

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
: :
APPLICATION OF CELLCO PARTNERSHIP : DOCKET NO. 414
D/B/A VERIZON WIRELESS FOR A :
CERTIFICATE OF ENVIRONMENTAL :
COMPATIBILITY AND PUBLIC NEED FOR :
THE CONSTRUCTION, MAINTENANCE :
AND OPERATION OF A WIRELESS :
TELECOMMUNICATIONS FACILITY AT 36 :
RITCH AVENUE, GREENWICH, :
CONNECTICUT : MARCH 22, 2011

RESPONSES OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
TO JOHN HARTWELL'S PRE-HEARING INTERROGATORIES

On March 11, 2011, John Hartwell issued Pre-Hearing Interrogatories to Cellco Partnership d/b/a Verizon Wireless ("Cellco") and T-Mobile, relating to the above-captioned docket. Below are Cellco's responses.

Question No. 1

As part of the conditions of a settlement with AT&T it was agreed to put the existing tower at 36 Ritch Ave. W. with no additional carriers permitted on the Site. The neighbors were told they were protected by law from any further increase in wireless companies and therefore accepted this as the last negative impact on their property. Why does Cellco feel they are above this legal agreement which neighbors depended on and if approved will lead to costly legal action and which was recognized by Cellco in early 2010. (See attached letter from Kenneth Baldwin dated November 30, 2009).

Ref. cover sheet to litigation between AT&T Wireless Services and the Town of Greenwich dated September 6, 2001 – attached to letter of Diane Fox to the Siting Council dated January 12, 2011.

Ref. Planning and Zoning Commission Dec 11, 2001 – Action agenda with decisions – Item 2 Settlement of pending litigation – Motion to approve settlement of pending litigation – attached to letter of Diane Fox to the Siting Council dated January 12, 2011.

Ref. letter from Diane Fox, Town of Greenwich Planner dated January 11, 2002 – Item 6 “This monopole is for AT&T use only and is limited to this one user” – attached to letter of Diane Fox to the Siting Council dated January 12, 2011.

Ref. letter from Diane Fox, Town of Greenwich Planner dated August 20, 2002 – Item 3 “This monopole is for AT&T use only and is limited to this one user”. Item 4 – “No other structures are permitted on site except for those shown on the approved plans” – attached to letter of Diane Fox to the Siting Council dated January 12, 2011.

Ref. letter from Diane Fox, Director of Planning and Zoning, dated September 18, 2008 to the Siting Council – Item 5 – “It should be noted that the court settlement for the tower restricted the tower to one carrier only”.

Ref. attached letter from Kenneth Baldwin to Diane Fox and Katie Blankley dated November 30, 2009 recognizing the issue – Page 2, second paragraph “I know that the town has expressed some concerns in the past about the use of this tower by more than one carrier.

Ref: Greenwich Planning and Zoning Commission Hearing dated October 26, 2010 – page 61-62 – “So it’s a legal issue, there’s no question about that”.

Ref. Greenwich Planning and Zoning Commission proceedings regarding Cellco on Nov. 9th, 2010 – page 12 – references a settlement of a federal appeal that there could only be one carrier.

Ref. letter of Diane Fox dated November 22, 2010 – to the Siting Council and Mr. Kenneth Baldwin – page 4 second paragraph – existing AT&T tower was to settle an appeal brought by AT&T. Part of the commission’s approval of this site plan was that the tower was limited to one carrier, namely AT&T.

Ref. letter from Diane Fox, Director Planning and Zoning, to the Siting Council dated January 12th, 2011. Second paragraph states the AT&T tower was to settle an appeal and the tower was limited to one carrier only.

Response

To put these issues into some context, it is important to briefly restate the history of the AT&T facility. In 1991, AT&T filed an application with the Town for the development of a tower site at another location in the Byram area. That application was denied by the Planning and Zoning Commission (“PZC”) and AT&T appealed the Town’s decision to Federal Court. In an effort to settle the appeal the Town directed AT&T to the property at 36 Ritch Avenue and agreed to allow a tower to be developed at this location. The PZC approved the new location subject to certain restrictions, some of which are mentioned above. Shortly after receiving the PZC’s blessing, AT&T applied for and received a building permit for the tower and withdrew its appeal. The PZC comments and restrictions were never a part of any formal stipulation or final judgment by the Federal Court.

The existing AT&T facility occupies an area of approximately 260 square feet where the existing flagpole tower and equipment cabinets are currently located. Cellco’s leased area, as

shown on the project plans, is separate from and does not include any portion of the AT&T leased area. As discussed in the application, if the multi-carrier tower proposal is approved by the Council, the existing AT&T tower and equipment cabinets will be removed. The Cellco project is separate and distinct from the AT&T facility and is not tied in anyway to previous agreements or understandings between the Town and AT&T.

Notwithstanding Cellco's legal position with respect to the existing AT&T facility, the tower proposal currently before the Council has been reviewed extensively by the Town and presented at two public information hearings hosted by the PZC. Town comments have been filed and neighbors will have the opportunity to comment on the proposal at the Council's March 29, 2011 public hearing. Ultimately, the Council will decide whether the new tower is needed and will evaluate the environmental effects of the proposed facility.

Question No. 2

Responses of Cellco Partnership dated Feb 25, 2011 – Page 2, Question #2 – “Cellco does not anticipate the need for blasting to complete the proposed improvements at 36 Ritch Avenue.” The owners of the property, the Kellys, bought the piece of property for the purpose of building a house. However, they had to give this up when they realized they would have to blast which made it financially prohibitive to build. This is in accordance with town regulations on the degree of the incline of the driveway. Why isn't this also an issue for Cellco?

Response

Cellco cannot speak to the reasons why the current owners of the property did or did not pursue the construction of a residential dwelling. Based, however, on preliminary geotechnical survey work completed to date, Cellco does not believe that blasting to construct the proposed facility improvements will be required. Other methods of removing rock or attaching certain

improvements to the bedrock will be explored in an effort to minimize impacts on the site and surrounding properties. Based on the findings of the geotechnical report prepared by Design Earth Technology dated October of 2010, no rock excavation will be required for depths below 4 feet. We do not anticipate the need to go below these depths for any of the proposed improvements for this project. Considering that subsurface conditions encountered during construction can vary, the report does provide for rock removal alternatives and recommends that pre and post construction surveys of surrounding structures be conducted to minimize damage claims.

Question No. 3

Ref: Application of Cellco dated Dec 15, 2010 – page 4 – Once the site is operational, maintenance personnel will visit the site on a monthly basis. Ref: October 26, 2011 Planning and Zoning Meeting – Page 41-42 – “generally speaking carriers require access to the site for maintenance” “That’s once a month per carrier” What is the source of this information? In reality AT&T visits the site multiple times during the month. An example is Feb 21st after a snow storm where a truck had great difficulty coming down the driveway and slid out of control onto my driveway. Another incident this winter occurred when AT&T tried to plow the driveway and because of the grade had a very difficult time raising concerns about the safety of plowing a driveway this steep. Today it is proposed to have four carriers visiting a house which will result in multiple visits per month per carrier versus one carrier visiting a 10 foot by 30 foot section today. Why is Cellco not following town regulations regarding the grade of the driveway?

Response

Cellco’s statement that its technicians will visit the site once a month is consistent with

its typical maintenance practice. Cellco does not have adequate information to address AT&T's practices in the past.

As stated in the application, the proposed facility, including all related site improvements, falls under the exclusive jurisdiction of the Council. Pursuant to Connecticut General Statutes § 16-50x, the Council's jurisdiction pre-empts local land use authority including regulations relating to driveway grades. Where possible, Cellco seeks to comply with such standards.

It is important to point out that existing driveway grades at the site currently exceed the Town's standards. The Cellco application does not propose to increase the grade of the existing driveway. Cellco is, however, proposing other improvements such as drainage and paving of the driveway surface that will substantially minimize future problems with snow removal and safe access to the site.

Question No. 4

Alternative Sites – Bowman property at 56 Ritch Ave. Ref. Responses of Cellco dated Feb 15, 2011. "I think it is important for the council to know that Mr. Bowman was a vocal opponent of Cellco's tower proposal" I agree this is important as it shows how negative the impact of this proposed tree tower with multiple antennas is to the neighbors. By offering his property Mr. Bowman is willing to accept an alternative to the worst case scenario of the proposed tower. Mr. Bowman as well as all the neighbors would prefer the second tower as it will be far less unsightly and the number of neighbors able to view it versus the proposed tree tower will be reduced. Neighbors across the highway may not even see it and what they will see will not be visably obtrusive. The three neighbors below the site may not see the second tower at all. Neighbors to the east will see an additional flagpole which will be far less obtrusive than the proposed tree.

Ref. Responses of Cellco dated Feb 15, 2011 – “use of a flagpole tower would result in the need for carriers to take multiple antennae locations thereby increasing the height of the tower to perhaps as tall as 120 feet. In a previous meeting with Verizon’s Tom Logan I was told two carriers could be serviced by a 70 foot tower. What has changed that two carriers can’t be serviced by a 70 foot tower plus the 15-20 feet lower ground elevation mentioned on page 5?

Response

Cellco’s original plan for the 36 Ritch Avenue site was to build a 70-foot monopole tower to replace the existing AT&T flagpole tower. Under that scenario, AT&T would install a full array of antennas at the 67-foot level and Cellco would install a full array of antennas at the 57-foot level. Cellco was not aware of T-Mobile’s interest in this site at that time. T-Mobile eventually made Cellco aware of its need to install its antennas above the AT&T antennas at a centerline height of 77 feet. This is the proposal that is currently before the Council. Cellco could still satisfy its coverage objectives in the area under the initial site development scenario. That scenario, however, would not accommodate the needs of T-Mobile or the Greenwich Police Department and would likely result in the construction of a second tower somewhere else in southwest Greenwich in the near future. (See T-Mobile’s Responses to Council Interrogatories dated February 24, 2011).

The minimum antenna height requirements for each of the carriers sharing the tower assumes a ground elevation of approximately 54 feet AMSL, which is the ground elevation at the base of the proposed tower. If the ground elevation is lowered, the only way to maintain the same overall antenna centerline height would be to increase the height of the tower itself. The discussion in Cellco’s Response to Council Interrogatory No. 7 also involves a flagpole tower alternative. Flagpole towers require each of the carriers to stack their antennas and occupy

multiple antenna locations on the tower. A flagpole tower would need to be taller than a monopole or monopine tower, like that proposed in this application, to accommodate all of the carriers' needs. Finally, a flagpole tower, as discussed, would not satisfy the Greenwich Police Department antenna requirements. The Police Department's whip and dish antennas need to be externally mounted at the top of any new tower, thereby defeating the purpose of a stealth flagpole design. The Police Department antennas would, however, be located in and amongst the simulated branches at the top of the proposed monopine tower.

Question No. 5

Alternative sites – Weigh Station on I 95 between exits 2 & 3 – ref. Application of Cellco dated December 15th. Page 3 describes area to be covered. Isn't I 95 the most important piece? Why haven't you contacted DOT? ref: Responses of Cellco dated Feb 25, 2011. "Cellco is not aware of any DOT parcels in or near the search area" The state of Connecticut has large budget issues and I would assume would be very interested in any income that can be provided by state property. A tower in this location would certainly serve your concern regarding that area of I 95.

Response

See Cellco's Response to Council Interrogatories, Set Two, No. 1.

Question No. 6

Reference Planning and Zoning meeting – October 26th – page 46 – referring to Bimbo Bakeries "We spent several months, if not a year, trying to work something out with them but were unable to come to an agreement" Who did you speak to at Bimbo Bakeries?

Response

Cellco's lease negotiations with Bimbo Bakeries were through the local facility's operations manager and representatives from the corporation's General Counsel's office.

Question No. 7

Cell Tower Alternatives – What have you done to pursue Cell Tower alternatives such as DAS. Two consultants have informed me that it will work in the area you are concerned about. When questioned regarding DAS, you mentioned it would not work because of topography. How did you reach this conclusion? It should be noted that T-Mobile gave this same answer for another area in town at the October Greenwich Board of Selectmen meeting. A wireless company, Isotrop Wireless, performed a study on assessments of options for wireless communications in the North Mianus area of Greenwich. It showed that Distributed Antennae Systems will work and a series of DAS nodes would cover the area. I have contacted another independent consultant to perform an official study to determine if DAS will work at your proposed site as we have been told it would. As the cost of the study is prohibitive for me I am asking the Town of Greenwich to pursue this study.

Ref: Application of Siting Council – December 15, 2010 – Executive Summary page 10, item 3 – “Celco is aware of no viable and currently available alternatives to its system design for carriers licensed by the FCC – Did you look at DAS and if so why is it not viable?”

Response

DAS was never intended to be an alternative to a traditional macro-cell facility like the one proposed in this application. DAS is most commonly used to fill in areas where small discrete coverage problems exist outdoors (e.g. tunnels, topographic features etc.) or inside buildings where macro coverage is weak or non-existent. DAS is not therefore a viable or practical alternative. The significant coverage gaps that Cellco is trying to fill in southwest Greenwich along portions of I-95 and Route 1, the densely populated residential neighborhoods in Byram and significant commercial land uses in the area, are most efficiently served by a single

“macro-cell” facility. In this case, Cellco is satisfying its coverage objectives in the area by installing antennas at a relatively low, 57-foot centerline height at 36 Ritch Avenue.

The number of DAS nodes required to provide coverage comparable to that which Cellco can achieve from a single “macro-cell” at 36 Ritch Avenue (roughly five square miles of coverage) would be significant. Area topography, the lack of existing utility poles in certain areas, limitations on access to utility poles imposed by the pole owners and the need to obtain property rights are just a few of the impediments that would make it difficult to make a DAS work in this area. Given the large volumes of traffic and the population density in southwest Greenwich, a “macro-cell” facility like that proposed at 36 Ritch Avenue, also provides Cellco with the capacity requirements its network needs in the area.

Question No. 8

Historical Buildings – Are you aware the houses on two of the adjoining properties are designated as historical buildings? Ref: Connecticut Statutes, Title 16. Public Service Companies, chap 277A. Public Utility Environmental Standards Act (attached) – Item (3)(B) states the council shall not grant a certificate if in conflict with the policies of the state concerning historic values. Ref: Connecticut Siting Council web site About Us. (attached)

Responsibilities item 1 – “balancing the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state and to minimize damage to scenic, historic, and recreational values”

Response

Cellco is aware that over 500 structures in the Byram area were surveyed in an inventory conducted in 1978, including, but not limited to, homes at 32, 48, 56, 86, 88 and 91 Ritch Avenue. The results of that survey recommended that three areas be considered for further study:

an interstate historic district; shorefront estates - carriage houses and other remodeled structures (most of the estates were no longer standing at the time of the survey, but associated outbuildings were identified); and, the Mill Street Area (described as Byram's three-block "Main Street"). Although not specifically in the survey, it appears that the nearby homes referenced in this question may relate to the second category. To date, no formal submissions or nominations have been made for placement on the National Register of Historic Places. In addition, the State Historic Preservation Office has reviewed the proposed project and issued a determination in writing of "no effect" upon resources under Section 106 of the National Historic Preservation Act.

Question No. 9

Reference Planning and Zoning meeting – October 26th – page 15 – “Verizon Wireless does plan on bringing water up to the site” How?

Response

As described at the Greenwich Planning and Zoning Commission public information hearing on October 26, 2010, Cellco does not need water at the site for operation of its facility. The issue of water supply to the site was raised by the Town to ensure that on-site landscaping, to the extent it is required by the Siting Council for screening purposes, could be maintained. If a water line is necessary, Cellco would work with the local water company to identify the appropriate location, in all likelihood running from Ritch Avenue within the limits of the existing driveway to the cell site.

Question No. 10

Ref Planning and Zoning recommendations to the Siting Council – page 6, item 6 refers to a 4-6 feet microwave dish for the Greenwich Police Department – what will this look like and at what height is it on the tower?

Response

Detailed specifications for the Police Department antennas have not yet been provided by the Town. That said, Cellco has been told that the Town's installation will involve the 4 to 6-foot dish antenna and several whip antennas all located at the top of the proposed tree tower. (See Project Plans Sheet C-2 behind Tab 1 of the application).

Question No. 11

Ref Planning and Zoning recommendations to the Siting Council – page 7, item 17 refers to significant disturbance during excavation and construction. Please confirm there will no trespassing on adjoining properties.

Response

Cellco intends to complete all site construction activity from the subject property.

Question No. 12

Ref: Application of Siting Council dated December 15, 2010 – exec summary – page 21 and 22 – If approved when would work promised at the bottom of the driveway be completed? see page 35 & 36 of Greenwich Planning and Zoning commission meeting Oct 26, 2010.

Response

This is a tight site and construction sequencing will be of utmost importance. It is Cellco's policy to keep its neighbors abreast of all critical phases during construction, so as to minimize or eliminate any potential disturbance. It is anticipated that this project will commence

with reconstruction of the access driveway and related improvements (i.e. sedimentation controls, drainage structures, retaining walls, temporary safety rails, etc.). This work should take 6 to 8 weeks to complete. The next phase of work will consist of site improvements at the compound area (i.e. multi carrier equipment building construction, tower and tower foundation, drainage improvements, and fencing). This work should take 12 to 16 weeks to complete. The final phase would entail final site cleanup, landscaping, if required, and paving and should take 2 to 3 weeks to complete. Construction associated with this project should take approximately 7 months to complete.

Question No. 13

Ref: Greenwich Planning and Zoning Commission meeting October 26, 2010 – page 65.

Mr. Centore said “we were actually able to move the tower to the northwest of the previously proposed location approximately 20 feet” The Site Compound Plan, C2, in the application does not seem to support this. Is this still the design?

Response

Yes. The shift in the tower location to the northwest as discussed during the Planning and Zoning Commission public information hearing is the location shown on the plans included in the Siting Council application. As you will recall, this shift was made in direct response to your request. The tower shift is 15 feet to the northeast of the existing AT&T tower and 14 feet to the west of the original location for Cellco’s proposed replacement tower at the site.

Question No. 14

Ref: Section 8 of the Cellco application – page 2, Identification of the Ritch Avenue Search area. “This approach was deemed more favorable than building a second telecommunications facility in southwest Greenwich” Who deemed this more favorable? The

residents in Southwest Greenwich have already spoken that they prefer a second tower to the one proposed by Cellco. Why is their opinion ignored?

Response

Connecticut General Statutes, Council policy and the Town of Greenwich Zoning Regulations all state a clear preference to avoid the unnecessary proliferation of towers. This same policy has been adopted by Cellco and is put into practice throughout its network in the State of Connecticut and across the country. In this case, Cellco is proposing the construction of a 77-foot monopole “tree” tower that will accommodate three wireless carriers and the Greenwich Police Department on a single tower structure, only seven (7) feet taller than the existing AT&T flagpole tower. (Simulated branches on the tree tower will extend an additional seven (7) feet above the top of the tower to an overall height of 84 feet). Following construction of the new tower, Cellco will remove the existing AT&T tower and equipment. As a result, the site will continue to maintain a single telecommunications tower, albeit slightly taller, and, at the same time, eliminate the need for additional towers in southwest Greenwich.

Question No. 15

Ref: section 9 of the Cellco application – Option and Land Lease agreement – first page, second paragraph – “lessee desires to obtain an option to lease a portion of said property being described as a 35’ by 50’ parcel containing approximately 1,750 square feet” Where is this portion of said property?

Response

The facility compound area is depicted on the project plans included behind Tab 1 of the application.

Question No. 16

Ref: Greenwich Planning and Zoning Commission meeting October 26, 2010 – page 14 –
Mr. Centore says “Drainage design is in process” As this site has a history of drainage problems, what is the design going to be to prevent drainage issues especially with the expected increase in runoff mentioned on page 13.

Response

The proposed site improvements will include additional drainage structures along the site access driveway. These structures will tie directly into the Town’s storm drain system along Ritch Avenue via a “Stormsepor” sedimentation control device. Cellco will also introduce a rain garden/level spreader along the east side of the compound area to handle any additional runoff from the compound area itself. At the request of the Greenwich Planning and Zoning Commission, the proposed drainage improvements were reviewed with the Town’s Engineering Department.

Question No. 17

In a meeting with Cellco at the Site it was mentioned that branches from a dogwood tree on the Hartwell property would be cut off. Please confirm that this is the intent as this would damage a beautiful tree with full blossoms in the spring. Also, confirm how close will the proposed retaining wall come to the Hartwell property. Ref: Application of Cellco, section 1 Site plan C-1A.

Response

The proposed retaining wall is approximately one (1) foot off the Hartwell property line to the east of the access driveway. The design of this retaining wall is such that it can be constructed without accessing the Hartwell property. On September 20, 2010, Cellco’s

Construction Manager Mark Gauger and project engineer Carlo Centore met with Mr. Hartwell at the site and explained that the branches of the existing dogwood tree currently extend over the property line along the existing driveway and may need to be cut back prior to the reconstruction of the adjacent stone wall. The amount of the stone wall work in the area near the dogwood tree is minimal and branch removal would be limited to the lower branches that could interfere with the workers.

Question No. 18

Ref: letter of Linda Roberts dated February 8, 2011 requesting responses from Cellco – question # 8 – “Cellco investigated another parcel that would require a 120 foot tower. Please identify the property investigated and indicate why it was rejected” What was Cellco’s answer to this question.

Response

See Cellco’s Response to Council Interrogatory (Set One) No. 8.

Question No. 19

When the photographs were first taken and submitted why were there none taken from the Milengard and Bowman properties? This did not happen until addressed by Mr. Bowman. Are you aware these will be the closest residences to any cell tower in the state of Connecticut if approved?

Response

Typically, photosimulations included as a part of the visual impact assessment are provided from public properties and rights of way within an identified study area. Unless invited, Cellco’s consultants do not enter private property to prepare photosimulations. Mr. Bowman invited VHB onto his property to take the additional photographs referenced in your

question. The photosimulation provided in View 3 of VHB's visual evaluation (see Application Tab 9), taken from the Ritch Avenue entrance to Byram Park approximately 0.07 mile from the existing facility, is indicative of some of the near views associated with the installation of the proposed monopine tower.

Question No. 20

Ref: Greenwich Planning and Zoning Commission dated October 26, 2010 – page 39 – Mrs. Fox asked “would there also be a condition of removing whatever antennas and carriers once they are no longer needed? With new technology that may be a question” – There are today less obtrusive alternatives to cell towers. As technology improves there will be more and more of these options preferable to communities. What is Cellco's position on replacing cell towers with newer technology for the better of the community?

Response


Cellco expects that, in the future, it will take advantage of new technological advances that will improve its ability to provide wireless service to its customers throughout its network, including the Town of Greenwich.

CERTIFICATION

I hereby certify that on this 22nd day of March, 2011, a copy of the foregoing was sent,
postage prepaid, to the following parties and intervenors:

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