



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Web Site: portal.ct.gov/csc

VIA ELECTRONIC MAIL

June 15, 2022

Steven J. Volkert
Site Acquisition Specialist
General Dynamics Wireless Service
2586 Industry Lane, Suite 100
Norristown, PA 19403
steven.volkert@gdit.com

RE: EM-AT&T-062-220426 – AT&T notice of intent to modify an existing telecommunications facility located at 360 Gaylord Mountain Road, Hamden, Connecticut.

Dear Mr. Volkert:

The Connecticut Siting Council (Council) is in receipt of your correspondence of June 13, 2022 submitted in response to the Council's May 26, 2022 notification of an incomplete request for exempt modification with regard to the above-referenced matter.

The submission renders the request for exempt modification complete and the Council will process the request in accordance with the Federal Communications Commission 60-day timeframe.

Thank you for your attention and cooperation.

Sincerely,

Melanie A. Bachman
Executive Director

MAB/CMW/emr

From: Volkert, Steven (NE) <Steven.Volkert@gdit.com>

Sent: Monday, June 13, 2022 12:47 PM

To: Fontaine, Lisa <Lisa.Fontaine@ct.gov>

Cc: CSC-DL Siting Council <Siting.Council@ct.gov>

Subject: Council Incomplete EM-AT&T-062-220426 AT&T Exempt Modification// CT5663// 360 Gaylord Mountain Road, Hamden CT Emergency Generator - Incomplete

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Good afternoon,

Please find the attachment with the Town of Hamden Planning & Zoning Commission approval #99-869. I will overnight a hard copy today to your attention.

Let me know if you'll need any further information to deem this application complete.

Thank you!

Steven J. Volkert
Site Acquisition Specialist
General Dynamics Wireless Services
2586 Industry Lane, Ste. 100
Norristown, Pa 19403
(318) 642-6190 phone
(856) 295-3005 cell

steven.volkert@gdit.com
www.gdit.com



TOWN OF HAMDEN
CONNECTICUT

TOWN CLERK
MAY 12 12 41 PM '99

Revised 7/12/99

MINUTES: The Planning and Zoning Commission, Town of Hamden, held a Public Hearing and Special Meeting on Tuesday, March 30, 1999, at 7:30 p.m. in Thornton Wilder Hall, Miller Library Complex. The following issues were discussed:

Commissioners in Attendance:

- Mr. Luppi
- Mr. Ajello
- Mr. Cesare
- Mr. Sims
- Mr. Pappas
- Mr. Crocco
- Mr. DelVecchio

Staff in Attendance:

- Mr. Stoecker, Town Planner
- Ms. Teixeira, Court Recorder
- Ms. Tobin, Commission Clerk

Mr. Luppi called the meeting to order at 7:30 p.m. and introduced the panel. Clerk Tobin read the agenda into the record.

A. Public Hearing

1. Special Permit/WS 99-866
2 Skiff Street, CDD-1 Zone
Proposed 96 multi-family units to house displaced
tenants of companion Site Plan 99-1200
Judy Gott, Agent for owner Mix Avenue LLC., Applicant

Mr. Stoecker said based on the public hearing that was previously opened and the comments of the Commissioners and Staff, he prepared an addendum to his report. The plans were revised and address the concerns of the Commission and Staff and show the proposed parking areas south of the existing building to be renovated, topography, grades, along with retaining wall details and drainage computations. Comments were received from the Engineering and Traffic Departments. It has been determined that construction plans would need to be submitted to the Engineering

office before construction activity commences. The Traffic Department noted that sight lines are 300' to the north, and unrestricted to the corner of Shepard and Dixwell, and are therefore adequate.

With the comments noted in his memo, Mr. Stoecker said the application is consistent with the Site Plan Objectives specified in Section 844 of the Zoning Regulations and meets the Special Permit Threshold Decision criteria specified in Section 826. Upon completion of the construction, the project should have no adverse impact on the health, safety and welfare of neighboring residents.

Tom MacDonald, the architect for the applicant, addressed the Commission. He said at the close of the previous meeting there was discussion on site distances. The applicant has met with the owner of the adjoining property, and in cooperation with the property owner they have removed some of the trees and brush that was in the way. Mr. MacDonald showed photographs showing the site distances. From the driveway to Shepard Avenue, you can see the cone to the north at a distance of 350'. Mr. Stoecker pointed out the revisions on the drawing. The retaining wall will be of reinforced poured concrete. There is a DOT type guardrail existing, and wheel stops will be installed.

There were no speakers in favor. Attorney James Perito, of Sussman Duffy and Segaloff, appeared on behalf of Mr. Esposito. As a property owner and tax payer Mr. Esposito has the right to express his opinion regarding this project. All notices regarding this application, including the agenda, the actual submission and Mr. Stoecker's comments, state that it is a companion project to the 2405 Whitney Avenue/41 School Street project. Mr. Esposito cares because as an abutting property owner (on School Street) he has appealed the height variance, zone change, and site plan approval of 2405 Whitney Avenue/41 School Street, the companion project.

Attorney Perito said he looked at the file today and noted that the applicant has submitted additional information on the site lines. He said Section 719 permits the Commission to allow multi-family development with minimum lot area per dwelling unit based on a formula for one and two-bedroom units. This is an existing office building proposed to be converted to multi-family, and would have been appropriately filed under Section 702, adaptive reuse to multi-family. Attorney Perito presented figures regarding the number of units permitted (Exhibit 1). The proposal is for 96 units, with the existing building housing 22 one bedroom and 19 two-bedroom units. The proposed building would provide 35 one-bedroom and 20 two bedroom units.

With the existing building square footage, under Section 702, they would be permitted to have 88 units. If the existing structure is not large enough, an addition is permitted. The regulations require that that addition cannot exceed 50% of the gross floor area of the existing building. Assuming the numbers are correct, the new structure could have 32,000 square feet. He feels the applicant should be using that calculation for this development.

Library Complex. The following issues were discussed.
The Special Permit application states Site Plan approval and Special Permit approval is required. If the Commission decides to grant the Special Permit, detailed construction plans should be incorporated into Site Plan approval. Attorney Perito also recommends a condition be imposed stating construction on this project can not be started until the hotel is completed and they are ready to move tenants out, to prevent the applicant from keeping it as an apartment building. He feels the density and unit calculations in section 702 should be adhered to.

Bernard Pellegrino, attorney for the applicant, said concerning Section 702, adaptive reuse, yes the applicant could have filed this application under that section. It was an option, and the applicant chose not to file under that section, nor was the applicant required to file under that section. The applicant chose a different section, 719, and the app had that right, because this property is zoned to permit multi-family and that section pertains to that type of use in that zone. He believes the computations presented comply with the section under which the application was filed.

Concerning the companion application, the applicant is concerned with tenants that exist in one property and would like to try to accommodate those tenants on this property, although the applicant does not have any obligation to accommodate those tenants, nor are the tenants obliged to move to this building. He does not believe the applications are tied together in any other way except for the applicants desire to accommodate those current tenants. The law would not permit the Commission to approve one application conditioned upon approval of the other application. He does not believe it is necessary to build a before b as they are two separate developments.

There were no further speakers, and Mr. Luppi closed the Public Hearing on application 99-866.

2. Special Permit/WS 99-869
360 Gaylord Mountain Road
Lot #2. R-2 Zone. 33.04 Acres
Proposed construction of 625' Tower for radio antenna
● ZBA Variance Granted July 17, 1998 under appeal
Property Owner: Estate of Helen Talmadge
Bernard Pellegrino, Attorney for Owner and
Clear Channel Communication, Applicant.

Mr. Luppi turned the meeting over to Peter Pappas to chair and recused himself from discussion and voting on this item. Mr. Pappas said this is a continuation of a meeting that was held three weeks ago, and the Public Hearing is still open. Mr. Pappas asked Mr. Stoecker to address the comments from last month. Mr. Stoecker said the meeting included a report that indicated the comments from the reviewing departments and agencies. The requirements of the Section 737 of the zoning regulations were addressed. The Special Permit Threshold Decision was discussed, and the reports in the file were indicated. The applicant presented for approximately 90 minutes, and due to time constraints, the meeting was continued.

Three letters of opposition were received by the Planning and Zoning Department. One addressed to Chairman Luppi, from David Gambardella (Exhibit 1) enclosed a letter to the Chairman of the FCC, mentioned the hardship presented at the ZBA meeting. The enclosed letter to Chairman Kennard of the FCC expressing their concerns, petitioned FCC to prohibit installation of the radio antenna tower. Another letter in opposition was received from Virginia and Werner Zukunft (Exhibit 2) and the third letter received by Planning and Zoning was from Barbara Gingarella (Exhibit 3).

Mr. Stoecker spoke with Mr. Rhinegold of the Connecticut Siting Council, who verified they do not have jurisdiction over radio towers.

Speakers in Favor:

Sgt. William Gibson of the Police Department, representing Chief Nolan, and Fire Chief Sullivan, has run central Communications for the past 14 years and always had problems in the north end of town, particularly where the tower is proposed, and also on the north side of Sleeping Giant. 7-8 years ago they put a receiver on the Bethany side of the Channel 8 tower, below the tree line, which was not much help to Hamden. When the new tower went up for Channel 8, they let them go a little higher, above the tree line, which was some improvement, but not really. This tower will be in a better location, and the town has been guaranteed the place of their choice on the tower. The new antenna will benefit the Police and Fire departments, as well as the townspeople. Sergeant Gibson said the Police and Fire Departments are in favor of this tower.

Commissioner Crocco asked if the service to Police and Fire is free of charge. Mr. Gibson said the town will pay only for the installation. Mr. Pappas said we have a letter presented at the first Public Hearing from the Police Chief stating they were in favor.

Diane Albertini, of 319 Russo Drive, asked Sgt. Gibson if they can communicate at all in that area now. Sgt. Gibson said there is communication, but with a mobil radio. When they are on portable, they have difficulty getting to a receiver site to be rebroadcast, creating dangerous situations for the officers. This will enhance the operation of the radio system. They have been searching for sites in the north end to put another receiver. They are most sparse in the north end of town.

Joanna Miller, of 39 Russo Drive said her portable telephones now pick up Channel 8. She is concerned that her reception will get worse. Mr. Gibson said the police use an old system and receiver sites are an integral part of that.

Werner Zukunft, 1333 West Woods Road, asked if the town pays anything on the Channel 8 tower, and Sgt. Gibson said no.

Mike Degally, 4 Hunting Ridge Road, asked if the problem was because of the placement or the antiquated system, and if it is the system and they plan to upgrade the system, the tower might not be necessary.

Sgt. Gibson said if they were to get a newer system, it would require more receivers. A replacement radio system would cost approximately 5 million dollars.

Richard Jaynes, 13 Broken Arrow Road, operates a nursery and Christmas tree farm, and the southwest corner of his property fronts on Gaylord Mountain Road. The owner of the property wishes to sell. Would neighbors rather have a tower or a housing development. He would rather have a tower, which is much less intrusive on the landscape regarding the removal of trees, etc. There was a tower very close to this site when he purchased this land in 1961, approximately 2/3 the height of the tower now proposed. They could see the beacon from their bedroom window. They had no concerns about the presence of a tower then or now. He considers the tower less of a threat than a single pool in someone's back yard.

Burton Talmage Jr., resides at 360 Gaylord Mountain Road, closest to the tower, and he grew up across the street. He doesn't see it as an issue. He feels it is good for the town, the open space will remain, and Gaylord Mountain Road will appear the same.

Diane Albertini, in response to Mr. Jaynes and Mr. Talmadge, said unless he plans to sell his house, devaluation of his house will not be of concern to him. Mr. Talmadge said most of the people speaking against purchased their property with the current tower existing.

Speakers opposed:

Frank Cochran, an attorney representing Sean and Laura O'Sullivan of 5 Hunting Ridge, close to the site in question, addressed the Commission. In the earlier hearing mention was made that variances were granted by the ZBA and those variances are presently on appeal, and he is the attorney handling the appeal. That appeal is ready for trial and will be tried on April 15th of this year. The variances granted by the ZBA were to four parts of Section 737 of the regulation. ZBA granted a variance of the height limitation of cell phone towers of 200' to allow 625'; two separate setback requirements; and a variance of a balloon test requirement. One of the comments read into the record was that the person did not know what sort of a hardship there was to grant the variances, and he is not asking this Commission to decide that the ZBA made a mistake, but the hardship was self created, because the applicant does not own an unsuitable piece of property that can't be used for anything. The chance of these variances being upheld on appeal is not very large. The ZBA did not vary the provisions of Section 412.3 or 416 of the regulations, relating specifically to R-2 zones. This was not a use variance. ZBA did not make a decision that Section 737 would allow a commercial radio tower in an R-2 zone. Theirs was a hypothetical decision, i.e. if a radio tower were allowed, the height variation would be allowed.

The Town Planner stated at the earlier hearing the fact of an appeal does not stay the usefulness of a variance. A variance has to be filed on the land records. If the appeal is sustained and the variance stricken, then this application could not be granted, and if the Commission chooses to proceed at all, they have two choices; denial w/o prejudice, and if the applicant prevails they could come back and reapply; or it could be granted with the condition that construction not take place until the appeal has been decided.

Attorney Cochran alluded before to whether the applicant has an option to purchase the real estate. Attorney Cochran said there have been three previous application numbers, but when he looked today there was no application in the file. The land records in Hamden have an option to purchase real estate dated 6/13/97, which grants an option for a period of one year and provides that it would terminate within one year, suggesting that there is no valid option today. (Exhibit 4)

The Town Planner in the previous hearing suggested that the license required the antenna be located in Hamden. He reviewed the license, which says nothing about that, and he is not aware of any such requirement of law.

An R-2 zone allows certain uses which include towers supporting personal wireless service facilities. This is not a tower supporting a personal wireless facility. This is a Commercial radio tower (§412.3 governs the R-2 zone). Definitions in section 737 do not include commercial radio facilities. Attorney Cochran also referred to Section 726 which allows certain public utilities and public uses, and this does not meet the normal definition of a public utility or public use.

If the Commission feels he is incorrect about that, he suggested they refer to Section 826, and people will comment as to how or why this application does not comply to those items. Property values is #1. There are a whole series of criteria, including compliance with the Plan of Development. This is a residential neighborhood. Is this Commercial facility in harmony with a residential neighborhood? The scale of the structure is vastly in excess of what is allowed for personal wireless service facilities. There has been comment about the WTNH tower, and he would suggest it is worthwhile to review some of the records relating to that. The initial WTNH tower was approved at a time when there was no height restriction applicable to that site, and the new tower was allowed to be built.

Attorney Cochran submitted his written comments and would be happy to answer any questions (Exhibit 5). He also presented a copy of the ZBA application for WTNH's tower, dated 5/22/95 (Exhibit 6). Attorney Cochran said Section 737.e has a number of documentation requirements, requiring proof that there are no other towers available to the applicant, and he does not feel what has been submitted by the applicant is sufficient.

William D'Agostino, an engineer, said he lives in the shadow of the proposed antenna. He is an inventor of a patented antenna, and very much opposed. His concerns are reduction in property value, gross eyesore, and a fault in the original presentation. He said FCC allows towers to be relocated, and does not require they stay within one mile of the old tower. This broadcast tower

can support other antennas. Everyone here has a variety of electric items in their house, with a Part 15 notice on them, devices which must accept interference. The FCC wants the buyer to beware. This is a residential community, and people have purchased their garage door openers, cell phones, etc. Approval will allow this tower, which once erected comes under the aegis of the FCC, and the residents lose their voice. They can put many other antenna on their tower. They are currently in violation, causing interference with the 15 meter band. They are not complying with good engineering judgment. Mr. D'Agostino has a petition which he has submitted to FCC, which he requested the town planner read into the record (Exhibit 7). Mr. D'Agostino said instead, he would present the highlights of his petition.

Attorney Pellegrino raised a point of order. He said this Commission is not the FCC, nor is the Commission able to judge whether FCC should approve or not. Obviously the owner would be obligated to accept the FCC's decision. The FCC decision is of no concern to this Commission.

Mr. D'Agostino said every Part 15 consumer device has a likelihood of failing, and it is unfortunate this radio station wishes to build in the middle of a residential area. Who will purchase these devices from the residents? There will be no recourse once the tower is allowed. Mr. D'Agostino referred to Mr. Jaynes' comments about the original tower. The issue regarding a violation of federal law right now shows a pattern of poor judgments in engineering. He feels they deceived the ZBA by saying they are forced by the FCC to build within one mile of the present tower. In summary, he does not think the station has done due diligence in finding a suitable location. This is not fair to residents of the area. WTNH is the oldest TV station in New England. It was built on farm lands and woodlands. Just because they were grandfathered and were there first, does not grant them the right to build another antenna in the area which is now built up with homes.

Sean O'Sullivan of 5 Hunting Ridge Road, has appealed the ZBA decision. He has two young children and feels they should not live so close to a tower. They moved to the area because it would not be dangerous, now it is going to be dangerous. He does not want his kids to be a statistic in the next 10-15 years. There are health concerns. He is prepared to do what he has to do to fight this.

Elisa Lupi, of 351 Gaylord Mountain Road, said she is not related to Chairman Luppi. She said the proposed tower is no more than a business proposition at the expense of the health of area residents. She mentioned radiation levels. She noted up to 24 antenna could be added to this tower. No one has mentioned the satellite dishes. She asked the board to consider the Y2K dilemma. She said there is no conclusive evidence that the radiation levels are harmless. Ms. Lupi said technology is new and advancing at such a high rate there are many unknowns. She said residents take responsibility for keeping their families safe and should not be subjected to more of these towers.

Rocco Carbone, 62 McDermott Circle alluded to earlier comments about the older tower (1961) when this was a farm area with no homes, and to a back yard swimming pool being more

dangerous than a tower. He said this is a preposterous comparison. They like to sit in their backyard and listen to birds and crickets, but when there is any small wind, all they hear is it whistle through the tower. Clear Channel has a tower park on Skiff Street. So much is unknown in this proposal regarding the future additions to this tower. He would support an antenna to help Police and Fire communications.

Jack Albertini of 319 Russo Drive seconds helping fire and police if an individual tower appropriate to the area was proposed. This tower amounts to the height of a 65 story building. His house faces Gaylord Mountain Road on Russo Drive, and he can see the tower lights in the distance, and hopes not to have any closer. Regarding adding equipment to the antenna, he believes this is the reason they are building the tower. The tower will diminish his enjoyment of his property, and how does he sell in good faith in the future if there are problems with interference.

Diane Nichols, of 9 Deer Hill Road, came here tonight to learn more about his proposal. The part of town they call home is really very special and dear to all of them. She knew the Channel 8 tower was there when she built her home, and she has had problems with cable reception. She urged the Commission to remember the citizens in the northern part of Hamden. They know what affect additional homes would have on the area, but do not know what this antenna will do. There are too many questions.

Randy Miller, of 580 Gaylord Mountain Road, mentioned the technical things Attorney Cochran went through. He said interference with radios and TVs is a fact and can only get worse. Those in favor will say there will be no impact on property values. Putting another tower up will not help property values. That is a special part of Hamden. Most of those talking against it moved there and were willing to overlook the old tower. The town of Bethany wrote a letter in opposition to the earlier proposal. The towers are very visible from I-91. Everyone is familiar with the towers on Meriden Mountain. This proposal is inappropriate and unfair, and a desecration of the skyline. It is over 1000% higher than allowed by zoning regulations. The protection of ridge lines and summits is addressed in a policy issued by DEP in 1997, encouraging people to be aware that these are cherished areas within the state and impact should be minimal. Regarding co-location on towers, Channel 8 has space on their tower. WKCI is there now. This transaction comes down to a business driven decision on the part of Clear Channel, with the potential for financial gain. He is adamantly opposed.

Ken Martin, 344 Sperry Road, Bethany, chairman of the Conservation Commission, speaking on behalf of Commission, said one of the state and environmental goals is the protection of ridge lines. The existing Channel 8 tower is very visible from the eastern half of the Town of Bethany, and Route 69 runs parallel to the ridge line. The towers are visible from Bethany and Woodbridge and effect more than just the Town of Hamden.

Edward Foote, of 535 Gaylord Mountain Road, is opposed. He asked the Commission to remember being out with their children and following search lights or lights. The Police Officer

spoke about his radio. Because towers attract people they might increase problems in the neighborhood.

Barry Collins, speaking on behalf of her husband and herself, live in Bethany on an extension of Gaylord Mountain Road. She is opposed because this would represent spot zoning. This is a commercial structure. The Channel 8 tower was approved in 1965. Zoning is a homeowner's best protection, and she is asking the Commission to consider Bethany residents. The Bethany zoning board has opposed two towers in the same immediate area. Cheshire only permits towers up to 100 feet and only in industrial areas, and only with approval. This is visual pollution. She asked the Commission to consider tower creep. Every tower they say does not set a precedent, does. This is the beginning of a steel forest or tower farm. Towers are hazards for area residents. Planes and helicopters zero in on the Channel 8 tower, and are ear splitting when they fly low. You can't see the lights from 100' away in fog. Towers attract lightening and collect and drop large chunks of ice in winter. Guide wires clank in high wind. The effects of electro magnetic radiation have not been proven or disproved, and the jury is still out. The legislative protection of the ridges has been mentioned. Geographically this is a continuation of the Cheshire-Prospect Ridge and West Rock Ridge, which have both been designated open space. Ms. Collins asked the Commission to deny this application.

John Scalzo, of 340 Russo Drive, has lived in the West Woods area for the last 15 years. He is against this application, especially for health reasons. He mentioned the Alice Peck School and West Woods School in the area, and the possible effect on the children. He also mentioned the effect on appliances and computers.

Applicant rebuttal:

Attorney Bernard Pellegrino, representing the applicant, Clear Channel, said regarding the ZBA court appeal, as Attorney Cochran indicated a court appeal does not stop this proceeding, and in fact he is of the opinion that the Commission would not be permitted to deny simply because a court appeal is pending, even if denying without prejudice. The scheduled hearing may or may not take place, and even after it takes place, the losing side could choose to appeal that decision, and this could go on for a long time. He believes they should continue with this hearing and decide it on its merits. Concerning hardship, that is the subject of the court case.

Concerning whether the applicant continues to have an option to purchase, yes they do. The current option has been extended and a copy of the extension was provided, for an additional year terminating on 6/13/99 (Exhibit A). Concerning whether a tower is a permitted use in this zone, Section 737.d of the regulations, Permitted and Exempted uses, he read from a., Towers are permitted in all zones subject to special permit and site plan approval. This was the subject of discussion with the Town Planner and Town Attorney, and in their opinions, this Section accomplishes what it says. Towers are permitted in all zones. Because of this section, approval would not constitute spot zoning.

Concerning the right of the public to be heard if other antennas were to be constructed on the tower, at the previous hearing that question was asked, and the Town Planner said another application, subject to a Public Hearing, would be warranted. If this is granted, no other antennas could be constructed unless the applicant applied to P & Z and a public hearing was held.

Concerning the history of this application and why the applicant is requesting a new tower to house its antenna, this was stated clearly in the previous hearing. The reason the applicant is going through the expense of constructing a new tower is they are being thrown off the existing tower. Concerning electronic interference and electro magnetic radiation, they were discussed in detail when questions were asked of Tom Ozenkowski, who is here and will answer questions of the Commission. Mr. Ozenkowski also presented a report. Property values were addressed by Mr. DePodesta at the previous hearing, and he is also in attendance. A report was also submitted by Mr. DePodesta.

Fred Beck, of 373 Joyce Road said earlier tonight people said that transmission towers were not allowed in this zone. Mr. Pellegrino states all towers are permitted. Mr. Stoecker read from Section 737 saying it was an umbrella regulation to address all tower facilities. Mr. Beck asked if that regulation covered receiving or transmission towers. Attorney Pellegrino referred the Commission to 737.d and just above it the definition of the word tower, which is defined as a lattice structure or monopole for transmission, receiving, and relaying, so the answer to the last question is both. The question regarding compliance with the Telecommunications Act of 1997, 737.b is titled Consistence with Federal Law, which Attorney Pellegrino read. That goes on to talk about co-location. Attorney Pellegrino said the only other tower that can accommodate this antenna is the existing Channel 8 where they are presently located. WTNH wishes this antenna to be removed from that tower, therefore this antenna needs another tower. It is considering building a tower, and has indicated in the previous meeting and as an exhibit which was entered into the record, the applicant has consented to permit other antennas to be located on this tower, thereby satisfying one of the main purposes of this regulation.

Felicia Tencza and Randy Miller, of 580 Gaylord Mountain Road, asked if documentation has been submitted indicating Channel 8 is throwing them off the tower. Attorney Pellegrino said the documentation was in the form of the lease renewal which is part of the record, and in that lease renewal there is a 6 month cancellation clause. WTNH can at any time and with six months notice, force his client to remove the antenna from their tower. In his opinion that is a very clear mandate that they don't want them on the tower. Mr. Miller said he does not know that that is necessarily unreasonable. Sean O'Sullivan said Channel 8 should be here to defend themselves. He read from Section 737A.9. If Channel 8 forces the applicant off of their tower, they jeopardize getting their own license renewed, if it is true that there are no other satisfactory sites they can go to. He feels Channel 8 is being falsely accused. Attorney Pellegrino said Channel 8 has refused to discuss this. The engineer of this radio station has mentioned to him waves and electronics, and perhaps this antenna is interfering with their antenna or others they might wish to put on the tower. A six month cancellation clause is not standard.

Barry Collins said it seems to her one ought to hear from the FCC about one of their lessees throwing another one off their tower and she feels that should be verified. Attorney Pellegrino said this is not a hearing before the FCC.

Jack Albertini of Russo Drive said this is an attempt to put up another tower to house other equipment. Ms. Collins mentioned other applications to put up towers on the Bethany side, which Bethany turned down.

Mr. Miller said at the time the Channel 8 tower was reconstructed, is it true WPLR put up a panel antenna on that tower? Attorney Pellegrino said this was discussed by Fred Santore in-house engineer for WKCI. At the time of the new tower's construction the Channel 8 purchased a panel antenna and offered cohabitation for a fee, and they felt they should be co-owner. There was no mutual agreement, and the corporation felt they would be throwing all their eggs in their competitor's basket, so they did not co-locate.

Mr. Crocco asked Mr. Pellegrino if his application was for one antenna plus police and fire, and did the Town Planner state that any other antenna applicant on that tower would have to appear before the Commission? Attorney Pellegrino said at the last meeting, when there were fewer people in attendance, two points that were brought up were free space for town agencies, police, fire, traffic control, public works, and compliance with FCC regulations, Title 47, part 1 and all other relevant sections.

Mr. D'Agostino if asked if the Commission was aware of "federal preemption" where the antenna is part of the FCC's jurisdiction, and this panel cannot prohibit an antenna on a tower that it has approved. Attorney Pellegrino said this is not a hearing before the FCC and he did not prepare for a hearing before the FCC, so that question is irrelevant. Mr. Santore said yes they had the ability to co-exist on the panel proposed by the other radio station, but the proposal was not one of sharing the panel, but of being a tenant of a competitor, which their company chose not to accept for business reasons.

John Scalzo asked would it not be cheaper for WKCI to put their own antenna on Channel 8's tower? Attorney Pellegrino said yes, a lot cheaper, and they also tried to discuss with WTNH, not only having a reasonable lease, without a 6 month cancellation clause, but also relocating their antenna to improve their service. No discussions were permitted.

Norma Luppi, of 76 Gaylord Mountain Road, said the land abutting this property is owned by Capital Cities Broadcasting Company. The land where the WTNH tower is located is owned by LWCI. There is still a foundation on that land that is owned by Capitol Cities that was built years ago for the original radio tower. If there is any kind of foundation or building that is still there, would that whole area still be considered for towers? Mr. Stoecker does not believe that is addressed in the regulations and does not believe it is pertinent to this application.

Ms. Collins asked if the Channel 8 additional antennas would go before the Commission. If they come under FCC regulations, they will never come before the Commission. Mr. Stoecker said no, since the new rule 737 was not in effect at that time. The new regulations were effective in January of 1998.

Joanna Miller asked if the dispute between Channel 8 and Clear Channel has gone to FCC. Ms. Miller said FCC encourages co-location of antenna structures to the extent technically feasible.

Attorney Pellegrino said if they want to put an antenna for another radio station, it seems to him it would go before FCC and not this commission. Mr. DelVecchio explained that this is a Special Permit being requested. As far as the FCC technicalities, we do not have those answers. Our Special Permit regulations require they come to us before adding antennas.

Attorney Pellegrino said the owner will agree to accept that as a condition, and the FCC cannot change that. The owner is saying irrespective of any FCC regulations, if anyone else wants to co-locate on the tower, they will have to come before this board.

Mr. D'Agostino agrees with Attorney Pellegrino regarding approval by this Commission, but if this Commission votes no, he can go to the FCC, who has total jurisdiction. Once the tower is up it is strictly FCC governed. Attorney Pellegrino said Mr. D'Agostino might be correct, but he has submitted nothing to substantiate anything he has said.

Ms. Collins said if the FCC would turn down the antenna, what is the point of saying the local Commission can say yes or no?

Mr. Ajello said the underlying action here is under appeal, but under the statutes it is within their right to bring in the application and have the board act on it.

Werner Zukunft of 1333 West Woods Road said if we approve the tower, and they go ahead and build it, and the court case goes against the prior ruling, would they have to tear it down? Mr. Stoecker said they would not go forward with construction without the ruling on the variance. Mr. Pappas explained that this is just one of the stages the applicant has to go through.

Mr. Beck asked if a bond would be posted and the Commissioners assured him they would be required to post a bond.

Mr. Pappas closed the public hearing on application Special Permit 99-869.

B. Special Meeting

1. Special Permit/WS 99-866
2 Skiff Street, CDD-1 Zone

Proposed 96 multi-family units to house displaced
tenants of companion Site Plan 99-1200
Judy Gott, Agent for owner Mix Avenue LLC., Applicant

Mr. Crocco mentioned recommendation 2.a. Mr. Stoecker said the time period in recommendation 5. should be changed to March 30, 2004.

Mr. Crocco mentioned the traffic mirror discussed by Mr. Ajello at the last meeting. Mr. Pappas said the Traffic Department and the photos showed site lines were not an issue.

Mr. DelVecchio made a motion to approve Special Permit/WS 99-866 subject to the following conditions. The proposal conforms to the basic site plan objectives specified in §844 of the Hamden Zoning Regulations. The application also meets the Special Permit Threshold Decision criteria specified in §826. Upon completion of construction, the project should have no adverse impact on the health, safety and welfare of neighboring residents.

The Special Permit must be recorded prior to the issuance of a zoning permit, and only after the conditions necessary for the zoning permit have been met.

1. **A zoning permit must be obtained prior to the commencement of work.**
2. **Prior to the issuance of a zoning permit the applicant must:**
 - a. *Submit revised construction plans at a scale of 1" = 20' to the Engineering Department for review and approval by the Town Engineer and Town Planner, if additional bonding is deemed necessary.*
 - b. **Provide a bond in an amount approved by the Town Engineer and Town Planner, if additional bonding is deemed necessary.**
3. **Sedimentation and Erosion controls should be properly installed, and inspected regularly and immediately after rainfall. They must be maintained and modified as necessary to ensure optimum performance. Erosion controls should be installed around any stockpiles of excavated material. The amount of exposed soil should be kept to a minimum and stabilized to the greatest extent possible to prevent erosion.**
4. **Refuse containers of an adequate capacity, which are emptied as needed by a carting service capable of meeting those demands, should be required and specified as part of any finalized plans. The solid waste dumpster should have a watertight cover and be plugged to prevent the release of any disposed liquids.**
5. **All site work must be completed by March 30, 2004.**

6. During construction, equipment maintenance should not be conducted on-site and all hazardous materials including, but not limited to fuel, oil, and paint should be stored within a secured secondary containment structure.
7. Waste material should be disposed of by a licensed waste transporter in accordance with all applicable federal, state and local regulations. Any hazardous materials should be stored indoors within secondary containment.
8. In accordance with §19-13-B102 (b) of the Connecticut Public Health Code, Regional Water Authority Watershed Inspectors are required to perform routine inspections of properties within public water supply watersheds and aquifers. RWA inspectors should be granted access to this property during the annual inspection program.

Mr. Sims seconded the motion. The vote was unanimous, in favor.

2. Special Permit/WS 99-869
360 Gaylord Mountain Road
Lot #2. R-2 Zone. 33.04 Acres
Proposed construction of 625' Tower for radio antenna
 - ZBA Variance Granted July 17, 1998 under appealProperty Owner: Estate of Helen Talmadge
Bernard Pellegrino, Attorney for Owner and
Clear Channel Communication, Applicant.

Mr. Pappas again took over as acting chair of the meeting for Mr. Luppi who recused himself.

Mr. Crocco asked about the conditions of approval. He feels some things should be added to the Town Planner's recommendations, such as a Special Permit is required for any new tenants going onto the tower; and Engineered drawings documenting the structural integrity of the tower should be submitted to the Town Engineer or Town Planner prior to a zoning permit being issued. Mr. Pappas suggested on page 5, #5, all site work must be completed by 3/30/2004. Mr. Crocco asked if in our approval should we include anything about the town using the tower free of charge. Mr. Pappas said that is an agreement between the applicant and the town, and not part of our approval.

Mr. Cesare asked if the Commission should find out more information regarding the FCC discussion. He asked if any other Commissioners share his concerns. Do we reserve the right to have a new applicant come before us, and if we deny, can they appeal to the FCC. Mr. Pappas feels we can go forward doing our job as P&Z on the parameters of P&Z, not the FCC.

Mr. Crocco made a motion to approve Special Permit WS/99/869, subject to the following conditions. The application meets the requirements of §737 of the Zoning Regulations.

The proposal conforms to the basic site plan objectives specified in §844 of the Hamden Zoning Regulations. The application also meets the Special Permit Threshold Decision criteria specified in §826. Upon completion of construction the proposal should have no adverse impact on the health, safety and welfare of the surrounding area.

1. The special permit must be recorded prior to the issuance of a zoning permit, and only after the conditions necessary for the zoning permit have been met.
2. Prior to the issuance of a zoning permit, the applicant must:
 - a. Provide a bond in an amount approved by the Town Engineer and Town Planner, if additional bonding is deemed necessary.
3. Sedimentation and erosion controls should be properly installed, and inspected regularly and immediately after rainfall. They must be maintained and modified as necessary to ensure optimum performance. Erosion controls should be installed around any stockpiles of excavated material. The amount of exposed soil should be kept to a minimum and stabilized to the greatest extent possible to prevent erosion.
4. Refuse containers of an adequate capacity, which are emptied as needed by a carting service capable of meeting those demands, should be required and specified as part of any finalized plans. The solid waste dumpster should have a watertight cover and be plugged to prevent the release of any disposed liquids.
5. All site work must be completed by March 30, 2004.
6. During construction, equipment maintenance should not be conducted on-site and all hazardous materials including, but not limited to fuel, oil, and paint should be stored within a secured secondary containment structure.
7. Adhere to all follow-up requirements and documentation included in §737 (Personal Wireless Facilities and Towers: Other Antennae and Satellite Dishes).
8. In accordance with §19-13-B102 (b) of the Connecticut Public Health Code, Regional Water Authority Watershed Inspectors are required to perform routine inspections of properties within public water supply watersheds and aquifers. RWA inspectors should be granted access to this property during the annual inspection program.
9. Any co-locators other than WKCI and town services must apply to Planning and Zoning for Special Permit approval, requiring a Public Hearing.

10. Engineered drawings documenting the structural integrity of the tower should be submitted to the Town Engineer or Town Planner prior to a zoning permit being issued.

Mr. DelVecchio seconded the motion. The vote was three in favor (Mr. Crocco, Mr. DelVecchio and Mr. Sims) and two opposed (Mr. Ajello and Mr. Cesare). Mr. Pappas, acting as chairman, did not vote.

Mr. Ajello made a motion to adjourn. Mr. DelVecchio seconded the motion. The meeting adjourned at 10:40 p.m.

Submitted by:


Gerry Tobin, Clerk of the Commission

TOWN OF HAMDEN
PLANNING AND ZONING COMMISSION

SPECIAL PERMIT NO: 99-869

THE HAMDEN PLANNING AND ZONING COMMISSION HEREBY GRANTS A SPECIAL PERMIT IN ACCORDANCE WITH SECTION 737 OF THE HAMDEN ZONING REGULATIONS TO PERMIT THE FOLLOWING USE: Lot #2

Construction of 625' Tower for radio antenna

AT THE PREMISES DESCRIBED AS FOLLOWS: 360 Gaylord Mtn Rd.
THE RECORD OWNER OF WHICH IS George/Burton Talmadge

THE APPLICANT FOR WHICH IS Clear Channel Broadcasting, Inc.

THIS SPECIAL PERMIT SHALL BECOME EFFECTIVE WHEN FILED.

THIS SPECIAL PERMIT IS GRANTED IN ACCORDANCE WITH A MOTION PASSED BY THE HAMDEN PLANNING AND ZONING COMMISSION AT ITS MEETING ON

April 24, 2000, AND IS SUBJECT TO THE FOLLOWING CONDITIONS AND/OR STIPULATIONS, IF ANY: see minutes

THIS SPECIAL PERMIT SHALL NOT BECOME EFFECTIVE UNTIL FILED ON THE LAND RECORDS OF THE TOWN OF HAMDEN DATED AT HAMDEN, CONNECTICUT THIS 19 DAY OF April, 2000. (PM)

PLANNING AND ZONING COMMISSION
TOWN OF HAMDEN

BY: Michael Crocco
CHAIRMAN *by Amanda Mana*

THIS IS TO CERTIFY THAT THIS IS A TRUE COPY OF THE SPECIAL PERMIT GRANTED, AS ABOVE INDICATED, AND IS ON FILE IN THE OFFICIAL RECORDS OF THE HAMDEN TOWN PLANNING AND ZONING COMMISSION.

PLANNING AND ZONING COMMISSION
TOWN OF HAMDEN

BY: Antoinette Oliveira
ANTOINETTE OLIVEIRA
PLANNING ADMINISTRATOR

Received for record APR 19 2001
at 9:29 AM at Hamden, CT

Dea A. Manson
Hamden Town Clerk