

STATE OF CONNECTICUT
SITING COUNCIL

IN RE: T-MOBILE NORTHEAST, LLC : DOCKET #393
APPLICATION FOR CERTIFICATE FOR :
TELECOMMUNICATIONS FACILITY AT :
BUTTONBALL ROAD, OLD LYME : March 23, 2010

**BLACK HALL GOLF CLUB'S RESPONSES TO THE APPLICANT'S
INTERROGATORIES DATED MARCH 19, 2010**

The Black Hall Club hereby files its responses to the Interrogatories propounded by T-Mobil Northeast, LLC. The responses are numbered corresponding to the Interrogatories.

1. The question incorrectly assumes that Black Hall Club has made the allegation that the proposed facility will unreasonably pollute. Black Hall contends that the facility will unreasonably impair the natural resources of the state by creating viewshed deterioration. The factual basis for this is found in the Applicant's own exhibits which show that the proposed tower will stand at 97ft, about 40 feet above the tree line adjacent to the Black Hall Club. Currently the viewshed at that location is unimpaired by industrial infrastructures. Given that the Applicant has already admitted that its coverage goals could have been attained at a height lower than this (87ft) the proposed activity is poses an unreasonable impairment. Further, as the applicant has not proposed any stealth configuration like a monopine which is available to it, this further provides a factual basis for the claim that the impairment of the viewshed is unreasonable. Since the Applicant failed to explore alternative locations outside a 0.2 mile radius and a

slightly larger radius would have revealed the existence of the former quarry site off ButtonBall Road which was previously proposed for the siting of a telecommunications facility by AT&T in Docket 202, the choice of the current site which has virtually no buffer to the adjacent property is unreasonable. The Applicant has also not proposed cedar fencing and the planting of screen evergreen trees to screen the near, ground view viewshed when such techniques have been used in many other applications, which is again a factual indication of unreasonableness.

Representatives of Black Hall have viewed the proposed location and the photosimulations provided by the Applicant and thereby have a sound factual basis for the allegation that they will be able to see a significant view of the proposed tower from the Black Hall property and surrounding properties and travel ways. The visual impact analysis also shows that the facility will be visible from Long Island Sound, which, along with other applications of the Applicant and other existing and proposed telecommunication towers will constitute an unreasonable cumulative impairment of the public trust in the unspoiled views from the natural and recreational resource of Long Island Sound. Further support for this position can be found in the Letter from CEQ in this matter regarding visual impacts and impacts to migratory birds and in the DEP letter commenting on the proposed facility in CSC Docket 396 which comments are also applicable in this Docket.

2. See response to Int. #1.
3. See response to Int. #1.
4. See response to Int. #1.
5. See response to Int. #1.
6. If the Applicant checked the Connecticut Secretary of State website CONCORD

business filing system, it would have found that The Black Hall Club, Inc. is a domestic non-stock corporation, Business Id.0052029, which is active, filed its last annual report in 2009 and has been in existence since March 12, 1965. The Intervenor believes this is sufficient factual basis to claim its existence. With regard to the membership, the Applicant's factual basis comes from familiarity with its membership. The Application to Intervene was verified under oath by John Opeka, its President, who has the requisite familiarity to verify the allegations under oath.

7. The Application to Intervene was verified under oath by John Opeka, its President, who has the requisite familiarity to verify the allegations under oath. Mr. Opeka personally viewed the proposed location of the tower and walked the Black Hall property.
8. See response to Int. #1.
9. The Black Hall Club, Inc. as owner "hosts" the golf course which the Assessor has designated as open space under Conn. Gen. Stat. sec 12-107, an act which encourages the preservation of farmland, forest and open space in Connecticut. The proposed facility by impairing the views from such protected open space is in antipathy to the purposes for which the Act was passed.
10. The answer to this question about the length of time that Black Hall has owned the golf course is irrelevant as it does not shed any light on the impacts of the proposed tower on the viewshed which is owned in the public trust. The Black Hall Club currently owns and has owned for decades the land it is shown as owning on Buttonball Road in the Assessor's records, including the Golf Course which was discussed at the first hearing in this matter. The Assessor's records are equally accessible to the Applicant. A person may intervene under CEPA without being a landowner and without demonstrating aggrievement as discussed in Intervenor's objection to the Applicant's Motion to Dismiss the

Intervention. See, Hyllen-Davey v. Planning & Zoning Commission, 57 Conn. App. 598, 593, 749 A.2d 682, cert denied, 253 Conn. 926, 754 A.2d 796 (2000)(“the EPA waives the additional aggrievement requirement in ...§22a-19, [which] authorizes any citizen or other entity, without having to first establish aggrievement, to intervene in an existing proceeding.”)

The history of the land is such that at some time in the past it was owned by Native Americans from whom it was purchased or taken by agents of the King of England and passed down for the last 300 years through various owners to the Black Hall Club. That history while undoubtedly filled with interesting highlights is irrelevant to the proceedings before the Siting Council or the issue of how the proposed facility will look atrociously ugly as it sticks up above the currently unspoiled landscape of Old Lyme.

11. Black Hall entered into an agreement with Crown Atlantic Company, LLC, to lease a former quarry located at located at 41°-17'-37.9" North and 72°-18'-16.8' West off Button Ball Road in 2001 in connection with a proposed telecommunications tower that was the subject of CSC Docket 202. The tower was the alternate site to the tower that was eventually permitted in that docket at Mile Creek Road, Old Lyme.
12. Both the prime and alternate locations for Docket 202 were then and remain RU-40.
13. 190 feet.
14. The Black Hall Club entered into the lease as a business transaction and realizing that a Crown Atlantic intended to site a tower in the immediate vicinity, Black Hall believed it could have greater control over the siting. Ultimately, Black Hall requested the proposal for the tower be withdrawn due to the visual impacts of a 190ft tower with a base of 6ft, twice the width of the proposed facility in this docket. The Council made the following finding of fact in Docket 202:

"Crown believes that the proposed alternate #1 site would be preferable to the proposed prime site because the proposed telecommunications facility at the proposed alternate #1 site would be less visible, and would have the least environmental effect, given the nature of the development and current uses of the property".

Alternate #1 site was the Black Hall site.

15. No.

16. N/A

17. If T-Mobile is referring to the Docket 202 site, No.

18. N/a

19. No formal visual analysis of the current facility has been performed, but members of Black Hall have physically viewed the site of the proposed tower from various points along their property and the surrounding area.

20. N/A

21. No.

22. N/A

23. See responses to Int. 19 and 1.

24. John Opeka and Thomas Groark viewed the premises. Various dates in January and February. The results were that they found the likely visual impact would impair the viewshed of the open spaces and would have a significant impact on the currently unimpaired vistas from Black Hall property and likely other properties. No written report was made.

25. N/A, but see previous response.

26. N/a

27. No. Black Hall is relying upon the previous practices of which it is aware have been employed to reduce visual impacts, including screen fencing, screen plantings, a monopine configuration and alternative locations. Since the former

quarry site is a large site (32 acres) and is well screened by tree growth, the base view of the propose tower would be less, and as the tower would be siginificantly lower in height than the previously proposed 190ft tower, it is reasonable to believe that the visual impacts would be less than the proposed facility.

28. N/A

29. Other than reviewing the materials on file with the CSC, no.

30. N/A.

Respectfully Submitted,

Black Hall Golf Club

By 

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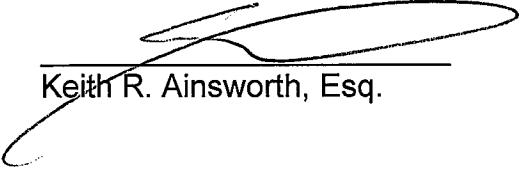
CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was deposited in the United States mail, first-class, postage pre-paid this 23rd day of March, 2010 and addressed to all parties and intervenors on the attached service list and as noted below.

Mr. S. Derek Phelps, Executive Director, Connecticut Siting Council, 10 Franklin Square, New Britain, CT 06051 (1 orig, 20 copies, plus 1 electronic).

T-Mobile Northeast, LLC c/o Julie Kohler, Esq., Cohen & Wolf, LLP, 1115 Broad Street, Bridgeport, CT 06604 (203) 368-0211/(203) 394-9901 fax jkohler@cohenandwolf.com

Town of Old Lyme c/o The Hon. Tim Griswold, 52 Lyme Street, Old Lyme, CT 06371



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