approximately \$227,300. The total duration of the construction would be approximately eight weeks. (App. at 16).

#### **Municipal Consultation**

32. SBA filed its technical report with the Town of Barkhamsted on June 20, 2009. (App. at 14).
33. SBA met with First Selectman Donald Stein on July 15, 2009 to discuss the proposed Facility. (App. at 15; SBA Exhibit 4).
34. In additional follow-up with the Town of Barkhamsted, the Town expressed no additional comments or concerns regarding the proposed Facility. (SBA Exhibit 4; 3:00 Tr. at 8-10).

#### **Environmental Considerations**

35. No known existing populations of Federal or State Endangered, Threatened or Special Concern Species, were found on the Property, although several species are known to exist in the vicinity of the Site. (App. at Exhibit J, Exhibit K; SBA late file exhibit).
36. SBA has committed to using the appropriate protocols and limit construction to after May 15, 2010 in order to avoid any potential impact to the spring salamander. (SBA Exhibit 8; 3:00 Tr. at 19-20).
37. The proposed development will not directly or indirectly affect any wetlands or watercourses. (App. at Exhibit J; SBA Exhibit 7).
38. The proposed Facility is not located in a floodplain or a floodway. (App. at 15-16).
39. The State Historic Preservation Officer (SHPO) has determined that the construction of the Facility will have no adverse effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places.. (App. at Exhibit K).
40. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Facility would not require marking or lighting. (App. at Exhibit N).

41. There would be no impact on any known scenic, historic or recreational areas, including the Tunxis Trail. (App. at Exhibit I; SBA Exhibit 6).
42. A study prepared by AT&T indicates that maximum emissions levels by AT&T antennas from the proposed Facility would be 5.4% of the safety criteria adopted by the FCC. (App. at Exhibit L).

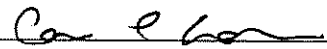
#### Visibility

43. The Facility is proposed to be located at the Property in order to minimize impact to residential receptors; the Facility will be as short as it can be while still providing the necessary coverage to the area. The topography and the mature vegetation at the Property will significantly limit the visual impact of the Facility. (App. at 9-11; Exhibit I; SBA Exhibit 6).
44. The proposed Facility at the Site will be visible from only 13 acres within a two-mile radius of the tower, which is less than one percent (1%) of the study area. (App. at 10, Exhibit I; SBA Exhibit 6).
45. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the existing vegetation at the Property. (App. at 12; Exhibit J; SBA Exhibit 6).
46. The proposed Facility will be partially visible year-round from approximately four (4) residences and partially visible seasonally from an additional two (2) residences. (App. at 10, Exhibit I).

#### Towersharing

47. This Facility will provide co-location opportunities for public safety communications systems and four (4) wireless carriers, thus avoiding the proliferation of towers. (App. at Exhibit B).
48. AT&T, Verizon and Pocket have all expressed their desire to locate on the proposed Facility. (AT&T Exhibits 1 and 2; Verizon Exhibits 1 and 2; 3:00 Tr. at 16).
49. The Town of Barkhamsted Fire Department has expressed that it may have future interest in locating its emergency service equipment on the proposed Facility. (SBA Exhibit 2).

Respectfully Submitted,

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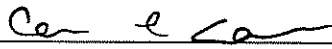
Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

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