

Mary T. Staley
5805 Ogden Road
Bethesda, MD 20816
keller.staley@nisc-llc.com
mstaley@kelleydrye.com

February 22, 2010

DELIVERY BY FEDEX

Connecticut Siting Council
State of Connecticut
Ten Franklin Square
New Britain, CT 06051

RECEIVED
FEB 23 2010

CONNECTICUT
SITING COUNCIL

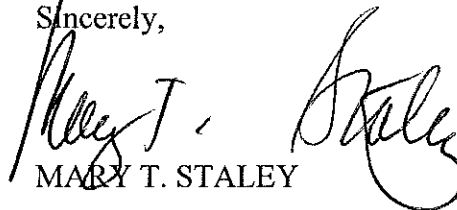
Attn: S. Derek Phelps, Executive Director

Re: **Docket No. 392; T-Mobile Northeast, LLC application for a Certificate of Environmental Compatibility and Public Need for the Construction, Maintenance and Operation of a Telecommunications Facility located 387 Shore Road, Old Lyme, Connecticut**

Dear Council Members:

As an intervenor in this proceeding, and pursuant to the revised schedule, I hereby submit: (1) a request to postpone the evidentiary hearing on Docket No. 392 or, in the alternative, a request to have Dr. David Tuck appear at the hearing on my behalf; and (2) proposed testimony and exhibit.

Sincerely,


MARY T. STALEY

cc: Melanie A. Bachman, Staff Attorney (via email service)

Enclosures

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

RE: APPLICATION BY T-MOBILE NORTHEAST, LLC
FOR A CERTIFICATION OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR A TELECOMMUNICATIONS FACILITY
AT 387 SHORE ROAD IN THE TOWN OF
OLD LYME, CONNECTICUT

DOCKET NO. 392

REQUEST FOR POSTPONEMENT OF EVIDENTIARY HEARING

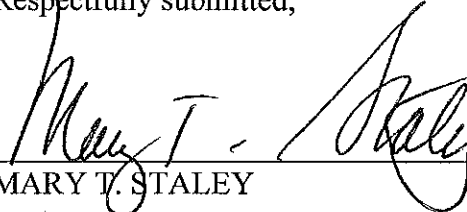
I, Mary Staley, respectfully request that the Siting Council postpone the evidentiary hearing pertaining to Docket No. 392, currently scheduled for March 2, 2010 at 11 am.

This postponement is requested because I will be returning on that day from international travel. My flight is currently scheduled to land at J.F. Kennedy International Airport on March 2, 2010 at 2 pm. As a result, I would be unable to attend the hearing at the time it is currently scheduled.

Furthermore, as I understand the nature of the hearing, two other proposed sites will also be discussed at that time. Given the many issues associated with the other sites, including Docket No. 391, it appears that the hearing on these other matters would take some time, necessitating another hearing date in any event. Given that a full discussion of these other two applications may require that the hearing be extended for another hearing date, this postponement of the evidentiary hearing for Docket No. 392 would not unduly prejudice the other parties to this proceeding.

Alternatively, if the hearing for Docket No. 392 cannot be postponed, I respectfully request that my neighbor, Dr. David Tuck, 2 North Road, be permitted to present my testimony and present the questions that I have for the applicant.

Respectfully submitted,



MARY T. STALEY

Date: February 22, 2010

TESTIMONY IN OPPOSITION TO T-MOBILE'S APPLICATION
DOCKET NO. 392

My name is Mary Staley. My husband and I own property located at 3 North Road. We respectfully request that this Council reject T-Mobile's application for a variety of reasons.

Based on the picture provided by T-Mobile of the project site (see Exhibit), our property is within 40 yards of the facility proposed by T-Mobile. Accordingly, this proposed facility will be clearly visible from our property. In fact, if constructed, it appears that a cell tower would likely be the most prominent visible feature of our property. Not only will this facility have a direct and significant adverse environmental impact on our property by impairing the pastoral setting of our property which is located in a residential area, but we will also be substantially and specifically affected because our property value will almost certainly decline if a cell tower is located so close to our property and it would place a major restraint on our ability to sell the property. While T-Mobile has stated in its application that its tower will have a *de minimis* impact on the affected area (Application at 11), obviously, I strongly disagree. Having a cell tower approximately 100 feet from our property can hardly be viewed as having no significance. I anticipate that the value of my property alone (without a residence) will decline by at least \$20,000, or approximately 20% of the value of our property. In my view, this is not *de minimis*, but significant.

In the first instance, T-Mobile has failed to demonstrate a valid public need for this facility in the face of the obvious adverse affect that this facility would have not only on the year-round residents, but on the summer residents and future residents (such as us) and recreational visitors to this location. The proposed location of 387 Short Road is in the heart of a pastoral, residential community. Nevertheless, T-Mobile has failed to provide sufficient evidence that it has considered other locations that might serve the same purpose but that would not so directly affect the residents of this community. While claiming that only a limited number of residents would be affected by its proposed facility, T-Mobile has failed to acknowledge that the population of Point O' Woods grows significantly in the summer. T-Mobile has also failed to consider future residents, such as ourselves, who are property owners in this area.

Also of significance is that T-Mobile has stated that its facility will be consistent with Old Lyme's Zoning Regulations and Plan of Conservation and Development. Application at 14. This statement is plainly wrong. Section 11.22.1(e) of Old Lyme's Zoning Regulations related to Telecommunication Facilities specifically states that telecommunications towers "shall be set back at least five hundred (500) feet from any existing residential structure and shall be set back at least seventy-five (75) fee from a property line . . ." In T-Mobile's own application in Exhibit L, it claims that the facility will be less than 500 feet of several residences, including 7 Windward Lane, 3 Windward lane, 5-1 Windward Lane, 2 North Road, 1 North Road, 1 Shore Acres Road, 7 Shore Acres Road, 6 North Road, 5 Connecticut Road, 7 Connecticut Road. Again, T-Mobile's complete disregard of Old Lyme's own regulations should be taken into consideration. While I recognize that the Siting Council does not need to abide by Old Lyme's

zoning requirements, T-Mobile's failure to acknowledge that it actually is direct opposition to these requirements should be noted.

T-Mobile has also failed to take into account the full impact of this facility on the local environment. Not only will the tower be located near Long Island Sound, but it will also be within sight of other wetland areas used for recreation by area residents. These wetlands are home to a wide variety of wildlife whose habitats may well be disturbed by the construction of this facility. The waterways areas surrounding this area, including ThreeMile River, are used for kayaking, canoeing and other recreational uses. These users will have a clear line of sight to this proposed cell tower.

Before any further consideration is made of this application, at the very minimum, T-Mobile should be directed to correct the many apparent errors in its application should be corrected. T-Mobile's written application indicates that the location of the facility will be at the Laundromat located at 387 Short Road. Yet the figures and photos that T-Mobile have provided show the location to be in the middle of a wooded area, in fact a wooded area that is directly in line with our property (see attached Exhibit). Before this Council can make any reasoned assessment of the merits of T-Mobile's application, proper diagrams and pictures should be required.

These errors affect many other parts of T-Mobile's application. For example, the documents for the location citing require clearance from the local historical society and Native American tribes in the area. If T-Mobile has incorrectly identified the location of the facility in those reports, then it seems that any notice it provided to these other entities would have also been in error. Before any application is approved, these errors must be corrected.

Similarly, in Exhibit L to its application, T-Mobile identified the residential building list, identifying the distance of residences from the compound, including a notice that 3 Windward Lane and 2 North Road (the residence abutting our property at 3 North Road) are 231 and 235 feet away from the facility. Yet, as noted in the scale bar in the attached Exhibit, the distance appears to be more like the distance from our property, which is 40 yards. Again, these errors in the documents point to a careless disregard by T-Mobile, which also requires one to consider whether there are other errors in the report as well.

In another concern, in its application, T-Mobile states that the vehicular access to the Facility would extend from Shore Road over an existing paved driveway and across an existing gravel parking lot. (Application at 9). Yet, again, the picture that is provided (Exhibit) does not indicate any access to this location. Significantly, T-Mobile has provided very similar language for access in its application in Docket. No. 393. (Application at 9), indicating that it may have simply been relying on this same description without provide an accurate assessment of access to the proposed sites.

Furthermore, in its application, T-Mobile has stated that it would “extend utility service underground from an existing transformer on the Property.” (Application at 9).¹ Yet, it is my understanding that T-Mobile may actually be required to install a generator at this location. While T-Mobile has indicated that it would be in compliance with all noise regulations, it is unclear whether T-Mobile has properly represented the nature of the power source for this facility. Again, at a minimum, T-Mobile should be required to provide more detailed information on the power source, such as the specific location of the transformer. If a generator will be installed, T-Mobile should be required to explain what type of generator would be used, the location of this generator, and the noise level that would be involved when the generator is in use.

In another oversight or error, while T-Mobile has identified historical cemeteries in the area, T-Mobile has failed to identify the Point O’Woods cemetery on Connecticut Road. This is an historic site that is known to me. Of course, I am concerned that there may be other historic sites that T-Mobile did not take into account because it has done a cursory job in evaluating the true impact of this facility on this historic location.

Furthermore, other than referencing potential short interruptions in service that might be experienced by Am-Trak passengers (and only those Am-Trak passengers that have T-Mobile service), T-Mobile has failed to explain any other legitimate public need for this additional facility. Stated differently, other than to forestall potential gaps in service, T-Mobile has referenced no direct public need for this facility.

At the bare minimum, T-Mobile should be required to explain how long it believes this facility would need to be in service, given imminent technological advances that will likely make this facility obsolete in the next few years. Further, T-Mobile should be required to explain whether its proposal represents the least intrusive structure that would be required to satisfy the apparent needs of the Am-Trak passengers. Finally, T-Mobile should be required to guarantee in writing that it will monitor the use of this facility on a periodic basis so that in the very strong likelihood that this facility is no longer necessary in the near future, it will take all steps to remove this structure as soon as possible.

In conclusion, I strongly urge the Siting Council to reject this application. At a minimum, T-Mobile should have set forth a more detailed, complete analysis of the benefits of this particular location and should have provided a more detailed, complete analysis of the methods it used to decide that other, less residential areas were not suitable. This analysis is important given that the principal (if not only) beneficiaries of this proposed location are Am-Trak passengers who would only be inconvenienced at all for a matter of minutes as opposed to the burden imposed on the residents who would be adverse affected at all times while this facility remains standing.

¹ This language mirrors the information provided in Docket No. 393 at 9.

EXHIBIT



Figure 8 2009 Bing Maps Bird's-Eye Image

Questions

Questions to be asked of T-Mobile at Hearing:

- 1) Please clarify the exact location of the facility – that is, will the facility be located the Laundromat itself or in the woods?
- 2) Please clarify the exact location of the access path to the facility.
- 3) Please clarify the type and location of the power source for this facility. If the facility will be using an existing underground transformer, please identify the location of this transformer. If a generator will be required to be installed, please identify the location of the generator, the type of generator that will be used, and the noise level associated with the generator.
- 4) Please clarify which specific site location and topographical maps were sent to the various parties, including those sent to the Native American Tribes, office of historic preservation and other historians for approval.
- 5) Please identify all other sites considered by T-Mobile for the location of this facility.

CERTIFICATE OF SERVICE

Docket No. 392

T-Mobile Northeast, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located 387 Shore Road, Old Lyme, Connecticut.

I hereby certify that on February 22, 2010, a copy of the foregoing document was served upon the following by first-class mail, postage prepaid:

Julie D. Kohler, Esq.
Cohen & Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604

The Honorable Timothy C. Griswold
Office of the Selectmen
Town of Old Lyme
52 Lyme Street
Old Lyme, CT 06371



MARY T. STALEY