

**CONNECTICUT SITING COUNCIL**  
**DOCKET NO. 414**

IN THE MATTER OF:

---

APPLICATION OF CELLCO PARTNERSHIP 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

APPLICANT'S POST-HEARING BRIEF

---

Submitted by:

Kenneth C. Baldwin, Esq.  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103  
(860) 275-8200

*JUNE 8, 2011*

# TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	1
Facility Description.....	1
Public Need.....	2
Nature of Probable Impacts.....	2
Public Input.....	3
Conclusion .....	3
I.    INTRODUCTION.....	4
II.   PROCEDURAL BACKGROUND.....	4
III.  FACTUAL BACKGROUND.....	5
A.    Pre-Application History.....	5
B.    Local Contacts.....	6
C.    Tower Sharing.....	7
D.    The Ritch Avenue Facility Proposal .....	7
IV.  THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED.....	8
A.    A Public Need Exists for the Ritch Avenue Facility .....	9
B.    Nature of Probable Impacts.....	11
1.    Natural Environment and Ecological Balance.....	11
2.    Public Health and Safety.....	13
3.    Scenic Values.....	13
4.    Historical Values.....	15
5.    Recreational Values .....	16
6.    Forests and Parks .....	16
7.    Air and Water Quality.....	16
8.    Fish and Wildlife.....	17
9.    Noise .....	17
C.    The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts.....	18

**TABLE OF CONTENTS**

(continued)

**Page**

V. THE GREENWICH PZC'S 2002 DECISION APPROVING THE AT&T FACILITY AT THE PROPERTY DOES NOT LIMIT THE COUNCIL'S ABILITY TO APPROVE THE APPLICATION ..... 19

VI. CONCLUSION..... 20

## EXECUTIVE SUMMARY

On December 15, 2010, Cellco Partnership d/b/a Verizon Wireless (“Cellco”) filed an application (“Application”) with the Connecticut Siting Council (“Council”) for a Certificate of Environmental Capability and Public Need (“Certificate”) to construct a new wireless telecommunications facility at 36 Ritch Avenue in Greenwich, Connecticut. The new tower would replace the existing single carrier flagpole tower owned and operated by AT&T and would be shared by Cellco, AT&T, T-Mobile and the Greenwich Police Department.

### *Facility Description*

Cellco proposes to construct a 77-foot tower, disguised as a pine tree, on a 0.267 acre parcel at 36 Ritch Avenue in Greenwich (the “Property”). Simulated branches would extend to an overall height of 84 feet above ground level. The Property is in the Town’s R-7 zone district. Cellco would install a total of fifteen (15) antennas on the tower at the 57-foot level. AT&T would install its antennas at the 67-foot level on the tower and T-Mobile would install its antennas at the 77-foot level on the tower. The top of the tower is reserved for the Greenwich Police Department for the installation of whip and dish antennas.

Cellco would construct a 965 square-foot multi-carrier shelter near the base of the tower to house its radio equipment and a back-up generator. Space inside the shelter will also be made available to AT&T, T-Mobile and the Greenwich Police Department. The equipment shelter has been designed to resemble a residential-type structure to blend in with adjacent residential uses. Access to the new facility location would extend from Ritch Avenue along a new paved driveway to the cell site. Utilities would extend from existing service along Ritch Avenue, underground to

the cell site.

Cellco's proposed tree tower would be located approximately 15 feet north of the existing 70-foot AT&T flagpole tower at the Property. The existing tower is not structurally capable of supporting additional antennas and its height can not be extended to accommodate the needs of Cellco, T-Mobile and the Town. The proposed tree tower can accommodate the needs of Cellco, AT&T and T-Mobile as well as the Greenwich Police Department on a structure that is only seven (7) feet taller than the existing AT&T flagpole tower (fourteen (14) feet taller including the simulated tree-top branches). If the proposed tree tower is approved by the Council, AT&T's existing flagpole tower and equipment cabinets would be removed from the Property.

**Public Need**

Cellco currently experiences significant gaps in wireless service along portions of I-95 and Route 1 and local roads, as well as residential and commercial areas in southwest Greenwich. The proposed Ritch Avenue Facility will resolve these existing coverage problems and provide Cellco's customers with additional network capacity in southwest Greenwich.

**Nature of Probable Impacts**

The proposed telecommunications facility will have no effect on historic, architectural or archeological resources listed on or eligible for the National Register of Historic Places; will not adversely impact federally listed, threatened or endangered species or State species of special concern; and will not have any direct or indirect impact on wetland and watercourse on or near the Property. The tree tower is not considered to be an obstruction or hazard to air navigation and, therefore, will not require any FAA marking or lighting. Lastly, the proposed telecommunications facility will operate well within safety limits established by the FCC for radio frequency emissions.

The overall area where some portion of the proposed tree tower would be visible year round (above the tree line), is only slightly larger than that of the existing AT&T flagpole tower. By satisfying the needs of three (3) wireless carriers on a single stealth tower structure, the Council eliminates the need for one or more additional single carrier towers in the area in the foreseeable future.

**Public Input**

Cellco has been speaking with Town officials about its need for a cell site in southwest Greenwich since 2008. Cellco met with municipal officials, including the First Selectman, the Town Attorney, the Planning Director and Deputy Planning Director in August of 2010. Cellco officially commenced its local input process for the replacement tower by filing its technical report with the Greenwich Planning and Zoning Commission (“PZC”) on September 24, 2010. The PZC held a public information hearing on the Cellco proposal on October 26, 2010 and continued the hearing to November 9, 2010. Members of the public were invited to attend the meeting and speak about the proposal. The PZC filed comments and recommendations with the Council on November 22, 2010.

**Conclusion**

The unrefuted evidence in the record clearly demonstrates that there is a need for the proposed telecommunications facility; that the environmental effects associated with the proposed facility would be minimal when balanced against its benefits; and the new multi-carrier facility will eliminate the need for additional towers in the area for the foreseeable future. Therefore, the Council should approve the Application as submitted.

## **I. INTRODUCTION**

On December 15, 2010, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed with the Connecticut Siting Council (“Council”) an application (the “Application”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g *et seq.* of the Connecticut General Statutes (“Conn. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility (the “Ritch Avenue Facility”) on a 0.267 acre parcel at 36 Ritch Avenue, Greenwich, Connecticut (the “Property”). (Cellco Exhibit 1 (“Cellco 1”)). Cellco currently experiences significant gaps in wireless services, operating at cellular (850 MHz) and PCS (1900 MHz) frequencies along portions of Interstate 95 (“I-95”), Route 1 and local roads, as well as residential and commercial areas in southeast Greenwich. These existing coverage problems, and related network capacity issues must be resolved in order for Cellco to continue to provide high-quality, uninterrupted and reliable wireless telecommunications service consistent with its Federal Communications Commission (“FCC”) license and to meet the demands of its wireless telecommunications customers. (Cellco 1).

## **II. PROCEDURAL BACKGROUND**

The Council conducted an evidentiary and public hearing on the Application on March 29, 2011. (March 29, 2011 Transcript (afternoon) (“Tr. 1”) p. 2; March 29, 2011 Transcript (evening) (“Tr. 2”) p. 2). The Council’s hearing was continued and ultimately closed on May 9, 2011 (May 9, 2011 Transcript (“Tr. 3”)). Prior to the afternoon session of the March 29, 2010 hearing, the Council and its staff visited the Property. Cellco attempted to fly a balloon with a diameter of approximately four (4) feet at the proposed tower location but was unsuccessful due to inclement weather. (Cellco 1, p. 14; Tr. 2, p. 5).

This Post-Hearing Brief and attached Proposed Findings of Fact are filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”) and the Council’s directives. (Tr. 3, p. 76). This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes and addresses several other issues raised throughout the course of this proceeding.

### **III. FACTUAL BACKGROUND**

#### **A. Pre-Application History**

Cellco is licensed to provide wireless services in Connecticut in the cellular (850 MHz), PCS (1900 MHz) and LTE (700 MHz) frequency ranges throughout Connecticut. Cellco currently experiences PCS and cellular coverage gaps along portions of I-95, Route 1 and local street, as well as residential and commercial areas in southwest Greenwich. Due to the high population density and high traffic volumes on area roadways (I-95 in particular), Cellco is also looking to enhance its network capacity in the area. These wireless services objectives cannot be satisfied by Cellco’s existing adjacent Greenwich South and Greenwich Southwest cell sites. (Cellco 1, pp. 1-2 and 8).

Cellco began searching for an appropriate location for a facility to resolve these wireless service problems in December of 2004. (Cellco 1, Tab 8). As a first step in its site search process, Cellco investigates whether there are existing towers, or other non-tower structures of suitable height in an area that can be used to satisfy its coverage objectives. Cellco explored the use of the existing 70-foot AT&T flagpole tower constructed on the Property in 2002. Cellco determined, however, that the existing AT&T flagpole was not structurally capable of supporting additional antennas and could not be extended to accommodate shared use. (Cellco 1, Tab 8).



Cellco also investigated the use of the roof of an existing commercial bakery building at 10 Hamilton Street; the roof and ground space at an existing residential condominium complex at 104 and 124 Ritch Avenue; and land in Byram Park as alternative facility locations.<sup>1</sup> Each of these alternatives was ultimately rejected. (Cellco 1, Tab 8). There are no other existing towers or non-tower structures of suitable height in southwest Greenwich from which Cellco can satisfy its wireless service objectives. With few options available, Cellco negotiated a lease with the owner of the Property to construct a new telecommunications facility, one capable of being shared by multiple wireless carriers. Cellco and AT&T agreed that if the proposed tower is approved, AT&T would relocate its antennas and equipment to the new facility and allow for its existing tower and equipment cabinets to be removed from the Property. (Cellco 1, Tr. 3, p. 73).

B. Local Contacts

Cellco representatives began discussing the development of a new tower site in southwest Greenwich with Town officials in 2008. These discussions first focused on the shared use of the AT&T tower and then an investigation of alternative sites in the area. In August of 2010, Cellco met formally with the Greenwich First Selectman, Town Attorney, Planning Director, Deputy Planning Director and representatives of T-Mobile to discuss plans to pursue the use of the Property for expanded telecommunications purposes. On September 24, 2010, Cellco submitted a package of technical information to the Greenwich Planning and Zoning Commission (“PZC”) summarizing its plans to establish a telecommunications facility at the Property (the “Technical Report”). The PZC held public information hearings on October 26, 2010 and November 9, 2010 on the tower proposal giving members of the public an opportunity to learn about and react to the Cellco

---

<sup>1</sup> Additional alternative facility locations were also investigated by T-Mobile in an effort to address its service problems in southwest Connecticut. (T-Mobile 1, Q. 7).

proposal. (Cellco 1, p. 19; Cellco 3).

C. Tower Sharing

In an effort to avoid the unnecessary proliferation of telecommunications towers in the State of Connecticut, the General Assembly and the Council have adopted a policy to encourage, whenever feasible, the sharing of existing and/or new telecommunications facilities. (Cellco 1, p. 11, Tab 1; Cellco 10). The shared use of telecommunications facilities is also encouraged by the Town and identified as one of the general standards and requirements in Section 6-140.1, of the Town's Telecommunications Towers zoning ordinance. (Cellco 1, pp. 17-18; Cellco 1.a.). Cellco's proposal to replace the existing single carrier AT&T flagpole tower with a tower capable of supporting antennas of three (3) wireless carriers and the Greenwich Police Department is consistent with these State policies and local standards. (Cellco 1, pp. 11, 17-18; Cellco 1.a.).

D. The Ritch Avenue Facility Proposal

The Ritch Avenue Facility would be located within a 2,930 square-foot compound in the northerly portion of a 0.267 acre parcel owned by 36 Ritch Avenue LLC. (Cellco 1, Tab 1). At the Ritch Avenue Facility, Cellco would construct a 77-foot tower disguised as a pine tree. Simulated branches would extend to an overall height of 84 feet above ground level. Cellco will install fifteen (15) antennas at the 57-foot level. AT&T antennas will be installed at the 67-foot level and T-Mobile antennas would be installed at the 77-foot level. (Cellco 1, Tab 1). Space at the top of the tower will be reserved for the Greenwich Police Department in accordance with the recommendations of the PZC. (Cellco 1, p. 11; Municipal Comments dated November 22, 2010).

Cellco proposes to construct a 965 multi-carrier shelter to house all Cellco, AT&T, T-Mobile and the Greenwich Police Department radio equipment. Cellco will install a diesel-fueled back-up generator inside its equipment space for use during power outages and periodically for maintenance purposes. To reduce the total amount of ground disturbance the shelter itself would be used to screen the base of the tower to the west, north and east. An 8-foot high security fence and gate would be used to screen and secure the facility compound, to the south of the shelter. (Tr. 1, pp. 29-30). Vehicular access to the Ritch Avenue Facility would extend from Ritch Avenue along a new paved driveway. Utilities would extend underground from existing service along Ritch Avenue. (Cellco 1, Tab 1). All driveway and utility improvements will be relocated within the limits of the Property, thereby eliminating all existing access and utility encroachments onto adjacent properties. (Cellco 1, Tab 1; Tr. 1, p. 42).

**IV. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

Section 16-50p of the Public Utility Environmental Standards Act ("PUESA"), Conn. Gen. Stat. § 16-50g *et seq.*, sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or

conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Ritch Avenue Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. The Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. Most recently, President Barak Obama issued in

Presidential Proclamation 8460, in which “cellular phone towers” were identified as critical infrastructure vital to national security. (Cellco 1; Council Adm. Notice 8 and 16).

Cellco currently experiences significant gaps in wireless service as well as problems with capacity of its existing network along portions of I-95, Route 1 and local roads, as well as residential and commercial areas in southwest Greenwich. (Cellco 1, p. 8, Tab 6). Cellco’s existing signal levels in southwest Greenwich fall below its threshold for reliable wireless service. Cellco experiences dropped calls at an average rate of 2.56% and ineffective attempts at an average rate of 1.46%, both well above Cellco’s design standard of less than 1%. (Cellco 4, Q. 6). Cellco cannot resolve these significant service issues from its two closest existing facilities identified on coverage plots as the Greenwich South and Greenwich Southwest cell sites. (Cellco 1, p. 8, Tab 6). These existing coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted and reliable wireless telecommunications service consistent with its FCC license and to meet the demands of its wireless telecommunications customers.

As the Council is aware, Cellco holds licenses to provide PCS, cellular and LTE services in Fairfield County, and throughout Connecticut and proposes to operate all of these frequencies at the Ritch Avenue Facility. (Cellco 1). The PCS, cellular and LTE services Cellco plans to deploy, operate at different frequencies, and will allow customers to use the same cell site for important voice and/or data services. By installing PCS, cellular and LTE antennas at the Ritch Avenue Facility, Cellco can ensure that it has more capacity available to meet the growing demand of its customers for wireless voice and data services, particularly along I-95 and Route 1

and in the densely populated residential and business communities in southwest Greenwich. (Cellco 1).

The record contains ample, written evidence and testimony that Cellco's antennas at the 57-foot level on the proposed tower would allow Cellco to achieve and maintain high quality wireless telecommunications service at PCS, cellular and LTE frequencies without interruption from dropped calls and interference. (Cellco 1, Tab 6). The Ritch Avenue Facility would be incorporated into a network design plan, intended to provide Cellco customers with an expanding array of reliable wireless service in southwest Greenwich. (Cellco 1; Cellco 4, Q. 5 and Q. 6). No evidence to refute this conclusion exists in the record of the proceeding.

**B. Nature of Probable Impacts**

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

**1. Natural Environment and Ecological Balance**

The proposed development of the Ritch Avenue Facility has eliminated, to the extent possible, impacts on the natural environment. All improvements associated with the Cellco proposal would remain within the limits of the Property. Access to the Ritch Avenue Facility would extend from Ritch Avenue over a new paved driveway to the cell site. A portion of the existing access driveway currently encroaches onto adjacent properties to the south and west. The new access driveway will shift to the north and east and will be maintained entirely within the limits of the Property. This shift in the access driveway location will necessitate an extension and reconstruction of a portion of an existing retaining wall adjacent to property owned by Mr. Hartwell, a party to this proceeding. (Cellco 1, Tab 1). Drainage improvements, already

reviewed by the Town Engineer, are designed to maintain and control stormwater run-off from the Property, avoiding any further impacts to adjacent landowners. Cellco will utilize a combination of catch basins, trench drains and a rain garden to control stormwater at the site.<sup>2</sup> Due to the proximity of the retaining wall improvements to Mr. Hartwell's property, and proposed drainage improvements on the Hartwell's property, Cellco spoke to Mr. Hartwell about acquiring a temporary construction easement, if this Application is approved. Mr. Hartwell made it very clear to Cellco and to the Council that he would not allow anyone to access his property during construction of the proposed site improvements. Cellco remains committed, however, to work with Mr. Hartwell to minimize construction impacts to his parcel. (Tr. 3, pp. 12-15, 74-76).

A small retaining wall will also be constructed to the west side of the proposed tower to allow Cellco to develop a level compound area. Overall, Cellco anticipates the need for only 7 cubic yards of fill and 191 cubic yard of cut to develop the proposed facility, and no blasting is anticipated. (Cellco 1, Tab 1; Cellco 4, Q. 2 and Q. 3). No trees (6" or greater at breast height) will need to be removed to complete these improvements. Overall, the limited construction activity would have a negligible physical impact on the environment or on the Property. (Cellco 1, Tab 1). No credible evidence to refute this conclusion was presented to the Council.

---

<sup>2</sup> Certain stormwater improvements also include the elimination of a drain pipe, installed by AT&T, that extends from the Property to a manhole on Mr. Hartwell's property. Cellco has committed to removing this pipe and repairing damage to Mr. Hartwell's property caused by its installation. (Tr. 3, pp. 69-72). If Mr. Hartwell does not permit Cellco to enter his property to complete this work the drain pipe will be cut and capped at the property line. (Tr. 3, p. 72).

## 2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed facility would be minimal or nonexistent.

First, the potential for the Ritch Avenue Facility tower to fall does not pose an unreasonable risk to health and safety. The proposed tower would be designed and built to meet Electronic Industries Association (“EIA”) standards. The closest property line to the tower is located approximately 23 feet to the west, adjacent to a strip of land and I-95. The nearest residential structure is a single family home immediately north of the tower owned by Dorothea Meilinggaard. (Cellco 1, Tab 1).

Second, cumulative worst-case potential public exposure to RF power density for Cellco, AT&T and T-Mobile operations at the Ritch Avenue Facility at the nearest point of uncontrolled access (the base of tower) would be 4.85% of the FCC standard. Power density levels would drop off rapidly as distance from the tower increases. (Cellco 1, Tab 10).

Overall, the nature and extent of potential, adverse public health and safety impacts resulting from construction and installation of the Ritch Avenue Facility would be minimal or nonexistent. No evidence to the contrary was presented to the Council.

## 3. Scenic Values

As noted in the Application, the primary impact of any tower is visual. Cellco’s site search methodology, described in the Site Search Summary, is designed in large part to minimize such visual impacts. As discussed above, wherever feasible, Cellco avoids construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near the search area. Cellco currently maintains five (5) existing cell sites within approximately four miles of the



proposed Ritch Avenue Facility, including its Greenwich South, Greenwich 3, Greenwich Southwest, Greenwich and Riverside cell sites. There are no existing non-tower structures of suitable height in southwest Greenwich available for Cellco's use. (Cellco 1, Tab 6 and Tab 8).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with existing land uses in the area and where the visual impact of the site would be reduced to the greatest extent possible. The predominant residential character in southwest Greenwich makes it difficult, if not impossible, to avoid residential land uses. Cellco and T-Mobile explored the use of several alternative parcels in the area. (Cellco 1, Tabs 8 and 9; T-Mobile 1, Q. 7). Following this review and discussions with the Town, it was determined that, due to the presence of the existing AT&T facility, the use of the Property presented all carriers with the best possible alternative. (Cellco 1, Tab 8; Cellco 10; T-Mobile 1, Q. 7).

The Property is surrounded by residential land uses to the north, south and east and borders vacant land and I-95 to the west. The significant change in ground elevation between the facility compound and three of the four adjacent residences will help to reduce the visual impact of the facility. Existing vegetation along the edge of the site compound will remain in place and will help provide some additional screening of the site improvements. The tree tower stealth design and the residential character of the equipment shelter also help to minimize the visual impact of the facility. (Cellco 1, Tab 1 and Tab 9).

Cellco submitted an assessment of the visual impacts of the proposed tree tower and compares that impact to the visibility of the existing AT&T tower. ("VHB Report"). (Cellco 1, Tab 9). The existing AT&T tower is visible, year round (above the tree canopy), from

approximately 1,559 acres. Year round visibility for Cellco's proposed tree tower increases only slightly to 1,567 acres. In both cases, a vast majority (99%) of this year round visibility area is over the open water of Long Island Sound. (Cellco 1, Tab 9). Land-based visibility of the proposed tree tower is only approximately seven (7) acres. Areas where seasonal views of the new tower are anticipated comprise an additional 32 acres and are generally located in the immediately surrounding area. Views of the tree tower are further softened by the character of the stealth tree design. (Cellco 1, pp. 13-14, Tab 9).

During the proceeding, Cellco was asked to consider the construction of a flagpole-type tower in lieu of the proposed tree tower. To accommodate the needs of Cellco, AT&T and T-Mobile, a flagpole tower at the Property would need to be 122 feet tall. (Tr. 3, p. 25). Greenwich Police Department antennas would need to be extend above the 122-foot level. A flagpole of this height would maintain a diameter of 54 inches at its base. The top 70 feet of such a flagpole would maintain a diameter of 42 inches. Such a structure would have a more significant visual impact on the area than the 4-foot tree tower proposed in the Application. (Cellco 1, Tab 9; Cellco 4, Q. 7; Tr. 1, pp. 51-53).

#### 4. Historical Values

As it does with all of its tower proposals, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office ("SHPO") of the Connecticut Historical Commission (the "Commission") review the proposed facility and provide a written response. Based on his review of the information submitted by Cellco, the Deputy State Historic Preservation Officer determined that the development of Cellco's telecommunications facility at the Property would have no effect on the historic, architectural or archeological resources listed on or eligible for

the National Register of Historic Places. (Cellco 1, Tab 11; Cellco 7, Q. 8). No evidence to the contrary was presented to the Council. Furthermore, Cellco has no reason to believe that there are any other impacts on historical values not addressed by the SHPO's review.

5. Recreational Values

There are no recreational activities or facilities at or near the Property that would be negatively impacted by development of the Ritch Avenue Facility. (Cellco 1, Tabs 9 and 11; Town PZC Comments, November 22, 2010). In fact, the public safety benefits of improved wireless service in the area, particularly on Long Island Sound and in Byram Park, to the south, two very active recreational resources, are significant. (Cellco 1, Tab 6).

6. Forests and Parks

There is no State or local forests or park land that will be impacted by the proposed Ritch Avenue Facility. (Cellco 1, Tab 9). No evidence to refute this conclusion was presented to the Council.

7. Air and Water Quality

a. Air Quality.

The equipment at the site would generate no air emissions under normal operating conditions. During power outage events and periodically for maintenance purposes, Cellco would utilize a diesel-fueled back-up generator to provide emergency power to its Ritch Avenue Facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection ("DEP") Bureau of Air Management prior to installation of the proposed generator. (Cellco 1, p. 21).

b. Water Quality.

The proposed Ritch Avenue Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private wastewater sewage system.<sup>3</sup> Dean Gustafson, Professional Soil Scientist with VHB, Inc., conducted a field investigation and completed a Wetlands Delineation Report (the “Wetlands Report”) and determined that there are no wetland areas directly impacted by the proposed Ritch Avenue Facility. (Cellco 1, p. 18, Tabs 1 and 12; Tr. 1, pp. 56-58). No evidence to refute these conclusions was presented to the Council.

8. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco received comments on the Ritch Avenue Facility from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Environmental and Geographic Information Center of the DEP. According to the USFWS and DEP, the Ritch Avenue Facility will not have an adverse impact on Federal or State endangered or listed species. (Cellco 1, Tab 11). Finally, Cellco has determined that the proposed facility will have no impact on coastal resources near the Property, the closest of which is more than 900 feet away. (Cellco 1, Tab 14; Tr. 1, pp. 56-60).

9. Noise

Cellco proposes to introduce certain noise control devices, including baffling along the fence line and modifications to the standard exhaust and intake louvers to ensure that its generator will comply with all applicable noise standards. (Cellco 1).

---

<sup>3</sup> PZC comments contemplate the use of an irrigation system for existing and proposed plantings around the site compound. A water line could be installed from Ritch Avenue to the compound if deemed necessary by the Council. (Tr. 1, pp. 39-40).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the Ritch Avenue Facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts “are not sufficient reason to deny the Application.” Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed towers involves “scenic values.” As the record overwhelmingly demonstrates, the Ritch Avenue Facility would have minimal impacts on scenic values in the area. (Cellco 1, Tab 9). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of the Ritch Avenue Facility. Unlike many other types of development, telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

The limited aesthetic and environmental impacts of the proposed Ritch Avenue Facility can be further mitigated by the sharing of the facility. As discussed at length in this proceeding, Cellco intends to share the proposed tree tower with AT&T and T-Mobile and has reserved space at the top of the tower for the Greenwich Police Department at no cost. (Cellco 1, p. 11, Tab 1; Cellco 10).

In sum, the potential environmental impacts from the proposed Ritch Avenue Facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The site, therefore, satisfies the criteria for a Certificate

pursuant to Connecticut General Statutes § 16-50p, and the Applicant's request for a Certificate should be granted.

**V. THE GREENWICH PZC'S 2002 DECISION APPROVING THE AT&T FACILITY AT THE PROPERTY DOES NOT LIMIT THE COUNCIL'S ABILITY TO APPROVE THE APPLICATION**

The PZC's January 11, 2002 approval of the existing AT&T telecommunications facility at the Property was the subject of considerable focus by Mr. Hartwell during the course of the Docket No. 414 proceeding. Mr. Hartwell claims that the language in Condition No. 6 of this approval restricts the Council's ability to review and approve Cellco's proposed replacement tower. This is simply not the case.

Condition No. 6 of the PZC's January 11, 2002 approval states that the AT&T "monopole is for AT&T use only and is limited to this one user". The condition goes on to state that [a]ny changes [to the AT&T facility] must return to P&Z".

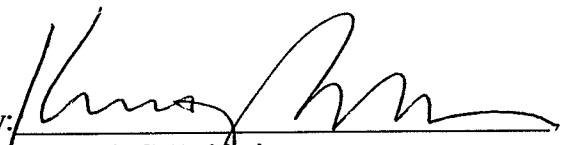
By its own terms, this condition contemplates the potential for shared use of the AT&T facility. Such a change, however, would need to return to the PZC. In the context of the Council's local input process, Cellco did present the Town and the PZC with the new multi-carrier tower proposal. At no time during any of these pre-application PZC proceedings, including two public information hearings, did any Town official or member of the PZC insist that the Ritch Avenue Facility remain a single carrier site. (Cellco 7, Q. 1; Cellco 10). To the contrary, the Town and the PZC saw the Cellco proposal as an opportunity to establish a new telecommunications facility, located on a site of an existing telecommunications facility and capable of serving the needs of multiple wireless carriers. (Cellco 10). This approach is consistent with both the State policy and

the local ordinance designed to avoid the unnecessary proliferation of towers. (See C.G.S. § 16-50aa; Cellco 1.a.).

## VI. CONCLUSION

Based on the overwhelming evidence in the record, the Applicant has established that there is a need for the proposed Ritch Avenue Facility and that the environmental impacts associated with the Application would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application. Therefore, the Council should approve the Application as submitted.

Respectfully submitted,  
CELLCO PARTNERSHIP d/b/a VERIZON  
WIRELESS

By:   
Kenneth C. Baldwin  
ROBINSON & COLE LLP  
280 Trumbull Street  
Hartford, CT 06103-3597  
Its Attorneys