

In The Matter Of:
Application of American Towers, LLC

Hearing Docket No. 463
January 26, 2016

BCT Reporting LLC
PO Box 1774
Bristol, CT 06010
860.302.1876

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Docket No. 463

Application of American Towers, LLC, and New
Cingular Wireless PCS, LLC, for a Certificate of
Environmental Compatibility and Public Need for
the Construction, Maintenance, and Operation of a
Telecommunications Facility Located at 351A Boston
Post Road, East Lyme, Connecticut

Continued Public Hearing held at the
Connecticut Siting Council, Ten Franklin Square,
New Britain, Connecticut, Tuesday, January 26,
2016, beginning at 11:14 a.m.

H e l d B e f o r e :
ROBERT STEIN, Chairman

1 A p p e a r a n c e s:

2 Council Members:

3 PHILIP T. ASHTON

4 ROBERT HANNON,

5 DEEP Designee

6 LARRY LEVESQUE, ESQ.,

7 PURA Designee

8 DANIEL P. LYNCH, JR.

9

10 Council Staff:

11 MELANIE BACHMAN, ESQ.

12 Executive Director and

13 Staff Attorney

14

15 ROBERT MERCIER

16 Siting Analyst

17

18 For American Tower Corporation and New

19 Cingular Wireless PCS, LLC:

20 CUDDY & FEDER LLP

21 445 Hamilton Avenue

22 14th Floor

23 White Plains, New York 10601

24 BY: CHRISTOPHER B. FISHER, ESQ.

25

1 A p p e a r a n c e s : (Cont'd.)

2

3 For the Town of East Lyme:

4 WALLER, SMITH & PALMER, P.C.

5 52 Eugene O'Neill Drive

6 New London, Connecticut 06320

7 BY: TRACY M. COLLINS, ESQ.

8

9 For BHSO Community Conservancy:

10 CRAIG TOOKER

11 RICHARD PERRY

12 342 Boston Post Road

13 East Lyme, Connecticut 06333

14

15

16

17

18

19

20

21

22

23

24

25

1 THE CHAIRMAN: Good morning, ladies and
2 gentlemen. I'd like to call to order this meeting
3 of the Connecticut Siting Council regarding Docket
4 Number 463, today, Tuesday, January 26, 2016, at
5 approximately 11:15. My name is Robin Stein. I'm
6 Chairman of the Siting Council.

7 This hearing is a continuation of a
8 hearing held on December 15, 2015, at the East
9 Lyme Town Hall Upper Meeting Room in Niantic,
10 Connecticut. It was held pursuant to the
11 provisions of Title 16 of the Connecticut General
12 Statutes and the Uniform Administrative Procedure
13 Act upon an application from American Towers, LLC,
14 and New Cingular Wireless PCS, LLC, for a
15 Certificate of Environmental Compatibility and
16 Public Need for the construction, maintenance and
17 operation of a telecommunications facility located
18 at 351A Boston Post Road, East Lyme, Connecticut.
19 This application was received by the Council on
20 October 6, 2015.

21 A verbatim transcript will be made of
22 this hearing and deposited with the Town Clerk's
23 Office in the East Lyme Town Hall for the
24 convenience of the public.

25 We will proceed in accordance with the

1 prepared agenda, copies of which are available
2 here.

3 A slight change in the order. We will
4 proceed with the appearance of the party of the
5 Town of East Lyme first. I gather one of the
6 individuals has other business to take care of.
7 We appreciate you being here, in any case.

8 So we'll now start with the swearing in
9 of your witnesses, or I don't know if you're both
10 witnesses or --

11 MS. COLLINS: No. I'm Attorney Tracy
12 Collins, the town attorney for the Town of East
13 Lyme. With me this morning is Gary Goeschel, the
14 Town of East Lyme planner.

15 THE CHAIRMAN: So it will be the
16 planner who will be sworn in?

17 MS. COLLINS: Correct.

18 THE CHAIRMAN: In my previous life I
19 refer to planners as planners, but go ahead.

20 G A R Y A. G O E S C H E L, II,
21 called as a witness, being first duly sworn
22 by Ms. Bachman, was examined and testified on
23 his oath as follows:

24 MS. BACHMAN: Thank you.

25 THE CHAIRMAN: Attorney Collins, can

1 you begin by verifying the exhibits you filed by
2 the witness?

3 MS. COLLINS: Yes. The Town of East
4 Lyme filed a request for party and CEPA intervenor
5 status on November 19, 2015. And the Town of East
6 Lyme responded to the BHSO's interrogatories,
7 dated January 19, 2016. And I ask that those be
8 admitted as full exhibits.

9 THE CHAIRMAN: Do you have any
10 corrections to what was previously submitted?

11 MS. COLLINS: No, I don't, sir.

12 THE CHAIRMAN: And you or your witness
13 prepared these documents?

14 MS. COLLINS: Yes. Well, I prepared
15 the documents, along with the first selectman in
16 our motion to intervene, and Mr. Goeschel, yes,
17 assisted us in preparing the answers to
18 interrogatories and provided much of the
19 information that is attached to the
20 interrogatories, all of it really.

21 THE CHAIRMAN: Okay.

22 Does any party or intervenor have any
23 objection to the admission of the town's exhibits?

24 MR. FISHER: No objection.

25 THE CHAIRMAN: Hearing and seeing none,

1 the exhibits are admitted. Thank you.

2 (Town of East Lyme Exhibits III-B-1 and
3 III-B-2: Received in evidence - described in
4 index.)

5 THE CHAIRMAN: So we'll now begin with
6 the cross-examination by Mr. Mercier of our staff.

7 CROSS-EXAMINATION

8 MR. MERCIER: Thank you.

9 I just want to look at the Town of East
10 Lyme responses to interrogatories filed by the
11 BHSO Community Conservancy, specifically Question
12 Number 5, in regards to the Marion Road parcel.

13 Now, assuming for a second that the
14 site was acceptable to AT&T for radio frequency
15 purposes, reading this answer it states, "The town
16 does not have the authority to 'provide the
17 site,'" but also lists about five entities that
18 would require approval. In order to provide the
19 site to an entity like AT&T, could you just
20 describe a little bit more the process that would
21 be required if the town would be willing to
22 provide that parcel to the applicant?

23 THE WITNESS (Goeschel): Sure.
24 Approvals would be needed for the Planning
25 Commission. There would have to be an 8-24

1 referral from the Board of Selectmen to the
2 Planning Commission reviewing the site for
3 adequacy of whether or not the public improvement
4 or the improvement to public property would be
5 consistent with the plan of development. I
6 shouldn't call it "public improvement." It's
7 "private improvement" to public property.

8 MR. MERCIER: So the Board of Selectmen
9 would --

10 THE WITNESS (Goeschel): The
11 legislative body of the Town of East Lyme, so they
12 would be the ultimate decisionmakers as to whether
13 or not the parcel could be given up to AT&T or
14 some other private entity for development.

15 MR. MERCIER: I'm just trying to figure
16 out the exact steps. Would the Planning
17 Commission approach the Board of Selectmen or
18 vice-versa?

19 THE WITNESS (Goeschel): The Board of
20 Selectmen would approach the Planning Commission.
21 The second step to that is that the applicant cell
22 company would need to apply to the Zoning
23 Commission for site plan approval, as well as the
24 Aquifer Protection Agency, which our Zoning
25 Commission in the Town of East Lyme also acts as

1 that agency. There is a large portion of the site
2 within that aquifer protection area overlay zone.
3 And then upon approvals, I believe it would have
4 to go to also a town meeting.

5 MR. MERCIER: Is the town meeting just
6 for public comment, or is it something that leads
7 to like a town vote for all the residents of the
8 town?

9 THE WITNESS (Goeschel): It would be a
10 town vote for all the residents of the town.

11 MR. MERCIER: Do you have any idea, if
12 this process was undertaken, how long this would
13 take?

14 THE WITNESS (Goeschel): In terms of
15 applications, zoning applications, maximum,
16 potentially just going through the Zoning
17 Commission could take, I would say, 120 to
18 200-plus days. In addition to the Planning
19 Commission, it could take a month or two. I mean,
20 if you fast-tracked it, a month at best,
21 but that's the best I can say there.

22 And as far as a town meeting, we'd have
23 to schedule notice in the papers, so you're
24 possibly looking at another month or two months
25 there. I think all in all it could be another

1 year before that gets finalized.

2 MR. MERCIER: Now, regarding the
3 aquifer protection area, I noticed that just north
4 of that parcel there's a lot of residential
5 development within the aquifer area. In order to
6 build those residences and lots, do they also have
7 to go through the aquifer protection step-up
8 review process?

9 THE WITNESS (Goeschel): They do not,
10 as they would be considered preexisting
11 nonconforming in that regard. The aquifer
12 protection area, as I recall, was adopted in 2005,
13 so that's a recently adopted overlay zone.
14 Previously to that we had a primary and secondary
15 aquifer recharge area, which I believe those homes
16 did reside in, and probably was in effect when the
17 subdivisions were approved. Residential
18 development was not a prohibited use within those
19 zones.

20 MR. MERCIER: Just out of curiosity, is
21 it prohibited today for other undeveloped parcels?

22 THE WITNESS (Goeschel): Residential
23 development?

24 MR. MERCIER: Yes.

25 THE WITNESS (Goeschel): No, it's not

1 prohibited.

2 MR. MERCIER: So just based on the
3 answer to 5, and right now it says "the town
4 doesn't have the authority to provide the site,"
5 and, again, that would be the Board of Selectman
6 would have to make that recommendation?

7 THE WITNESS (Goeschel): It would have
8 to get approved at a town meeting, as well as
9 going through the Planning Commission and Zoning.

10 MR. MERCIER: Okay. I have no other
11 questions. Thank you.

12 THE CHAIRMAN: We'll now proceed with
13 questions from the Council.

14 Mr. Ashton?

15 MR. ASHTON: Would you please describe
16 for me qualitatively how your plan of conservation
17 and development includes telecommunication
18 facilities? I want to get a feel for how
19 significant it is. Is it just a passing reference
20 or does it really --

21 THE WITNESS (Goeschel): In terms of
22 the plan of conservation and development, I would
23 say it's more of a passing reference. We don't
24 specifically speak of telecommunication
25 facilities. We identify it as it's probably more

1 of a convenience.

2 MR. ASHTON: You're not alone. Don't
3 worry about it.

4 You mentioned 120 days, 200 days for a
5 zoning application. Isn't that a little bit
6 optimistic? It depends whether the t's are
7 crossed and the i's are dotted --

8 THE WITNESS (Goeschel): That's
9 correct.

10 MR. ASHTON: -- and what day of the
11 week it is, and so forth. Isn't 120 to 150 to 240
12 more likely?

13 THE WITNESS (Goeschel): More likely,
14 you know, you've got 65 days to hold a public
15 hearing, 35 days to conduct it, another 65 to
16 render a decision, and that's all if the applicant
17 doesn't grant you another 65 days' worth of
18 extension time.

19 MR. ASHTON: Good point. You can
20 muscle the applicant a little bit.

21 As I read the material here, I'd like
22 your opinion. There's several sites, alternate
23 sites, that don't quite meet the bill. They cover
24 a lot of the territory, but there's, I believe, if
25 I remember my facts, a tenth of a mile on 95

1 that's omitted. What would your reaction be
2 towards approving a site -- excuse me, I've got a
3 little personal problem -- that covers the 90
4 percent or 95 percent, and then put a small cell
5 site in to cover the 10 percent of the gap, if you
6 will, what's your reaction towards that?

7 THE WITNESS (Goeschel): Well, if you
8 can cover 90 percent and you have a small cell
9 site that covers the other 10, that's 100 percent
10 coverage. I think that's pretty good.

11 MR. ASHTON: That doesn't give anybody
12 in the town a heartburn?

13 THE WITNESS (Goeschel): I guess the
14 question is is where is the alternate or the small
15 cell site going.

16 MR. ASHTON: I understand. I
17 understand. This is by way of background. We're
18 seeing a lot of applications for what I call a
19 small site is a single antenna array that's on the
20 top of a building, a false chimney, you name it
21 and, quite frankly, nobody knows they're there.

22 The question I have is if we can solve
23 90 percent of the problem with a big site, can we
24 solve the other 10 percent, by my terminology,
25 with a small site, and the town would support

1 that?

2 THE WITNESS (Goeschel): Right. I
3 would say, yes, the town would support that.

4 MR. ASHTON: Thank you. That's all.

5 THE CHAIRMAN: Mr. Levesque?

6 MR. LEVESQUE: I don't have any
7 questions.

8 THE CHAIRMAN: Mr. Hannon?

9 MR. HANNON: Thank you.
10 You talk about the aquifer protection
11 zone. What level mapping is that?

12 THE WITNESS (Goeschel): It's Level A
13 mapping. It was conducted with the Connecticut
14 DEEP, and we employed Milone & MacBroom, and I
15 think the Maguire Group as well, to conduct that
16 mapping, but basically it's the direct recharge
17 area for our town wells.

18 MR. HANNON: Thank you. And in terms
19 of the length of time for the commission, is a
20 cell tower something that requires a public
21 hearing under the ordinance, or is it something
22 that would come in under site plan review?

23 THE WITNESS (Goeschel): My
24 understanding is that to enter a lease with the
25 applicant it would require a public hearing. In

1 terms of the zoning, I'd have to look at the
2 zoning code specifically. I'm not sure if that
3 would require a public hearing. I believe it may.

4 MR. HANNON: I'm just curious on that
5 because, again, the site plan review versus
6 special exception, whatever you want to label it,
7 you're talking about two significant differences
8 in the amount of time for any type of application
9 that goes before any of the boards, including the
10 material that may be required. I was just kind of
11 curious about that.

12 So you think that maybe because there
13 is a lease involved that that's something that
14 would go through a public hearing? Because I
15 would think that that's more an issue related to
16 the town council rather than local boards because
17 I didn't think something like that was under the
18 jurisdiction of the local boards.

19 MS. COLLINS: Am I permitted to answer
20 that question?

21 THE CHAIRMAN: Yes, please.

22 MS. COLLINS: There is a state statute,
23 the exact citation of which is alluding me right
24 now, but it's Section 7 of the Connecticut General
25 Statutes that requires a town to go through a

1 certain process before it rents any town-owned
2 property. And it's quite a substantial process.

3 It's also my understanding that to put
4 a cell tower on the Marion Drive site, because
5 it's in the aquifer protection area, would require
6 zoning approval.

7 MR. HANNON: Okay. I'm just trying to
8 make sure that I understand. I understand a
9 hearing is most likely required. I'm just trying
10 to figure out whether or not that is something
11 that is required by the Council or by the zoning
12 board, because my recollection would be it would
13 not be the zoning board but rather the Council.
14 So from that perspective, the amount of time
15 required to go through the zoning commission
16 theoretically could be quite a bit less.

17 MS. COLLINS: In order to provide the
18 site, the town understands that the zoning rules
19 don't apply to cell phone towers; but in order to
20 offer up this site willingly, the town feels that
21 it would have to go through that process.

22 MR. HANNON: Okay. I have no other
23 questions.

24 THE CHAIRMAN: Thank you.

25 Mr. Mercier?

1 MR. MERCIER: Just a follow-up. I
2 never even actually asked, is the town even
3 receptive to offering the parcel to AT&T if it
4 actually worked for AT&T's radio frequency needs?

5 THE WITNESS (Goeschel): The town's
6 position is that we're actually opposed to the
7 location of the tower wherever it would have an
8 impact to residential neighborhoods. And as we
9 provided in our response to these, is that we
10 couldn't exactly provide the number of homes
11 within 1,000 feet, but we were able to provide the
12 number of lots. And based on the maps, you can
13 see there's substantial neighborhoods in just
14 about every radius.

15 So the town's position is that right
16 now we're opposed to the site, only that it's in
17 our plan of conservation and development. It was
18 identified as a piece of existing open space, even
19 though there is no conservation easement on it.
20 It was planned for hiking and walking trails as
21 well. So from that standpoint, we would be
22 opposed.

23 MR. MERCIER: Thank you.

24 THE CHAIRMAN: Just so I'm clear on
25 your response, the Marion Drive site would also

1 impact residences?

2 THE WITNESS (Goeschel): That's
3 correct.

4 THE CHAIRMAN: Maybe a different set of
5 residences, but it would impact residences?

6 THE WITNESS (Goeschel): That's
7 correct.

8 THE CHAIRMAN: All right. Thank you.
9 We'll now go to cross by Mr. Fisher?

10 MR. FISHER: Just a couple of quick
11 questions, Chairman. Thank you.

12 With respect to the existing tower site
13 that's in the Orchards Development, just a couple
14 of quick questions about that. If the applicant
15 was able to work with the developer to modify that
16 facility, maybe its design, its height, its
17 aesthetics, work with the developer to try to
18 incorporate that into the overall design for the
19 development itself, is that something that you
20 think the town would be opposed to?

21 THE WITNESS (Goeschel): I don't think
22 so. I think we'd actually be supportive of that
23 because it's an existing tower.

24 MR. FISHER: Thank you, Chairman.

25 THE CHAIRMAN: Thank you.

1 Now a representative from BHSO
2 Community Conservancy, and I believe that's Mr.
3 Tooker. And if you could sit next to Mr. Mercier?
4 Go ahead.

5 MS. BACHMAN: Do you have any questions
6 for the town?

7 MR. TOOKER: Yes, I do.

8 THE CHAIRMAN: Go ahead. You'll get
9 your chance to be sworn in later.

10 MR. TOOKER: We have a couple of
11 questions, some of which may be a follow-up to
12 those responses. So I think we'll probably just
13 go through the questions that we had prepared.

14 With regard to the response on Question
15 3, which is talking about the different approvals
16 that the site, the Marion Drive Site 19, would
17 require. It seems that the one that continues to
18 come back is the aquifer protection area. And if
19 it would be all right to ask, looking at the map
20 that the town provided, it appears that the area
21 that we're talking about is about approximately
22 the northern-most parcel or the northern-most
23 portion of this parcel, and it encompasses about
24 25 percent of that parcel approximately. Would
25 that be accurate?

1 THE WITNESS (Goeschel): Based on the
2 map, I would say it's about 25 percent, plus or
3 minus.

4 MR. TOOKER: It's clearly the
5 northern-most part?

6 THE WITNESS (Goeschel): That's
7 correct, it's the northern portion of the
8 property.

9 MR. TOOKER: If a possible tower
10 location was selected outside of that, say
11 500-plus feet away, whatever, but some distance
12 clearly outside of that northern-most area, would
13 it still fall under the protection of such a
14 protected area?

15 THE WITNESS (Goeschel): So if it fell
16 outside of that aquifer protection area, they
17 wouldn't be going to zoning --

18 THE CHAIRMAN: Could I just follow up
19 on that? I'm trying to figure out how would you,
20 if you were to build the tower and you could build
21 the tower presumably maybe outside of that area,
22 but how would you access? I only see one. If I'm
23 looking at the correct map, I only see one of the
24 streets. It's a cul-de-sac at the moment which
25 terminates at the property line. Or are there

1 others? Is there any -- I'm just trying to figure
2 out.

3 THE WITNESS (Goeschel): Well, based on
4 the map, I believe that's Seebeck Road, which
5 actually terminates, the cul-de-sac itself
6 terminates adjacent to this parcel. The Marion
7 Drive, Jean Drive and the other third of the
8 right-of-way, the town right-of-way, extends to
9 the parcel, but the road hasn't been constructed,
10 so you'd have to have additional construction of
11 the road. That would involve, again, potentially
12 going to the Planning Commission for subdivision
13 or resubdivision approval because you're extending
14 the road. And I'd have to look closer at the
15 statute and our regulations to see if that would
16 in fact be the case.

17 So aside from putting in a driveway cut
18 off of Seebeck Road, which does cross through the
19 aquifer protection area, that activity may in fact
20 need to go to the Zoning Commission for approval.

21 THE CHAIRMAN: Okay. Thank you. Go
22 ahead, continue.

23 MR. TOOKER: To further on that point,
24 the address of this parcel is given as Marion
25 Drive, correct?

1 THE WITNESS (Goeschel): Zero Marion
2 Drive. That's my understanding.

3 MR. TOOKER: So the intent probably
4 when it was labeled as such was that the access
5 would be through that town right-of-way, if it
6 could be developed, given --

7 THE WITNESS (Goeschel): It would be a
8 driveway -- well, currently this was to be built
9 out, and the town has had it since, what, 1948,
10 it's just remained as a forested wood lot, but I
11 guess you could come off of Jean Drive as well
12 because the right-of-ways extend to it.

13 MR. TOOKER: I guess to be clear, it
14 would be reasonable to assume that that
15 right-of-way could be used to access this property
16 and not through the protection --

17 THE WITNESS (Goeschel): Potentially.
18 I mean, there's a right-of-way there, the ability
19 to pass and repass, but substantial construction
20 would have to be undertaken.

21 MR. TOOKER: With regard to -- and I
22 think we've moved past this point, but just to
23 make it clear, it's been acknowledged by the town
24 that the open space classification was only really
25 for tax purposes and not for zoning requirements,

1 correct?

2 THE WITNESS (Goeschel): That's my
3 understanding. However, in our plan of
4 development we do identify it as existing open
5 space, and it's remained vacant in that
6 configuration since the town acquired it in 1948.

7 MR. TOOKER: And it's in that plan as
8 existing open space, not perceived open space?

9 THE WITNESS (Goeschel): I believe we
10 had, as part of our plan of conservation and
11 development, we had a Land of Unique Value Study
12 conducted by Peter Miniutti from UConn, and they
13 identified it there as existing open space. I
14 think there's a relatively substantial piece in
15 terms of its location in the center of the town
16 geographically. We submitted a copy of the map.

17 MR. TOOKER: Yes, it's in that
18 attachment.

19 THE WITNESS (Goeschel): So that's
20 where we identify it as existing open space.

21 MR. TOOKER: Just looking at that map,
22 right, it shows everything as open space. Is
23 there such a classification as "perceived open
24 space"?

25 THE WITNESS (Goeschel): There is on a

1 separate map, which we did not submit.

2 MR. TOOKER: Does this parcel fall on
3 that, or does it fall on -- and if you don't know,
4 that's okay.

5 THE WITNESS (Goeschel): At this time I
6 can't answer that without looking at the other
7 map.

8 MR. TOOKER: As far as the proposal to
9 make it a hiking and foot path in the town's plan
10 of conservation and development, if a tower were
11 to be placed on this approximately 35-plus acre
12 parcel, is it reasonable to assume that the
13 majority of this parcel would still remain
14 undeveloped and could be available for such a
15 hiking and foot path?

16 THE WITNESS (Goeschel): I would say
17 that's probably reasonable.

18 MR. TOOKER: And if that was to happen,
19 wouldn't the town even have the added benefit of
20 having the money from the cell phone tower to
21 finance such development?

22 THE WITNESS (Goeschel): I guess we
23 have the added benefit of income. Whether or not
24 it's used to fund a hiking trail --

25 MR. TOOKER: Sure. Thank you.

1 Moving to Question 4, which was in
2 regard to the designation -- I apologize, I've
3 already asked that question. We can move on past
4 that.

5 I guess back to Question 5 as the
6 Siting Council's question. In regards to whether
7 or not the town could offer this property for
8 consideration, it had to go through the Planning
9 Commission if it was part of the aquifer
10 protection; did I understand that correctly, or
11 no?

12 THE WITNESS (Goeschel): I'll clarify.
13 So the Board of Selectmen would, if they have the
14 interest to locate the cell tower on the site,
15 they would send a referral to the Planning
16 Commission to review the proposal for consistency
17 with the town's plan of conservation and
18 development, upon which we would send the referral
19 back stating whether it was or was not. If it was
20 inconsistent, the Board of Selectmen would have to
21 vote, majority vote, to continue to offer the
22 site, in which case you would then look at getting
23 zoning approvals and then taking it to a town
24 meeting for a vote to offer it up.

25 MR. TOOKER: So the first step is the

1 Board of Selectmen. And who is on the Board of
2 Selectmen in the Town of East Lyme, is it a large
3 group, or is it just a few?

4 THE WITNESS (Goeschel): A five-member
5 board. Mark Nickerson is our first selectman.
6 Any correspondence would be addressed to him.

7 MR. TOOKER: So he's kind of the
8 primary --

9 THE WITNESS (Goeschel): We would start
10 there, yes.

11 MR. TOOKER: Does the town recognize
12 that the first selectman lives within 500 feet of
13 this parcel?

14 THE WITNESS (Goeschel): Yes.

15 MR. TOOKER: And would that potentially
16 influence its availability?

17 THE WITNESS (Goeschel): No.

18 MR. TOOKER: Moving on to the, I think,
19 final question we have regarding the residential
20 impact, I think you stated that the town is really
21 concerned with finding the site with no
22 residential impact or certainly one that has the
23 least residential impact and probably represents
24 all of our interests as well?

25 THE WITNESS (Goeschel): Yes, that's

1 correct.

2 MR. TOOKER: Although I understand the
3 limitations of the GIS mapping software to take a
4 40-acre parcel or 35-acre parcel and do 1,000-foot
5 offset substantially exaggerates the area that
6 that encompasses; would that be accurate?

7 THE WITNESS (Goeschel): It does.

8 MR. TOOKER: From the map provided from
9 the town we were able to see that the nearly 125
10 homes that were generated on that list would drop
11 down to about 17 within 1,000 feet; is that
12 roughly accurate?

13 THE WITNESS (Goeschel): I'd have to,
14 based on the scale, if I had a scale, maybe I
15 could count them up.

16 MR. TOOKER: Sure. Okay.

17 THE WITNESS (Goeschel): So I can't say
18 definitively.

19 MR. TOOKER: But you could say
20 definitively that it's probably not the 125 that
21 are listed there?

22 THE WITNESS (Goeschel): Most likely,
23 that's correct.

24 MR. TOOKER: Are we allowed to contrast
25 that to the proposed site, would that be

1 appropriate for purposes of the Council?

2 THE CHAIRMAN: At the moment you're
3 supposed to be asking questions, not making
4 statements.

5 RICHARD PERRY: We did ask the town to
6 do a similar mapping of the proposed site, and
7 they did provide a count of neighborhood residents
8 there that listed -- I forget the number.

9 MR. TOOKER: A hundred and fourteen, I
10 think it was.

11 MR. PERRY: A hundred and fourteen.
12 And so I guess we would --

13 MR. TOOKER: I think we're okay.

14 THE CHAIRMAN: If you have any further
15 questions --

16 MR. PERRY: No, we do not.

17 THE CHAIRMAN: We have the maps, and we
18 have the circles. We see the houses.

19 MR. PERRY: Okay. Very good.

20 MR. TOOKER: Thank you.

21 THE CHAIRMAN: Thank you.

22 We have a follow-up question from one
23 of the members.

24 MR. HANNON: I just want to follow up
25 on a couple of the questions that were asked. For

1 example, in looking at Exhibit C, I think, which
2 is the 1,000-foot radius at 0 Marion Drive, that's
3 taken from the perimeter of the property?

4 THE WITNESS (Goeschel): Yes.

5 MR. HANNON: So theoretically there
6 could be something located on the site which may
7 not really impact many, if any, at all residences,
8 correct?

9 THE WITNESS (Goeschel): It
10 would shrink that radius down probably
11 significantly.

12 MR. HANNON: So it's conceivable that
13 you could have very few residences involved with
14 that.

15 The other question is I don't have the
16 names of the streets on the maps, so bear with me
17 on that. But, for example, looking at Exhibit A,
18 on the eastern side, it's like three roads, sort
19 of cul-de-sacs and paper right-of-ways that are
20 associated with it. So, for example, taking the
21 middle road, there are a couple of houses, it
22 looks like, that are showing up as being on a
23 cul-de-sac. But assuming there is a 50-foot wide
24 right-of-way and the town is looking at using this
25 property for hiking, things of that nature, would

1 it make sense maybe coming in through a road like
2 that where a gravel drive goes in which people
3 would also have access to to maybe get to the site
4 theoretically? And maybe there could be some
5 parking put in so people could actually gain
6 access that wanted to hike on the site. I mean,
7 is that a positive thing that the town would look
8 at?

9 THE WITNESS (Goeschel): I believe it
10 would be a positive, more specifically, if the
11 town did not incur the construction costs.

12 MR. HANNON: Understood. That's all I
13 have.

14 THE CHAIRMAN: But you're still, I'm
15 hearing the statement, that the town is not
16 offering that site as a possible --

17 THE WITNESS (Goeschel): At the present
18 time that's correct.

19 THE CHAIRMAN: And just so everybody is
20 clear, the Siting Council cannot -- can suggest
21 that an alternative site in any application might
22 have less impact, but the Siting Council has no
23 powers to force a property owner, whether it's a
24 town or the state or a private property owner, to
25 offer up their site. I just want to make that

1 clear.

2 I think you can go back to work now.

3 THE WITNESS (Goeschel): Thank you.

4 THE CHAIRMAN: But Attorney Collins,

5 you can stay because you may want to

6 cross-examine.

7 MS. COLLINS: I'm going to stay, and

8 I'll sit in the back. Thank you.

9 (Witness excused.)

10 THE CHAIRMAN: Okay. Now we're going

11 to go back to the first part of the agenda, which

12 is the appearance of the applicant, American

13 Towers and New Cingular Wireless, to verify new

14 exhibits, which I believe are marked as Roman

15 numeral II, Items B.9 and 10 on the hearing

16 program.

17 And Attorney Fisher, do you want to

18 begin by verifying the new exhibits you filed and

19 by the appropriate sworn witnesses?

20 MR. FISHER: Yes, Mr. Chairman. And I

21 do have information that Mr. Libertine is en

22 route. I just don't have an actual ETA.

23 H A R R Y R O C H E V I L L E,

24 C A M I L O A. G A V I R I A,

25 J E N N I F E R Y O U N G G A U D E T,

1 K E V I N M A S O N,
2 D A N B I L E Z I K I A N,
3 M A R T I N L A V I N,
4 K E L L Y W A D E B E T T U C H I,

5 called as witnesses, having been previously
6 duly sworn, were examined and continued to
7 testify on their oaths as follows:

8 MR. FISHER: So subject to his
9 subsequent verification, because there were a few
10 questions that he responded to in providing the
11 information to the Council, I would ask each of
12 the witnesses, did you prepare -- without going
13 through each one and identifying each question,
14 there were a few though that were fairly straight
15 forward as to who -- would have been Mr.
16 Libertine, but subject to him later verifying
17 those, did you prepare and assist in the
18 preparation of the information in response to
19 interrogatories and also the supplemental
20 information provided to the Council?

21 THE WITNESS (Gaviria): Yes.

22 THE WITNESS (Rocheville): Yes.

23 THE WITNESS (Mason): Yes.

24 THE WITNESS (Bilezikian): Yes.

25 THE WITNESS (Lavin): Yes.

1 THE WITNESS (Wade Bettuchi): Yes.

2 MR. FISHER: And with respect to both
3 of the documents, both the responses to
4 interrogatories and supplemental information, are
5 there any corrections or modifications in
6 reviewing that in preparation for your testimony
7 here today?

8 THE WITNESS (Rocheville): No.

9 THE WITNESS (Gaviria): No.

10 THE WITNESS (Mason): No.

11 THE WITNESS (Bilezikian): No.

12 THE WITNESS (Lavin): No.

13 THE WITNESS (Wade Bettuchi): No.

14 MR. FISHER: And are they true and
15 accurate to the best of your belief?

16 THE WITNESS (Rocheville): Yes.

17 THE WITNESS (Gaviria): Yes.

18 THE WITNESS (Mason): Yes.

19 THE WITNESS (Bilezikian): Yes.

20 THE WITNESS (Lavin): Yes.

21 THE WITNESS (Wade Bettuchi): Yes.

22 MR. FISHER: And do you adopt the
23 responses as your testimony in supplement to
24 today's hearing?

25 THE WITNESS (Rocheville): Yes.

1 THE WITNESS (Gaviria): Yes.

2 THE WITNESS (Mason): Yes.

3 THE WITNESS (Bilezikian): Yes.

4 THE WITNESS (Lavin): Yes.

5 THE WITNESS (Wade Bettuchi): Yes.

6 MR. FISHER: Chairman, subject to
7 subsequently verifying when he's here and
8 available the responses that were related to
9 visual information of Mr. Libertine, with that
10 caveat, I would ask that the documents be
11 accepted?

12 THE CHAIRMAN: Okay. Are there any
13 objection to these exhibits being submitted
14 subject to that caveat?

15 MS. COLLINS: None from the town.

16 MR. TOOKER: None.

17 THE CHAIRMAN: Hearing and seeing none,
18 the exhibits are admitted.

19 (Applicant Exhibits II-B-9 and II-B-10:
20 Received in evidence - described in index.)

21 THE CHAIRMAN: All right. So you don't
22 have any idea when his ETA, as you so informed us?

23 MR. FISHER: I just asked my colleague,
24 Ms. Gaudet, to go see if we could find out that
25 information. She's in the hallway now trying to

1 get an ETA from him. It may be that we have to
2 come back to him in the proceedings, but if there
3 are questions that we can answer now that are
4 unrelated to visual, we'd like to be able --

5 THE CHAIRMAN: But he will be back
6 before the end of the day?

7 MR. FISHER: We believe so, yes. He
8 apparently has left. He had left on time. We're
9 just trying to get an actual ETA for the Council.

10 THE CHAIRMAN: All right. So we'll
11 cross-examine as best we can.

12 Mr. Mercier?

13 CROSS-EXAMINATION

14 MR. MERCIER: Thank you. I actually
15 had no questions for Mr. Libertine. I did have a
16 question related to the Marion Drive parcel.

17 Now, I understand the town is not
18 interested in offering the parcel, so that's one
19 of the questions. It has to do with Response 5 to
20 the BHSO Community Conservancy interrogatory
21 responses.

22 Interrogatory 5 at the last paragraph
23 basically stated it would not work, it was "RF
24 rejected" by AT&T, and that was based on the
25 location in the southeast corner of the property.

1 So I'm wondering why that particular location was
2 selected on the property when the highest point of
3 the property is towards the middle?

4 THE WITNESS (Lavin): It was analyzed
5 for RF based on the northeast extreme corner,
6 which is the highest point on the property. I
7 think the town's preference was for the southeast
8 corner. The RF analysis was done on the extreme
9 northeast corner of the property, which is the
10 highest point on the property.

11 MR. MERCIER: And you just stated that
12 the town --

13 THE WITNESS (Lavin): I believe the
14 town expressed a preference for the southeast
15 corner, which is much lower.

16 MR. MERCIER: When did this preference
17 occur -- was indicated to you?

18 THE WITNESS (Bilezikian): When I spoke
19 to the first selectman, he expressed that the town
20 wasn't interested in offering up the parcel, but
21 if they were, it would be the extreme southeast
22 corner.

23 MR. MERCIER: Okay. Thank you. I have
24 no other questions.

25 THE CHAIRMAN: Mr. Ashton?

1 MR. ASHTON: Earlier on I asked the
2 question about a 90 percent site with a 10 percent
3 kicker. Is there such a 90 percent site that's
4 available?

5 THE WITNESS (Mason): Yes, the 90
6 percent retained the existing coverage would be
7 the existing site, the Orchards location,
8 something very close to that.

9 MR. ASHTON: I'm sorry, I'm having
10 trouble hearing you.

11 THE WITNESS (Mason): To get 90
12 percent, if you're looking for 90 percent, the
13 existing site that we have, as close to that as
14 possible, would be the 90 percent site.

15 MR. ASHTON: And that site is not
16 available to you?

17 THE WITNESS (Mason): We are working
18 with the developer to possibly stay at that site,
19 not the exact same site, but we have talked to the
20 developer, we met with them last week, and it's an
21 open dialogue of trying to stay at the site,
22 possibly move it. While we've offered them some
23 stealth solutions, we showed them what we can do
24 in terms of tree poles, silos, unipoles, things
25 like that, stealth water tanks, which I think

1 you've seen, and that's our intent, to keep the
2 dialogue open so that we can remain at the highest
3 point of that Orchards property.

4 MR. ASHTON: When do you expect that
5 dialogue to be concluded?

6 THE WITNESS (Mason): I think it's
7 going to take another 30 days probably to get into
8 the substance. We just got the initial response
9 back from them yesterday that they would entertain
10 this, so now we have to get into the details of
11 that.

12 MR. ASHTON: Thank you. Nothing
13 further.

14 THE CHAIRMAN: Thank you.

15 Mr. Levesque?

16 MR. LEVESQUE: I don't have any
17 questions.

18 THE CHAIRMAN: Mr. Hannon?

19 MR. HANNON: I do have one. Again,
20 this is based on my memory, which sometimes isn't
21 all that good. At the public hearing I believe
22 one of the last gentlemen to speak, who was very
23 colorful that evening, brought up the issue of
24 Ancient Highway. And I know, going through the
25 original part of the application that came in,

1 there were two addresses for Ancient Highway that
2 apparently had been given an adverse effect
3 determination by the Mohegan Tribe. Were those
4 the same locations that originally there was a
5 temporary solution being proposed? I'm not
6 certain that that's the case. I just want to
7 clarify that in my mind.

8 MR. FISHER: I can verify for the
9 Council that the consultations with the Mohegan
10 Tribe done in accordance with federal
11 requirements, the two addresses that were given
12 along Ancient Highway would have been the two
13 parcels, one being the site where we originally
14 sited and planned for a temporary facility, and
15 then the second being the location for the
16 permanent site. So essentially the Mohegan Tribe
17 was evaluating those two parcels and that
18 surrounding environment.

19 MR. HANNON: I just wanted to confirm
20 that. So thank you.

21 THE CHAIRMAN: Okay. Now we'll go to
22 any cross-examination by the town?

23 MS. COLLINS: No cross-examination by
24 the town.

25 THE CHAIRMAN: Cross-examination by --

1 MR. TOOKER: Yes, please.

2 Sort of as a follow-up to the map
3 outlined in Question 3, which had the map that you
4 guys, I understand, generated from the best of the
5 information that you have, which identifies the
6 protected tribe area or the area that was given
7 the adverse effect determination, according to
8 that map that I think All-Points Technology
9 prepared in Attachment 1. Is it the opinion of
10 the applicant that the entire 35 parcel Marion
11 Drive site falls in that restricted area?

12 MR. FISHER: Chairman, this is going to
13 be one of those questions that's probably more
14 appropriate for Mr. Libertine. And I just
15 received a report from Ms. Gaudet who has been in
16 contact with him, and he's to be here within the
17 hour. So if we can defer that question and come
18 back to it, we would like Mr. Libertine to present
19 his testimony in response to that question.

20 THE CHAIRMAN: Okay, I guess we'll have
21 to wait.

22 MR. TOOKER: So a question regarding
23 Site 18, as I understand, is still not made
24 available. This is the water tower site. Just a
25 quick question about that. Our Question 4 was

1 asking for a coverage map, assuming that a
2 monopole could be co-located on that site and not
3 just antennas on the existing water tower, which
4 we recognize would be a technical challenge. You
5 provided attachment -- the applicant provided
6 Attachment 3, which is a comparison of the water
7 tank to the existing site. Was a coverage map ran
8 against the proposed site as well or just the
9 existing?

10 THE WITNESS (Lavin): I'm not exactly
11 sure.

12 MR. TOOKER: So the coverage map that's
13 attached is Attachment 3. It appears that it was
14 ran against the existing site and not the
15 proposed?

16 THE WITNESS (Lavin): Yes.

17 MR. TOOKER: So I'm just trying to --

18 THE WITNESS (Lavin): It's just
19 intended to show -- the lighter green color is
20 intended to show the coverage from the site that
21 people currently have now that is not recovered by
22 building a 199-foot tower at the water tank
23 location.

24 MR. TOOKER: Was it run against the
25 proposed site, the 351 Boston Post Road?

1 THE WITNESS (Lavin): I'm not sure what
2 you mean by "run against."

3 MR. TOOKER: Instead of running it
4 against the existing site, was it also run against
5 the proposed site?

6 THE WITNESS (Lavin): It wasn't run
7 against the proposed site. It was evaluated to
8 see how much of the existing coverage it would
9 recover if it were built.

10 MR. TOOKER: Okay. Thank you.

11 And if the town was to make that
12 property available, is it technically possible to
13 locate a monopole on that site?

14 MR. FISHER: Just for clarification,
15 when you say "technically possible," do you mean
16 from the RF engineering network service point?

17 MR. TOOKER: No, I'm sorry, from the
18 space limitations, the physical size.

19 MR. FISHER: You're referring to the
20 water tank site or the Marion Drive site?

21 MR. TOOKER: I'm sorry, the water tank
22 site. With regard to Question 4, I think part of
23 the response was a tower at this location would
24 leave a significant coverage gap, which we just
25 talked about. But it was also the town lot, the

1 approximately 40-foot tall water tank, is only
2 slightly larger than the well itself, and it
3 sounded like maybe that would -- it wasn't clear
4 whether or not it would be possible or if it would
5 just be an obstacle that could be overcome.

6 THE WITNESS (Rocheville): At this time
7 we can't really give a conclusive answer. I mean,
8 just looking at this aerial, it looks like we
9 might have some possible locations in the
10 southwest and southeast corners, but a site visit
11 would be required in order to determine that.

12 THE WITNESS (Mason): There are
13 significant other challenges there that we'd have
14 to express and look into. The outflow of pipes
15 from the water tanks, there's a lot of stuff going
16 underground there not visible from the map, two
17 carriers on there. The ground space is extremely
18 limited on that parcel, but we also have all the
19 leasing challenges that are applicable to Marion
20 Drive that were detailed earlier to go through,
21 the town meeting, all those approvals.

22 MR. TOOKER: The property is leased now
23 though to carriers, so it's conceivable that that
24 wouldn't be a limiting factor?

25 THE WITNESS (Mason): It's leased for

1 attachment to the top of the tank to Sprint now.

2 MR. TOOKER: Jumping back to the Marion
3 Drive site, with respect to Question 5 in the
4 interrogatories we were looking at the deeds, the
5 conservation restrictions, which we talked to the
6 town about. There was something in particular in
7 the responses that the applicant provided that we
8 just wanted to hit on a little bit, and that was
9 the comments, in reviewing the town's plan of
10 conservation, included in the applicants' bulk
11 filing, Figure 19, Page 107, titled "Perceived
12 Open Space," shows this parcel in green and Figure
13 20 on page 108 showing existing open space.

14 So the question specific to that is can
15 the applicant clarify, is that an official town
16 document that that was found on?

17 MR. FISHER: That's probably more a
18 question for the town. What we were able to
19 ascertain was that that's in their plan of
20 conservation and development. I assume that to be
21 an official town document. That's where that
22 information comes from.

23 MR. TOOKER: Okay. Sure. That was
24 just kind of a follow-up question. You guys cited
25 the figures, and they weren't really sure, so

1 that's why I thought to ask that.

2 Can you confirm that the corrected
3 application now indicates it as perceived open
4 space? I think that was mentioned in there.

5 THE WITNESS (Mason): What was the
6 question again?

7 MR. TOOKER: Sure. Can you confirm
8 that the application was corrected as it was
9 indicated to show perceived open space? I think
10 that was part of your response that was going to
11 be corrected.

12 (Whereupon, Mr. Lynch entered the
13 hearing room.)

14 MR. FISHER: I think just to be
15 technically accurate, when your question came in
16 and the applicant looked at all the information
17 that was available and saw the different maps, the
18 best we could say is it's listed as perceived open
19 space. Whatever that means for the town's
20 purposes would be a question for them.

21 MR. TOOKER: Sure. Given this
22 change -- and I think the question may have been
23 asked, but I'll ask it again, and I apologize if
24 it's redundant -- if the town were to make this
25 available, would the applicant consider it?

1 THE WITNESS (Mason): I don't think we
2 would consider it as a good candidate. The
3 timelines for the town and the pressure that we're
4 under to continue service here, we have an out at
5 that Orchards property at the end of this year.
6 So the timelines for a town site, to lease a town
7 site, we've done it before, but the timelines
8 outlined -- or even optimistic from even the other
9 questions -- we would guess two years for that to
10 get that site. It just doesn't work from a
11 timeline perspective to maintain the coverage.

12 MR. ASHTON: If it were available,
13 would it work? I'd like his question answered.

14 THE WITNESS (Mason): That's primarily
15 an RF question, so I'll hand it over.

16 MR. ASHTON: I understand there's a
17 problem, but problems have a way of getting solved
18 too.

19 THE WITNESS (Lavin): It's the response
20 to the Conservancy's interrogatories. There is no
21 point on that parcel that works for RF. The
22 northeast corner is the highest. It doesn't quite
23 work. That appears to be near the aquifer, which
24 means it would be forced downhill from there. The
25 town's expressed preference for the southeast

1 corner would make it even lower, which will only
2 make it even more unacceptable from an RF
3 standpoint. I don't think there's any viable
4 location on the 0 Marion Drive parcel from an RF
5 standpoint.

6 MR. TOOKER: The elevation that that
7 was run at, do you know that?

8 THE WITNESS (Lavin): I think it was up
9 around 270 feet. It's the extreme northeast
10 corner. It's right near -- there's a house just
11 two, three narrow parcels away. It's right up in
12 that northeast corner.

13 MR. TOOKER: Regarding that coverage
14 map that was provided, was that actually run on
15 Site 19, Marion Drive?

16 THE WITNESS (Lavin): The one that we
17 had most recently provided was run at the extreme
18 northeast corner. There's no indication that
19 anyone has made it available to us, which is from
20 an RF standpoint the most advantageous location on
21 the parcel is where that --

22 MR. TOOKER: But run on Site 19, Marion
23 Drive, on the perimeter or inside of the property
24 on the actual parcel?

25 THE WITNESS (Lavin): A foot inside the

1 extreme northeast corner of the parcel boundary.

2 MR. TOOKER: Does the marker on the
3 coverage map show the actual location, or is that
4 possible that the marker is maybe not in the right
5 place?

6 THE WITNESS (Lavin): Attachment 4
7 shows the exact location it was run from, which
8 was the extreme northeastern corner of the parcel,
9 0 Marion Drive.

10 MR. TOOKER: Would you be able to
11 provide the coordinates of that marker where it
12 was run from?

13 THE WITNESS (Lavin): Yes. In Google
14 Earth you can get it yourself. It's the extreme
15 northeast corner of the parcel.

16 MR. FISHER: Just to clarify, is it on
17 the upper-right corner of your coverage map?

18 MR. TOOKER: I believe those are the
19 coordinates of the proposed site.

20 THE WITNESS (Lavin): Proposed site,
21 yes. That's for reference. Those are not the
22 coordinates of the extreme northeast corner, but
23 those could be provided.

24 MR. TOOKER: It's also mentioned
25 relative to that coverage map that one of the

1 things less desirable, I guess, is that it
2 provides a near quarter-mile gap of coverage on
3 Boston Post Road?

4 THE WITNESS (Lavin): Uh-huh.

5 MR. TOOKER: Is that shown on the map,
6 let's say, just to the southeast of Pattagansett
7 Lake there on Boston Post Road, that little light
8 green area?

9 THE WITNESS (Lavin): We're talking
10 about the --

11 MR. TOOKER: It says a tower at the
12 highest point on the parcel still leaves a quarter
13 mile gap on Boston Post Road.

14 THE WITNESS (Lavin): Approximately,
15 yes.

16 MR. TOOKER: That's what we're talking
17 about?

18 THE WITNESS (Lavin): Yes. The roads
19 are on top of the coverage, so sometimes some of
20 the uncovered area is obscured by the road itself.

21 MR. TOOKER: Sure. With regards to the
22 coverage map of the existing site or the loss, I
23 guess, the map is really just showing the complete
24 loss if Tower 2022 was to go off line today?

25 THE WITNESS (Lavin): The light green

1 is the existing coverage with the current site,
2 and we overlay the coverage of the new site on
3 there, along with existing coverage from other
4 sites to show what's lost if we decommission the
5 site on the top of the hill, what we have now, and
6 then build the specific alternate.

7 MR. TOOKER: Doesn't that current map
8 show about a quarter mile, approximately, gap of
9 coverage on Boston Post Road to the existing
10 tower? I'm referencing the coverage map from the
11 original application that shows --

12 THE WITNESS (Lavin): There's a small
13 gap at the extreme southern end of the lake, yes.

14 MR. TOOKER: Is it fair to say it's
15 about the same size gap?

16 MR. FISHER: I'm just looking as best
17 as we can --

18 THE WITNESS (Lavin): That is coverage
19 that we lost and not recovered, but that is based
20 on a very hypothetical site that is on an aquifer
21 that we don't know if it's available. It's the
22 absolutely most optimistic scenario of coverage
23 from the 0 Marion Drive parcel, which may or may
24 not be the slightest bit realistic when we come
25 down to it.

1 MR. TOOKER: Thank you.

2 To the applicant, AT&T, I guess the
3 question goes. Is there any interest in closing
4 what appears to be about a half-mile gap of
5 coverage on I-95 near the Society Road, has that
6 been discussed as part of this replacement power
7 solution?

8 THE WITNESS (Mason): It hasn't been
9 identified as an objective of this particular
10 ring. This ring has been specifically to replace
11 existing coverage.

12 MR. TOOKER: Okay.

13 MR. ASHTON: Mr. Chairman, while
14 they're thinking, I'd like to make a correction.
15 I believe I referred to a tenth of a mile gap on
16 I-95, and obviously I think that refers to the gap
17 on Boston Post Road, so I apologize for the
18 misapplication.

19 MR. TOOKER: Jumping back to the
20 response in Question 5, if I could just for a
21 minute, AT&T's current site acquisition consultant
22 did contact the town's planning director for any
23 further information that could be supplied to the
24 Council. AT&T then asked the first selectman if
25 the town might propose property as an alternative

1 tower. No definitive response was given.

2 Just a follow-up to that. Has anything
3 else happened since that response or since that
4 inquiry?

5 THE WITNESS (Bilezikian): No.

6 MR. TOOKER: Further in that response
7 AT&T notes that this is in the area of other
8 properties opposed for tower siting by the group
9 known as East Lyme Residents for Responsible Cell
10 Tower Placement.

11 Was this Site 19 labeled Marion Drive
12 specifically opposed to by that group?

13 MR. FISHER: To assist in facilitating
14 the answers to your questions on that, I'm not
15 sure that this site was identified specifically at
16 that time. At that time AT&T -- and maybe Kelly
17 Wade Bettuchi can provide some information on
18 this, just on the timeline. When AT&T was
19 consulting with the town in 2014, I'm not sure
20 this site, or just generically town property,
21 additional properties around Ancient Highway, so I
22 don't know if I have a recollection of that.

23 You might share what you know.

24 THE WITNESS (Wade Bettuchi): No, I
25 don't believe so. We had met with the deputy fire

1 chief in town and a number of other emergency
2 personnel back in December of 2014, and we had sat
3 down and looked at GIS mapping for the town to see
4 if there were any other locations that were
5 town-owned property or even suggestions, frankly,
6 of any other property that we may not have
7 identified in our search, and at that time I don't
8 recall Marion Drive being a part of those
9 discussions.

10 There were three locations that had
11 been suggested to us. We analyzed all three of
12 those, and those had been rejected for RF
13 purposes. And we continued conversations. We met
14 again with the town in June, and we had a
15 secondary site that had also been proposed, which
16 is close to the Ancient Highway which is part of
17 the development, the Gateway Development, and then
18 since then we've obviously taken any suggestions
19 that have come through community hearings or
20 e-mails that perhaps the town received from
21 members of the community suggesting alternative
22 sites, but Marion was not part of those initial
23 discussions.

24 MR. FISHER: And Chairman, if I can,
25 just a little bit of leeway for some factual

1 information, when we had the -- in terms of
2 without testifying but just providing some
3 context -- maybe you can follow up with a
4 question -- but when we had the technical
5 consultation hearing in town, which was the summer
6 of 2015, that group was present. And I did have
7 conversations with them and then followed up with
8 their counsel. I don't recall Marion Drive
9 specifically being a parcel that was ever
10 identified. I do generally recall their position
11 was they were opposed to any setting in that
12 vicinity around Ancient Highway and the hill
13 there.

14 MR. TOOKER: We didn't pick this site.
15 It was on the application when we were aware that
16 a tower was going into our neighborhood. So
17 forgive me, I don't know all the history. Was
18 that list, that application list of the near 30
19 parcels, was that provided to the other group as
20 well?

21 MR. FISHER: Yes, that would have been
22 in the actual technical report that was filed with
23 the town. So it was a list of sites that -- which
24 you can certainly follow up with Ms. Gaudet who
25 represents American Tower, and Ms. Bettuchi was

1 part of the process at AT&T -- all those sites
2 were as part of a report given to the town at the
3 time.

4 MR. TOOKER: So they would have had an
5 opportunity to object to that site?

6 MR. FISHER: Yes.

7 MR. TOOKER: Sorry to keep jumping back
8 to some of the RF stuff.

9 Going back to that evaluation I think
10 we covered before that the lower-left corner,
11 which is the lowest piece on the land which
12 naturally wouldn't provide the best results was
13 suggested I think we said by the town, and you ran
14 it on the highest point, which would be the
15 northeast corner --

16 THE WITNESS (Bilezikian): Excuse me,
17 the southeast corner was what they recommended.

18 MR. TOOKER: Southwest, right. I'm
19 sorry.

20 THE WITNESS (Bilezikian): Southeast.
21 The first selectman wanted it.

22 MR. TOOKER: The southeast corner.

23 THE WITNESS (Bilezikian): Southeast
24 corner.

25 MR. TOOKER: And that is what's here.

1 I apologize. The southeast corner. Okay.

2 And you ran it on the northeast corner?

3 THE WITNESS (Lavin): The plot was
4 based on the analysis of the northeast corner.

5 MR. TOOKER: In there it compares it to
6 another site on a higher parcel on Wilson Hill,
7 but it doesn't clarify what site number the
8 coordinates of that. Did you provide that in your
9 comparison?

10 THE WITNESS (Lavin): For the --

11 MR. TOOKER: The site that it was
12 compared to. It was referenced in that remark
13 that this site was compared to an adjacent site
14 with a higher elevation on Wilson Hill, but it
15 doesn't mention specifically which site, because I
16 know there were four sites out there that were
17 considered. Was it one of the sites in the
18 application that it was compared to?

19 MR. LYNCH: Speak into the microphone.

20 MR. TOOKER: I'm sorry.

21 Was it one of the sites in the
22 application?

23 THE WITNESS (Lavin): I think it was
24 the Gateway that we're talking about.

25 MR. TOOKER: Which I believe was Site

1 22?

2 THE WITNESS (Lavin): Yes. We
3 investigated the site, as requested, in the
4 developed area on the Gateway property. I'm not
5 sure if we can provide a plot, if we have not
6 already.

7 MR. TOOKER: And relative to that, then
8 I think in another question, which kind of
9 supports what you're saying, Site 19 is the same
10 general topographical situation as Site 22, and
11 that was part of the response to Question 6?

12 THE WITNESS (Lavin): Yes.

13 MR. TOOKER: Can you confirm that Site
14 19, using the coordinates from the application, is
15 located to the west side of Wilson Hill and is
16 approximately 1,100 feet away from Site 22 located
17 on the east side of Wilson Hill?

18 THE WITNESS (Lavin): Offhand I don't
19 know if I can confirm those distances.

20 MR. TOOKER: Could you confirm just the
21 location relative to the hill?

22 THE WITNESS (Bilezikian): It is on the
23 west side of the hill.

24 MR. TOOKER: Site 19?

25 THE WITNESS (Bilezikian): Site 19.

1 MR. TOOKER: And Site 22 is on the east
2 side of the hill?

3 THE WITNESS (Bilezikian): Right.

4 MR. TOOKER: Thank you.

5 And given that AT&T is trying to
6 replace a tower located to the northwest of Wilson
7 Hill, doesn't it stand to reason that Site 19
8 located on the western side of Wilson Hill would
9 provide better coverage than Site 22 on the
10 eastern side of the hill?

11 THE WITNESS (Lavin): We're comparing
12 19 on the Marion Drive parcel with 22?

13 MR. TOOKER: Correct. Again, to
14 restate the question, readdress it, wouldn't it
15 stand to reason that a site on the western side of
16 Wilson Hill would provide better coverage than a
17 site on the eastern side of Wilson Hill if the
18 tower that we're trying to replace is northwest of
19 Wilson Hill? And I apologize. It's a lot of
20 north, east, west. It would be easier with a map
21 but --

22 THE WITNESS (Lavin): You would
23 naturally tend to be in that same area. We were
24 asked, I believe, by the town to evaluate Gateway.

25 MR. TOOKER: I believe that's correct.

1 THE WITNESS (Lavin): Which is the
2 reason we went over the mountain and down the
3 other side to evaluate that particular location.
4 It was not because it was particularly promising,
5 no.

6 MR. TOOKER: Regarding the location
7 that was, I guess, recommended by the town, in
8 response to our interrogatory question we had
9 requested that the coverage be done using the
10 coordinates of Site 19. Was that in fact what was
11 done? And again, I think I'm restating a question
12 I believe you've already answered, but I just want
13 to be clear.

14 THE WITNESS (Lavin): In the latest
15 round it was the most advantageous area on the
16 parcel was selected and found not to be adequate
17 in coverage. The Site 19 coordinates were also
18 studied, which were lower and therefore would not
19 have coverage as well.

20 MR. TOOKER: Lower than the --

21 THE WITNESS (Lavin): In elevation than
22 the extreme northeast corner of the parcel.

23 MR. TOOKER: Do you know what the
24 elevation was at those coordinates, do you know
25 those on the Site 19?

1 THE WITNESS (Lavin): I don't know
2 those offhand, no.

3 MR. TOOKER: Thank you.

4 One last question regarding the
5 response to Question 11. "To the extent
6 necessary, AT&T does not share the opinion
7 incorporated into the question regarding 'less
8 impact,'" and then it goes on. It brings the East
9 Lyme residents' group back into the response.

10 Relative to that question, does the
11 response of AT&T indicate that their opinion is
12 that developing a new site would be less impactful
13 than trying to explore an existing site fully?

14 THE WITNESS (Mason): Hold on, I have
15 to read this a little bit here. You're asking
16 about "To the extent necessary, AT&T does not
17 share the opinion incorporated into the
18 questioning regarding 'less impact'?"

19 MR. TOOKER: I admit it's confusing,
20 which is why we're asking for clarification.

21 THE WITNESS (Mason): Is this
22 specifically about the Stone Ranch or a specific
23 site here?

24 MR. TOOKER: No, I believe it was cited
25 as -- it actually brought two different locations

1 into question, but I believe it brought the water
2 tower in.

3 MR. FISHER: Is your question does AT&T
4 share that opinion in response to your question
5 related to redeveloping where there's an existing
6 tower site? Is that your question?

7 MR. TOOKER: Yes, sort of, yes. The
8 question is about less impact, the less impact
9 that AT&T took the position that they didn't share
10 the opinion that we had in the question that these
11 sites would have less impact, and AT&T's response
12 was according to that.

13 MR. FISHER: Maybe I can help. That's
14 probably, you know, just -- you can blame me
15 probably as the attorney, right, for some of the
16 words? I think just in getting interrogatory
17 questions, which were probably facilitated by your
18 counsel, sometimes a question has an opinion in it
19 which may not be facts in evidence. And I think
20 we were just sharing that we're not sure what the
21 opinion is that's being offered that Site 19 may
22 be less impactful. We're just saying we're not
23 sure it is. And you'd have to compare it against
24 a number of different variable subsets.

25 So if you want to ask the witnesses

1 what their opinions might be about comparative
2 impacts of site development, I'm sure they can
3 answer them.

4 MR. TOOKER: No, I think it could be
5 summarized that a new site would have less -- or
6 an existing site would have less of an impact than
7 a new site; is that correct?

8 THE WITNESS (Bilezikian): Co-locating
9 on an existing site has less impact than
10 developing a brand new raw land site.

11 MR. TOOKER: That answers the question.
12 Thank you.

13 I think we have no further questions.
14 Thank you. And I apologize. We really weren't
15 prepared to come here and ask our own questions.

16 THE CHAIRMAN: You've done very well.
17 And you can stay seated.

18 THE CHAIRMAN: Do you have any
19 questions?

20 MR. LYNCH: Yes, I do.

21 THE CHAIRMAN: All right.

22 MR. LYNCH: I apologize, Chairman, for
23 coming in late. I had a previous engagement.

24 My first two questions are for
25 Mr. Lavin, you're up.

1 THE WITNESS (Lavin): Okay.

2 MR. LYNCH: In Question Number 2 of the
3 interrogatories you talk about Legacy customers.
4 How much longer are you going to support Legacy
5 customers, the G2s and G3 people?

6 THE WITNESS (Lavin): AT&T is sunset
7 for GSM --

8 MR. LYNCH: I can't hear you. Sorry.

9 THE WITNESS (Lavin): AT&T is
10 sunsetting, turning off GSM or 2G coverage on
11 January 1, 2017. I believe that's the date.

12 MR. LYNCH: Okay. And --

13 THE WITNESS (Lavin): There's no date
14 set for 3G.

15 MR. LYNCH: But it's coming?

16 THE WITNESS (Lavin): Every technology
17 some day, yes.

18 MR. LYNCH: In Question Number 7, are
19 your sites now being built more for capacity or
20 coverage? I'm not talking about this specific
21 site. I'm talking overall.

22 THE WITNESS (Lavin): There are a lot
23 more capacity sites than there ever were before,
24 and balance is certainly tipping in that
25 direction.

1 MR. LYNCH: Now, this question is more
2 or less a collective of a whole bunch of dockets.
3 I was surprised to find out that how many of these
4 sites get broken into. And is there any plan in
5 place where the response time goes to either a
6 police force or a private security agency to come
7 in and check when these things are broken into,
8 these sites?

9 THE WITNESS (Mason): Well, they are
10 all tied to an alarm system. So if our shelter
11 triggers an alarm, an open door, or something like
12 that, the switch gets a notification.

13 MR. LYNCH: What's the response time?

14 THE WITNESS (Mason): I'd have to look
15 at that. I'm not sure. We have to provide the
16 local police numbers because they're sitting
17 somewhere in Atlanta or somewhere. So we provide
18 the local police numbers, and they call the local
19 police or the cell tech.

20 MR. LYNCH: And my last question, which
21 is really more of an inquiry than it is a
22 question, and I don't really need an answer right
23 away. I want you to think about this one. And it
24 has to concern the holy grail of 200 feet by the
25 FAA. I don't think Moses came down from the

1 mountain saying, you know, the Eleventh
2 Commandment is you can't go above 200 feet. Now,
3 as someone who lives five miles from Bradley
4 Airport, I see red lights and strobe lights, and
5 when I go through Hartford I look at Brainard, I
6 also see them.

7 My question really is, you have a
8 number of sites here that you have rejected
9 because of height limitations or blockage,
10 Mr. Lavin. And if you could go above 200 feet and
11 so it's lighted -- not marked -- I'll take lighted
12 with a strobe or a red light that would be further
13 away from the residential areas, and could those
14 be done, looked at more thoroughly if you went
15 higher?

16 THE WITNESS (Lavin): We certainly did
17 look higher. I gave up to 400 feet --

18 MR. LYNCH: I saw that. I'm saying
19 let's go 220, 250, some of the other sites.

20 THE WITNESS (Lavin): That's really a
21 strategic question for AT&T.

22 MR. LYNCH: That's what I said. I
23 don't really want an answer right now. I want you
24 to think about it and come back later or another
25 hearing, but it's just something that I would like

1 to at least get some clarification on. And like I
2 say, I don't think it's the Eleventh Commandment.

3 MR. FISHER: It's a good question. And
4 I'll work with the team to have a collective
5 response. I think what we've used the 200 FAA
6 rule as just a business judgment decision height.
7 As to whether or not to pursue a tower where there
8 would be marking lighting, there have been
9 projects though where the collective decision has
10 been to pursue them, even with marking lighting.

11 MR. LYNCH: That's all I'm really
12 looking for if we can get it out of a residential
13 area and further into the -- I don't think people
14 will mind looking at a red light or a strobe.
15 Thank you, Attorney Fisher.

16 That's all Mr. Chairman.

17 THE CHAIRMAN: Thank you.

18 Okay. We'll now go to the appearance
19 by the party BHSO Community Conservancy. We'll
20 now get to swear -- are both of you going to be
21 witnesses? Please stand.

22 MR. TOOKER: We both took some of the
23 pictures. With regard to the last point, will we
24 have a chance to ask the question if this other
25 person doesn't show up?

1 MR. FISHER: Yes, we're going to come
2 back to that.

3 MR. TOOKER: Okay. So we'll come back.
4 We'll table that. Thank you.

5 C R A I G T O O K E R ,

6 R I C H A R D P E R R Y ,

7 called as witnesses, being first duly sworn
8 by Ms. Bachman, were examined and testified
9 on their oaths as follows:

10 THE CHAIRMAN: We'll have to go through
11 this process of verifying the exhibits you filed.
12 And did either or both of you prepare or assist in
13 the preparation of Exhibits IV-B-1 and 2?

14 THE WITNESS (Tooker): Yes.

15 THE WITNESS (Perry): Yes.

16 THE CHAIRMAN: Do you have any
17 corrections or modifications of the exhibits?

18 THE WITNESS (Tooker): No.

19 THE WITNESS (Perry): No.

20 THE CHAIRMAN: Do you adopt these
21 exhibits as your testimony?

22 THE WITNESS (Tooker): We do.

23 THE WITNESS (Perry): Yes.

24 THE CHAIRMAN: Do the parties or
25 applicant have any objection to the admission of

1 these exhibits?

2 MR. FISHER: No objection.

3 MS. COLLINS: No objection.

4 THE CHAIRMAN: The exhibits are
5 admitted.

6 (BHSO Community Exhibits IV-B-1 and
7 IV-B-2: Received in evidence - described in
8 index.)

9 THE CHAIRMAN: So we'll now begin by
10 cross-examination by staff, starting with
11 Mr. Mercier.

12 CROSS-EXAMINATION

13 MR. MERCIER: Thank you.

14 I just have a quick question. The copy
15 I received had three photographs with what appears
16 to be a pool in the backyard and didn't have any
17 identifying location. Do you have that?

18 THE WITNESS (Tooker): Sure. The three
19 pictures I believe you're referring to were
20 pages 8, 9, and 10 of the file that was sent and
21 progressively show a little bit more of a white
22 railing that kind of comes in.

23 MR. MERCIER: Yes.

24 THE WITNESS (Tooker): Those were taken
25 from 24 Sunrise Trail which is not a direct

1 abutter of the property. It is one property
2 removed shown in the original site plan showing
3 the abutters just to, I guess, it would be the
4 northeast.

5 MR. MERCIER: Okay. That answers my
6 question on that one.

7 And then I had I think it was the last
8 photograph was something that it looks like it was
9 taken from Plum Hill Road. There was a balloon
10 behind a house that fronts Plum Hill Road. Do you
11 have a specific location as to what that residence
12 is or the location in front of the specific --

13 THE WITNESS (Tooker): Yes, that's 21
14 Plum Hill Road.

15 MR. MERCIER: That's the house shown in
16 the picture?

17 THE WITNESS (Tooker): Correct.

18 THE CHAIRMAN: And on that last picture
19 is the balloon visible; and if so, is it over
20 that --

21 THE WITNESS (Tooker): I know it's
22 rather small from that distance away, but it would
23 be the one showing the balloon clearly visible
24 over the top of the house.

25 THE CHAIRMAN: Okay, I see it. Thank

1 you.

2 MR. MERCIER: Thank you. I have no
3 other questions at this time.

4 THE CHAIRMAN: Thank you.

5 Questions, Mr. Ashton?

6 MR. ASHTON: No questions.

7 THE CHAIRMAN: Mr. Levesque?

8 MR. LEVESQUE: No questions.

9 THE CHAIRMAN: Mr. Hannon?

10 MR. HANNON: I have no questions, but
11 just a comment. They did a good job filling in at
12 such short notice. You did your group proud.

13 THE WITNESS (Tooker): Thank you. Two
14 days of nothing but this.

15 MR. LYNCH: No questions, Mr. Chairman.

16 THE CHAIRMAN: We'll now go to
17 cross-examination by the applicant.

18 MR. FISHER: Thank you, Chairman, a few
19 questions.

20 The conservancy itself, your
21 membership, I don't need specific addresses and
22 names, but could you just give me a sense of the
23 property owners, are they a combination of people
24 who have homes in the Orchards Development and
25 then some of the adjacent properties in and around

1 the area of this proposed tower site, is that the
2 basic composition of their group?

3 THE WITNESS (Tooker): Sure. Yes,
4 primarily we're about 35 residences surrounding
5 the proposed location. We did reach out to other
6 members in the town. We reached out to the prior
7 group of the East Lyme Residents for Responsible
8 Cell Phone Tower Placement. They were not
9 interested in aligning their efforts with us, so,
10 again, we remain about the 35 surrounding.

11 The BHSO is made up of Boston Post
12 Road, Heritage Road, Sunrise and the Orchards.

13 MR. FISHER: Got it.

14 And just a couple of follow-up
15 questions. I know you've been focused on the
16 Marion Drive site as a possible alternative in the
17 town. Have you had any conversations with the
18 town as follow-up on that particular site with the
19 first selectman or others?

20 THE WITNESS (Tooker): We have not
21 directly, but there are other members of the town
22 that are part -- let's say they weren't part of
23 the official BHSO, but they are in that 35 group
24 member, and they have reached out a couple of
25 times. I know that they were there yesterday as

1 well talking to the first selectman to see if, you
2 know, kind of what had transpired and if there
3 were any other options and would they consider
4 this site.

5 MR. FISHER: And then focusing back on
6 the existing tower site in the Orchards, maybe
7 something for follow-up for your group, but can
8 you give me a sense that you heard -- let me back
9 up. You heard through some of the prehearing
10 conversations that the applicants and AT&T have
11 been trying to work with the developer at the
12 Orchards to come up with some possible
13 alternatives there. Is that something that you
14 think your group would be supportive of generally
15 as an alternative to what's currently pending
16 before the Council?

17 THE WITNESS (Tooker): I believe,
18 depending on what the solution was, yes,
19 absolutely, provided it's not going in somebody's
20 back door, yes.

21 MR. FISHER: So obviously you're
22 familiar with the existing tower site and its
23 general location on that parcel that's up behind
24 the common areas, the homeowners association's
25 facilities, the tennis courts. So if it stayed in

1 that general area, maybe lower in height, maybe
2 some kind of aesthetic treatment, which Mr. Mason
3 was referencing earlier, is that a direction you
4 think that generally your group would be
5 supportive of?

6 THE WITNESS (Tooker): Yes. I'm not
7 sure that we like it, but there's an existing
8 tower, and I think that we recognize that. And if
9 the residents around there were agreeable to it,
10 we would be as well.

11 MR. FISHER: Great. Thank you.

12 Thank you, Chairman.

13 THE CHAIRMAN: You just took my
14 question right out of -- okay.

15 So now the town, do you have any
16 cross-examination?

17 MS. COLLINS: No, I don't. Thank you.

18 THE CHAIRMAN: Okay. So thank you.
19 Obviously, while you may have -- if and when this
20 individual, who usually is very prompt, I don't
21 know whether -- well, he apparently got lost or
22 maybe he's looking at a few of the sites up in --
23 anyway, we're going to now break for lunch. So we
24 will continue at 1:45. So take an hour.

25 MR. FISHER: Thank you, Chairman.

1 THE CHAIRMAN: Take advantage of the
2 wonderful restaurants in the City of New Britain,
3 which there are a few.

4 (Whereupon, the witnesses were excused
5 and a recess for lunch was taken at 12:44 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 AFTERNOON SESSION

2 1:44 P.M.

3 THE CHAIRMAN: Good afternoon, ladies
4 and gentlemen. I'd like to call back to order our
5 meeting of the Connecticut Siting Council. So I
6 believe any questions we'll start first with the
7 Council and staff on any of the, I guess,
8 visibility or any of those issues that were not
9 addressed.

10 Mr. Mercier?

11 MR. MERCIER: I have no questions.

12 THE CHAIRMAN: No questions.

13 MR. LEVESQUE: No new questions.

14 THE CHAIRMAN: I'm told we have to
15 verify any of the exhibits that Mr. Libertine
16 participated in.

17 MR. FISHER: Yes. Thank you, Chairman.

18 M I C H A E L L I B E R T I N E,

19 called as a witness, being previously duly
20 sworn, was examined and continued to testify
21 on his oath as follows:

22 MR. FISHER: Mr. Libertine, just a
23 couple of quick questions. The hearing program
24 lists Applicants' supplemental information and
25 also Applicants' responses to BHSO

1 interrogatories. Earlier we, with the caveat,
2 noted you'd be here to verify any of the
3 visibility information or information related to
4 the tribal consultation.

5 Did you prepare and assist in the
6 preparation of the responses to those categories
7 of interrogatories and information?

8 THE WITNESS (Libertine): Yes, I did.

9 MR. FISHER: And in preparation for
10 your testimony, are there any corrections or
11 modifications you noted to be made?

12 THE WITNESS (Libertine): No.

13 MR. FISHER: And is the information
14 true and accurate to the best of your belief?

15 THE WITNESS (Libertine): Yes.

16 MR. FISHER: And do you adopt it as
17 your testimony here today?

18 THE WITNESS (Libertine): I do.

19 MR. FISHER: Chairman, I'd ask that we
20 accept the documents fully now at this time?

21 THE CHAIRMAN: Are there any
22 objections?

23 MS. COLLINS: No.

24 MR. TOOKER: No.

25 THE CHAIRMAN: Okay. The exhibits are

1 now fully admitted.

2 So I'll just go around again.

3 Any questions, Mr. Mercier?

4 MR. MERCIER: I have no questions.

5 MR. ASHTON: I have one, but it's not
6 related to that document. It's unrelated. And at
7 a convenient time I'll pose it.

8 THE CHAIRMAN: Now is a convenient
9 time.

10 MR. ASHTON: Okay. Thank you.

11 CROSS-EXAMINATION

12 MR. ASHTON: Probably about five years
13 ago I raised the question in hearing over the life
14 of the contract lease term. And if I remember
15 right, it was four years renewable for four or
16 five times. I'd like to pose the question now
17 that we've had more experience with some leases
18 being broken or terminated. Wouldn't it be
19 prudent to consider extending the length of the
20 lease or otherwise modifying that arrangement that
21 we have? Cell towers and all the appurtenant
22 facilities are deeply deeply in our society at
23 this stage, far more than five years ago. And
24 what concerns me is that, as you get towards the
25 end of a lease period, we're going to find that

1 we're being held up and in deep trouble. I'd like
2 to hear the applicant comment on that because I
3 think the time has come for a review.

4 THE WITNESS (Mason): Yes, I totally
5 agree. It's usually four terms of five years
6 each.

7 MR. ASHTON: Four times five?

8 THE WITNESS (Mason): Yes. And
9 sometimes they're 25 years. But I totally agree
10 with you that now is the time we're looking at
11 these leases, and we have a complete renewal
12 program that tries to get ahead. And we used to
13 look ahead maybe three years, and we've since
14 realized that's just not enough time to replace a
15 site. You get a site like this it's difficult.
16 This can push it out for three years. So we've
17 pushed that back to ten years. So we're trying to
18 look ahead ten years now. And a lot of our leases
19 are co-locations on American Tower or Crown sites,
20 big tower company sites. And our leases, when we
21 look on paper, they might be good until 2036 or
22 something, but they're only as good as the
23 underlying ground lease. So they're also
24 undergoing these renewal efforts.

25 MR. ASHTON: When are we likely to see

1 the fruit of that labor? And obviously we're not
2 looking to get into the details of the lease, but
3 rather, I certainly as a member of the Council and
4 as somebody, a professional in the energy industry
5 for a long long time, would like to have an idea
6 that what we're doing is heading in the right
7 direction.

8 THE WITNESS (Mason): Well, I think it
9 is heading in the right direction. I'm not sure
10 you'll ever see any results of that. What you'll
11 see is you won't see. You'll see us not coming
12 here for these types of cases again. So hopefully
13 that will work out. But there are other tower
14 developers, smaller tower developers who focus
15 exclusively on purchasing property, which is
16 great. It gives them that stability. So there's
17 some of that going on. I wish there was more.

18 MR. ASHTON: Okay.

19 Thank you very much, Mr. Chairman.

20 THE CHAIRMAN: Thank you.

21 Mr. Levesque?

22 MR. LEVESQUE: No questions.

23 THE CHAIRMAN: Mr. Hannon?

24 MR. HANNON: I do have a question,
25 probably geared more towards Mr. Libertine. And

1 I'm hoping you can explain this to me. One of the
2 things that was discussed a little bit earlier
3 were a couple of sites on Ancient Highway, and
4 those were given adverse effect determinations by
5 the Mohegan Tribe. Can you explain why? Because
6 I remember being out at the site when there was a
7 temporary location proposed on the Ancient
8 Highway. And from being out there, it looked like
9 it was a site that really was not visible to much
10 of anybody or anything. So I'm just curious as to
11 how the tribe goes about identifying what sites
12 may or may not be applicable.

13 THE WITNESS (Libertine): I'm going to
14 give it my best shot. Just before I do, I do want
15 to go on the record and apologize for my tardiness
16 today to the Council and staff and to the
17 intervenors and my colleagues here for the
18 applicant.

19 With respect to the tribes, they look
20 at things certainly different than the historic
21 preservation office does and I think most
22 neighbors and folks who are in the general area of
23 where a lot of the towers are proposed. The
24 tribes focus on their particular tribal history
25 and whether or not the land has had some cultural

1 significance in their history. Cultural
2 significance can range from burials, ceremonial
3 alters to in this case general landscapes.

4 This was the first time I've been
5 involved personally in Connecticut where there has
6 been this much discussion about the landscape, and
7 that's really what we're talking about here. In
8 the case of the Ancient Highway parcel originally
9 there was the potential for the temporary tower on
10 the parcel, and then we had a permanent location
11 also on Ancient Highway. The permanent solution
12 on Ancient Highway underwent the NEPA process, in
13 this case what is called the Section 106 process,
14 which deals with tribal consultations as well as
15 historic issues. And so once we had in this case
16 Mohegans involved, they wanted to do a site visit
17 because they felt as though somewhere in their
18 history this area was of interest to them.

19 So we conducted that site walk. And
20 their contention was that they saw features in the
21 landscape, not necessarily on the property proper,
22 but in that general area that led them to believe
23 that this was significant to the tribe from a
24 historical perspective, mostly as a ceremonial
25 area. In fact, they mentioned that the entire

1 route that Ancient Highway, the dirt road actually
2 traverses, was used as a major pathway for the
3 tribe for summer hunting grounds as well.

4 So we struggled with that because, from
5 my perspective, we wanted to try to pin down what
6 is that impact, and they felt as though a tower
7 would have a visual impact on the landscape that
8 they define, which was not -- it was fairly
9 loosely defined. It was basically as far as the
10 eye could see from this general location.

11 So, you're right, in terms of if I was
12 looking at the site, I felt it was actually a very
13 good site because it was well buffered from
14 residences. It's very thick woods. There's not a
15 lot of homes in the immediate area. The tribe
16 wasn't taking that into account. They were
17 strictly looking at some physical features they
18 saw, again, off our property but in the general
19 area that they felt were significant.

20 And one of the -- as a side note, but
21 it is related here -- one of the things we've
22 struggled with is that the tribes are very
23 reluctant to put anything down in writing on maps
24 or even wanting to again document something in
25 writing. It's all oral history. So we're -- I

1 don't want to say we're at the mercy, but
2 certainly we have to respect the fact that that's
3 how they operate.

4 So in this case it's a little
5 wishy-washy from my perspective because it was
6 very hard to pin down exactly where this fell into
7 the realm of a visual impact and where we were
8 outside of it. And I know in some of the last
9 round of filings that we put in, there was a map
10 that I just took my best guesstimate on to try to
11 get an extent of that landscape that they were
12 concerned about. And that did encompass almost
13 all of the properties directly abutting Ancient
14 Highway. So that's the best I could tell you. I
15 wish I could tell you a little bit more.

16 MR. HANNON: Thank you. I appreciate
17 it. I just had a hard time trying to figure it
18 out.

19 THE WITNESS (Libertine): I will say
20 this with respect to the Mohegan Tribe, they are
21 usually and always very gracious to work with.
22 This is the first time we've had this type of a
23 real -- where they drew a line in the sand.

24 MR. HANNON: Thank you.

25 THE WITNESS (Libertine): You're

1 welcome.

2 THE CHAIRMAN: Mr. Lynch?

3 MR. LYNCH: Just as a follow-up to Mr.
4 Hannon's question. If someone wanted to, for lack
5 of a better word, challenge the tribe's position,
6 would that be at a state level, federal level, or
7 because they're a sovereign nation, you can't
8 challenge it?

9 THE WITNESS (Libertine): In this case
10 it would be at the federal level. There would be
11 an opportunity to go in front of the FCC to see if
12 they could intervene in some way and either broker
13 some type of a compromise solution or essentially
14 go toe to toe and they put on their case, we put
15 on our case. It's a very long, tedious and very
16 expensive process.

17 In this case we certainly considered
18 all the options certainly from my perspective as
19 the environmental consultant and what I was privy
20 to. My recommendation to AT&T in this case was I
21 think it would be a very tough battle and we
22 probably would not have come out on the winning
23 end, primarily because there were alternate sites
24 that were feasible. And once you have feasible
25 alternatives that can be developed, I think the

1 FCC would look at that and say, you know, we're
2 not going to go any deeper on this, you have
3 somewhere else you can go. And in this case I
4 think we had a couple of sites so --

5 MR. LYNCH: Thank you for clarifying.

6 I'm all set, Mr. Chairman.

7 THE CHAIRMAN: Thank you. We'll now
8 see if there's anymore cross-examination first by
9 the town, Attorney Collins?

10 MS. COLLINS: No.

11 THE CHAIRMAN: And now by a
12 representative of BHSO Community.

13 MR. TOOKER: So in regard to the map,
14 we just have a couple of quick questions, and some
15 of that may have changed based on your Mohegan
16 explanation, so that's appreciated.

17 THE WITNESS (Libertine): Sure.

18 MR. TOOKER: So regarding that map,
19 which you prepared and clearly stated that it was
20 to the best of your abilities to do so, so I don't
21 want to be too technically critical of it, it
22 appears that the area you defined in relationship
23 to Site 19, Marion Drive, it's the northeast
24 extent of that property, it really just, the area
25 you define kind of just comes in and touches that

1 upper corner; is that correct?

2 THE WITNESS (Libertine): Correct.

3 MR. TOOKER: Do you need a second?

4 THE WITNESS (Libertine): I have an
5 electronic copy, but I didn't open that up. Could
6 you just define for me? I don't have a cross
7 reference to Number 19?

8 MR. TOOKER: Okay. So 19 is the Marion
9 Drive -- 19 from the original application is
10 Marion Drive, and it's a parcel. I can define it
11 by the map. Do you have it?

12 THE WITNESS (Libertine): I do.

13 MR. TOOKER: So in reference to that --
14 and it's that upper right corner. It's maybe 10,
15 15 percent that you've identified kind of
16 encroaches in that area. If a site -- is that
17 consideration in that map, does that mean or
18 qualify that the entire parcel would be in your
19 opinion restricted?

20 THE WITNESS (Libertine): That's a very
21 good question. I wish I could give you a totally
22 accurate answer, but I'm going to try to give
23 you -- again, this is going to be my opinion. I
24 think we would have to revisit that with the
25 tribe. What I tried to do on this map was to give

1 some, I guess, reality to the fact that if you're
2 standing at the location of the stone pile that
3 was the significant feature that was first
4 identified by the tribe, they kind of made a very
5 broad general statement that, you know, from here
6 obviously a tower at Site A or our original Site
7 A, they felt was going to have an impact.

8 So I tried to use that methodology and
9 say, well, if we kind of use that, I kind of
10 excluded anything off of MacKinnon Place and
11 Seebeck Road just because those are small
12 residential lots. So that's kind of -- that was
13 more of a geopolitical boundary. I wanted to
14 include this site in question because I do have a
15 question in my mind as to what their reaction
16 would be.

17 So the map itself is not intended to
18 say that whole property is off limits, but in this
19 case I think we would have to go back to the
20 drawing board. And if there had been a proposal
21 on that site, my guess is that the tribe would
22 have fairly substantial interest in it and would
23 want to take a much closer look. So I'm sorry
24 that's not a real full answer yes or no, but this
25 is what we're dealing with unfortunately with the

1 tribes.

2 MR. TOOKER: Sure. And that answer or
3 that response is, and as well as the map, is a
4 basis to a visual impact that they would see from
5 the area that they said was in reference?

6 THE WITNESS (Libertine): That's their
7 contention, yes.

8 MR. TOOKER: So if they were looking
9 down, certainly that upper right-hand corner,
10 which is the highest elevation of Marion Drive, it
11 possibly could be seen, but as we go further away,
12 say, 600-plus feet away and heading down the hill,
13 it's very unlikely that they would be able to see
14 that?

15 THE WITNESS (Libertine): That is more
16 or less, yes, that's a very accurate statement.
17 Again, based on what we know today and, again,
18 using just some rules of thumb, and I think that's
19 a good one. Once you start, even in this thick of
20 forest, even with the leaves off the trees, once
21 you get 600 feet or so away, you really start to
22 lose any definition. And certainly it would not
23 eclipse the trees because it would be buried in
24 the trees. So again, that was more or less how I
25 really tried to encircle this area just to give a

1 general idea.

2 MR. TOOKER: Sure. Did the Mohegan
3 Tribe when they filed their adverse effect
4 determinations, did they specifically cite Site
5 19? Sorry for use of the word "site" two
6 different ways.

7 THE WITNESS (Libertine): No, they did
8 not. We did visit what we were calling site -- we
9 did not visit Site 19. We visited Site A, as well
10 as a few other sites that day. But because we
11 were there and their interest in Ancient Highway
12 and the fact that the town had asked us to
13 consider portions of that property where we're
14 indicating Site U, we said "We're here, do you
15 have a few minutes?"

16 So we walked down there. They also
17 found other features, and I wanted to point that
18 out on this map. The entire road they mentioned
19 had been significant to tribal movements
20 historically. And then one of the representatives
21 pointed out this serpentine stone wall on the
22 property that is off I guess I'll call it the
23 southwest shoulder of the hill where we've shown
24 Site U.

25 And so they didn't absolutely rule out

1 Site U at that time, but they made it pretty clear
2 that would be a pretty tough location for them. I
3 think anything further south where it's already
4 developed on that parcel, I think at that point
5 they -- well, I don't want to put words in their
6 mouth, so I'll leave it at that. My own personal
7 feeling is something that's been developed the way
8 that has been that they probably would not have
9 had the same level of concern just because of its
10 preexisting development.

11 MR. TOOKER: Although it's fair to say
12 from the sites they identified they would have had
13 a visual -- there would have been a visual impact
14 of that development?

15 THE WITNESS (Libertine): Yes, I think
16 that development itself is probably fairly visible
17 from the southern portions of Ancient Highway and
18 those properties.

19 MR. TOOKER: Now, as we understand it,
20 they were not asked their opinion on this, they
21 were brought in?

22 THE WITNESS (Libertine): In our case,
23 absolutely. And the reason it was, we have a
24 trigger, a federal trigger through the FCC under
25 the National Environmental Policy Act, and so any

1 facility that is proposed by a licensed carrier
2 goes through this particular process, unlike the
3 private development that is occurring to the south
4 where you don't have that regulatory threshold to
5 have to go through.

6 So similarly on Mr. Drabik's property,
7 if he was in position to want to develop that as a
8 single-family residence, there would be no
9 interaction with the tribe. That's one of the
10 peculiarities of what we face versus what private
11 developers face.

12 MR. TOOKER: Thank you. And one last
13 question. Did the applicant initiate that
14 investigation, or was that investigation initiated
15 outside of the applicants' control?

16 THE WITNESS (Libertine): With the
17 tribe?

18 MR. TOOKER: Yes.

19 THE WITNESS (Libertine): No, we
20 initiated that, yes.

21 MR. TOOKER: No more questions. Thank
22 you.

23 THE WITNESS (Libertine): Actually let
24 me just clarify that. We initiated the
25 consultation with the tribe and provided them the

1 information. They requested the on-site meeting,
2 which, of course, we obliged.

3 MR. TOOKER: Makes more sense. Thank
4 you.

5 THE WITNESS (Libertine): Thank you.

6 THE CHAIRMAN: You were going to
7 provide some coordinates. Were you able to get
8 them?

9 THE WITNESS (Wade Bettuchi): That's
10 what we've been trying to get from Google Maps,
11 but it's on the iPad so we're having a little
12 trouble. So if you'll indulge me to continue to
13 play around in here, I'll be happy to continue to
14 do that. It won't allow you to do it from a
15 mobile application, so I'm going to try logging on
16 to a laptop to get it from there.

17 THE CHAIRMAN: Because otherwise, if
18 it's going to take time to do it, I guess, as a
19 Late-File.

20 MR. FISHER: Sure.

21 THE CHAIRMAN: I'll give you a minute
22 or two.

23 MR. MERCIER: I can ask a question to
24 Mr. Libertine as we are waiting.

25 Mr. Libertine, regarding the

1 supplemental visual analysis, there were some
2 photos taken from the Orchards Development?

3 THE WITNESS (Libertine): Yes, sir.

4 MR. MERCIER: I was wondering if you
5 had any additional identification information
6 regarding each photo -- several of those photos,
7 since in two locations it's listed as Plum Tree,
8 so I was wondering if you had any other
9 identifying information?

10 THE WITNESS (Libertine): Sure. Yes.
11 And just as a precursor to this, it used to be our
12 standard methodology to actually list the
13 addresses. We moved away from that because we had
14 had some folks who didn't take kindly to having
15 their address published into the public domain,
16 and so that's why we have not done that. But I
17 did go through those, and I can give you --
18 actually photos 11 through 23 of that supplemental
19 filing occurred within the Orchards Development.

20 So if you'll indulge me, I can just go
21 through each photo and give you more or less the
22 rough address, specific addresses in a lot of the
23 cases.

24 MR. MERCIER: Sure.

25 THE WITNESS (Libertine): Photo 11 was

1 located on Partridge Court between 2 and 3
2 Partridge Court. Again, all these were taken from
3 the road. Number 12 was in front of 87 Arbor
4 Crossing, and in the foreground is 22 Peach Lane.
5 Thirteen is 94 Arbor Crossing. And I can provide
6 you this list, if you'd like. I didn't bring
7 multiple copies, but I do have it, if it would be
8 helpful.

9 Number 14 is 105 Arbor Crossing.
10 Number 15 is 111 Arbor Crossing. Number 16 is 35
11 Plum Hill. Seventeen is 31 Plum Hill. Number 18
12 is from 19 Plum Hill, and in the foreground is 21
13 Plum Hill. Number 19 is 5 Hickory Court. Number
14 20 is from an undeveloped parcel on Plum Hill that
15 I don't believe has a numerical value. It may be
16 0 Plum Hill on the books right now, but I'm not
17 sure of that, but it's an undeveloped parcel.

18 We're looking towards 1 Hickory Court.
19 Twenty-one was in front of 1 Hickory Court.
20 Number 22, 11 Plum Hill. We're looking towards 15
21 Plum Hill in that particular photo. And in Number
22 23 is from 375 Boston Post Road, which is the
23 nearest address.

24 MR. MERCIER: Okay. Thank you very
25 much.

1 THE WITNESS (Libertine): You're
2 welcome.

3 THE CHAIRMAN: Success?

4 THE WITNESS (Wade Bettuchi): Yes.

5 THE CHAIRMAN: Okay. We're all ears.

6 MR. TOOKER: Could I just ask a
7 follow-up question to that last one?

8 THE CHAIRMAN: Sure. Go ahead.

9 MR. TOOKER: 375 Boston Post Road you
10 say is the closest?

11 THE WITNESS (Libertine): I don't have
12 it right in front of me. I made these notes.
13 Hold on a second. That may be incorrect now that
14 I'm looking at that.

15 MR. TOOKER: I believe it is.

16 THE WITNESS (Libertine): Yes, that
17 last address is incorrect. I was looking at an
18 abutter's map, and it does get cut off, so it's
19 another parcel. But it's essentially at what I
20 guess I'll call the bottom or the southern end of
21 Plum Hill Road looking as you first come into the
22 development. So I guess it's -- I'm not sure what
23 the actual parcel designation is. That's wooded
24 next to where I took the photo. So I apologize.
25 Thank you for pointing that out.

1 MR. TOOKER: The photos that we
2 submitted encompass four of the abutting
3 properties, and those are in fact the closest
4 properties.

5 THE CHAIRMAN: Okay.

6 THE WITNESS (Lavin): Northeast corner
7 of the 0 Marion Drive parcel is 41.21.28 north,
8 72.13.38 west.

9 MR. TOOKER: Could I just read those
10 back just to make sure I wrote them correctly?

11 THE WITNESS (Lavin): Sure.

12 MR. TOOKER: 41.21.28 north; 72.13.38
13 west?

14 THE WITNESS (Lavin): That's correct.

15 MR. TOOKER: And that is where the
16 coverage study was done?

17 THE WITNESS (Lavin): For the latest
18 interrogatory, yes.

19 MR. TOOKER: For Marion Drive and the
20 comparable site location, we had also requested
21 that, just for clarification, which was the
22 comparable site that was mentioned in the
23 interrogatory filing. You identified it as Site
24 22, but we had asked for clarification on where
25 that --

1 THE WITNESS (Lavin): I don't know
2 exactly offhand where that was on the developed
3 property.

4 (Off record discussion.)

5 THE WITNESS (Lavin): A comparable site
6 was 28 Flanders Road. Coordinates are 41.21.25.7;
7 72.13.17 west. That's number 22 from the
8 application.

9 MR. FISHER: Just to clarify, that's
10 the site that is Site U in Michael Libertine's
11 reference, that's something that was called at one
12 point in time Site C. It's also referenced as
13 Number 22 in the original application. So I just
14 want to make sure that we're answering your
15 question. That's not the same coordinates for the
16 area that we studied in response to a question. I
17 think that was further south on that parcel -- or
18 in the cleared area on the parcel, whatever that
19 direction may be.

20 Does that answer your question?

21 MR. TOOKER: I'm not sure that it does.
22 It was Question 5, and it was about -- it was a
23 rather long response, Question 5. It was the
24 fifth paragraph, the last paragraph in response to
25 Question 5. It starts out, "Nonetheless, AT&T

1 subsequently," that paragraph. It's referenced in
2 there as "The highest point on that adjacent
3 property still did not provide adequate coverage."
4 There wasn't a coverage map that was provided for
5 that adjacent property, but we were requesting the
6 coordinates that the coverage was ran at to make
7 that comment.

8 MR. FISHER: Okay. Martin, do you
9 understand the nature of the question?

10 THE WITNESS (Lavin): It's looking for
11 the extreme southeast corner of 0 Marion Drive?

12 MR. FISHER: I think the question
13 actually is in reference to off site, and it was
14 when you were making a comparison in response to
15 interrogatories to something else that you had
16 studied.

17 THE WITNESS (Lavin): That reference,
18 near as I can tell, is in reference to the town's
19 expressed preference for the southeast corner of 0
20 Marion Drive, which Question 5 is asking about 0,
21 asking about Site 19.

22 MR. TOOKER: Do you have Question 5 in
23 front of you? And if you would look at that last
24 paragraph, the fifth paragraph there, that starts
25 out "Nonetheless, AT&T subsequently evaluated."

1 THE WITNESS (Lavin): Yes.

2 MR. TOOKER: I just want to make sure
3 we're talking about it because I don't think we --

4 MR. FISHER: We're not quite there, I
5 agree with you. So if I can just ask a follow-up
6 question and then I'll turn it back over to you
7 for cross-examination.

8 Martin, in this last paragraph in
9 response to 5, when you say "on another nearby
10 parcel," did you mean in the corner on the same
11 parcel?

12 THE WITNESS (Lavin): I think it is. I
13 hadn't read it that way originally, but I see what
14 you mean now. That paragraph is referring to the
15 extreme southeast corner because the town
16 expressed that was where, if they were to allow or
17 have a site at 0 Marion Drive, they would have it
18 in the southeast corner. I don't know what the
19 reference to the other parcel is, but this
20 paragraph refers to the extreme southeast corner
21 of the 0 Marion Drive parcel.

22 MR. FISHER: So the language here is a
23 little confusing. So it may be that -- are you
24 saying that you were referencing two locations
25 that you evaluated on the Marion site?

1 THE WITNESS (Lavin): The northeast
2 corner and the southeast corner.

3 MR. FISHER: And any reference you're
4 making to some other parcel is to Site Number 22
5 or other parcels?

6 THE WITNESS (Lavin): This paragraph,
7 the "50 and 65 feet lower," refers to the
8 southeast corner of that parcel. I don't know why
9 it says "on another nearby parcel." This
10 paragraph refers to two locations, both of them on
11 0 Marion Drive.

12 MR. FISHER: So maybe you want to
13 follow up with a question, but it seems like for
14 the record there needs to be a correction. It's
15 not "another nearby parcel." It's a location on
16 that parcel.

17 THE WITNESS (Lavin): It's another
18 location on the same parcel, yes.

19 MR. TOOKER: That answers the question.

20 MR. PERRY: But there was only one
21 reading on that parcel, right, and that's in the
22 north?

23 MR. TOOKER: At the coordinates you
24 provided.

25 THE WITNESS (Lavin): It wasn't

1 analyzed because it was further away and 65 feet
2 lower. If the first one did not cover, the second
3 one would not cover.

4 MR. TOOKER: The second one being the
5 one that the town recommended but not the one that
6 we questioned?

7 THE WITNESS (Lavin): The southeast
8 corner.

9 MR. TOOKER: The one that we questioned
10 was never run?

11 THE WITNESS (Lavin): The southeast
12 corner was never run, just due to lack of
13 elevation and --

14 MR. TOOKER: We didn't question the
15 southeast corner. I'm sorry. We questioned the,
16 as it was listed in the original application,
17 those coordinates refer to a location central in
18 that piece of land away from the aquifer
19 protection, away from --

20 MR. FISHER: I've got it now.

21 MR. TOOKER: It was never run in that
22 location. That's just what we're trying to -- the
23 town in their response to say run it at the lower
24 right-hand corner was not part of our questioning.

25 MR. FISHER: Yes, I completely

1 understand what your question is now. And just
2 with a little bit of leeway, I can explain, and
3 then you can follow up with other questions for
4 the witnesses.

5 So when a site search is done and
6 coordinates that you listed in the original
7 application, a lot of times those aren't
8 necessarily coordinates that were evaluated by the
9 RF engineer. They might have just been where the
10 pin drop was made by the site consultant who
11 identified the parcel as just a rough, those are
12 the coordinates for the location. If they're
13 studied by RF, then they're studied in more detail
14 with coordinates and the line of questions you
15 have.

16 So it may be in fact -- if I go back to
17 exhibit -- the site search summary, which is
18 behind Tab 2, those coordinates probably were just
19 the pin drop that was the site consultant putting
20 the pins on the map and what the coordinates were
21 for that pin drop just for a physical reference
22 point, not that it was the actual location studied
23 by an RF design engineer.

24 MR. TOOKER: Sure. Understood. It
25 turns out in this case it might actually be a nice

1 location too, but that's just a coincidence. So
2 it was a good pin drop.

3 MR. FISHER: Understood.

4 MR. TOOKER: Thank you.

5 So just to clarify, the highest point
6 on the adjacent property, the word "adjacent"
7 really shouldn't be there, and what you were
8 saying is the coordinates that you provided us,
9 that's what you're referring to there?

10 THE WITNESS (Lavin): Those are the
11 highest points on 0 Marion Drive.

12 MR. TOOKER: Thank you. No more
13 questions, Commissioner.

14 THE CHAIRMAN: Okay. Thank you, all.
15 Before closing this hearing, the Connecticut
16 Siting Council announces that briefs and proposed
17 findings of fact may be filed with the Council by
18 any party or intervenor no later than February 25,
19 2016. The submission of briefs or proposed
20 findings of fact are not required by the Council,
21 rather, we leave it to the choice of the parties
22 and intervenors.

23 Anyone who has not become a party or
24 intervenor, but who desires to make his or her
25 views known to the Council, may file written

1 statements with the Council within 30 days of the
2 date hereof.

3 The Council will issue draft findings
4 of fact, and thereafter parties and intervenors
5 may identify errors or inconsistencies between the
6 Council's draft findings of fact and the record.
7 However, no new information, no new evidence, no
8 argument, and no reply briefs without our
9 permission will be considered by the Council.

10 Again, copies of the transcript of this
11 hearing will be filed at the East Lyme Town
12 Clerk's Office.

13 I hereby declare this hearing
14 adjourned. And thank you all for your
15 participation. Drive home safely.

16 (Whereupon, the witnesses were excused,
17 and the above proceedings were adjourned at 2:22
18 p.m.)

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing 104 pages are a complete and accurate computer-aided transcription of my original stenotype notes taken of the Siting Council Meeting in Re: DOCKET NO. 463, APPLICATION OF AMERICAN TOWERS, LLC AND NEW CINGULAR WIRELESS PCS, LLC FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A TELECOMMUNICATIONS FACILITY LOCATED AT 351A BOSTON POST ROAD, EAST LYME, CONNECTICUT, which was held before ROBERT STEIN, Chairman, at Ten Franklin Square, New Britain, Connecticut, on January 26, 2016.



Lisa L. Warner, L.S.R., 061
Court Reporter

1 I N D E X

2	WITNESS GARY GOESCHEL	PAGE
3	EXAMINERS:	
4	Mr. Mercier	7
5	Mr. Ashton	11
6	Mr. Hannon	14,28
7	The Chairman	17,30
8	Mr. Fisher	18
9	Mr. Tooker	19
10	WITNESSES HARRY ROCHEVILLE	PAGE
11	CAMILO GAVIRIA	
12	JENNIFER YOUNG GAUDET	
13	KEVIN MASON	
14	DAN BILEZIKIAN	
15	MARTIN LAVIN	
16	KELLY WADE BETTUCHI	
17	EXAMINERS:	
18	Mr. Mercier	35
19	Mr. Ashton	37
20	Mr. Hannon	38
21	Mr. Tooker	40,96
22	Mr. Lynch	62
23	Mr. Fisher	70
24	Mr. Lynch	84
25		

1 I n d e x (cont'd)

2

3 WITNESS MICHAEL LIBERTINE PAGE

4 EXAMINERS:

5 Mr. Ashton 77

6 Mr. Hannon 79

7 Mr. Lynch 84

8 Mr. Tooker 85

9 Mr. Mercier 92

10

11 WITNESSES CRAIG TOOKER PAGE

12 RICHARD PERRY

13 EXAMINERS:

14 Mr. Mercier 68

15 Mr. Fisher 70

16

17 APPLICANTS' EXHIBITS

18 (Received in evidence)

19 EXHIBIT DESCRIPTION PAGE

20 II-B-9 Applicants' supplemental 34

21 information, received

22 January 19, 2016

23 II-B-10 Applicants' supplemental 34

24 responses to BHSO's interrogatories,

25 received January 19, 2016

1 I n d e x(cont'd)

2

3 TOWN OF EAST LYME EXHIBITS

4 (Received in evidence)

5 EXHIBIT DESCRIPTION PAGE

6 III-B-1 Town of East Lyme request for 7

7 party and CEPA intervenor status,

8 dated November 19, 2015, and attached

9 Exhibit A

10 III-B-2 Town of East Lyme's responses 7

11 to BHSO's interrogatories, dated

12 January 19, 2016

13

14 BHSO COMMUNITY CONSERVANCY EXHIBITS

15 EXHIBIT DESCRIPTION PAGE

16 IV-B-1 BHSO Community Conservancy request 68

17 for party and CEPA intervenor status,

18 dated December 8, 2015

19 IV-B-2 BHSO Community Conservancy's 68

20 responses to Council interrogatories,

21 dated January 15, 2016

22

23

24

25