



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

www.ct.gov/csc

CERTIFIED MAIL RETURN RECEIPT REQUESTED

January 3, 2020

Kristen Motel, Esq.
Lucia Chiochio, Esq.
Cuddy & Feder, LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

RE: **PETITION NO. 1389** – New Cingular Wireless PCS, LLC (AT&T) petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed installation of a small cell wireless telecommunications facility on an approximately 34-foot Eversource-owned replacement utility pole located outside of the public right of way at the West Bank Shopping Center, 221 Post Road West, Westport, Connecticut.

Dear Attorney Motel & Attorney Chiochio:

At a public meeting held on January 2, 2020, the Connecticut Siting Council (Council) considered and ruled that the above-referenced proposal would not have a substantial adverse environmental effect, and pursuant to Connecticut General Statutes § 16-50k, would not require a Certificate of Environmental Compatibility and Public Need with the following conditions:

1. Approval of any minor project changes be delegated to Council staff;
2. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed within three years from the date of the mailing of the Council's decision, this decision shall be void, and the facility owner/operator shall dismantle the facility and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The facility owner/operator shall provide written notice to the Executive Director of any schedule changes as soon as is practicable;
3. Any request for extension of the time period to fully construct the facility shall be filed with the Council not later than 60 days prior to the expiration date of this decision and shall be served on all parties and intervenors, if applicable, and the Town of Westport;
4. Within 45 days after completion of construction, the Council shall be notified in writing that construction has been completed;
5. Any nonfunctioning antenna and associated antenna mounting equipment on this facility owned and operated by the Petitioner shall be removed within 60 days of the date the antenna ceased to function;



6. The facility owner/operator shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v;
7. This Declaratory Ruling may be transferred, provided the facility owner/operator/transferor is current with payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v and the transferee provides written confirmation that the transferee agrees to comply with the terms, limitations and conditions contained in the Declaratory Ruling, including timely payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v; and
8. If the facility owner/operator is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

This decision is under the exclusive jurisdiction of the Council and is not applicable to any other modification or construction. All work is to be implemented as specified in the petition dated November 15, 2019.

Enclosed for your information is a copy of the staff report on this project.

Sincerely,



Melanie A. Bachman
Executive Director

MAB/RDM/lm

Enclosure: Staff Report dated January 2, 2020

- c: The Honorable Jim Marpe, First Selectman, Town of Westport
Mary Young, Director, Planning & Zoning, Town of Westport



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Petition No. 1389

New Cingular Wireless PCS, LLC

Small Cell Facility

221 Post Road West, Westport

Staff Report

January 2, 2020

Introduction

On November 18, 2019, the Connecticut Siting Council (Council) received a petition (Petition) from New Cingular Wireless PCS, LLC (AT&T) for a declaratory ruling, pursuant to Connecticut General Statutes (C.G.S.) §4-176 and §16-50k, for the proposed installation of a small cell wireless telecommunications facility (Project) at 221 Post Road West, Westport, Connecticut. The small cell installation would be installed on a new utility pole that would replace an existing Eversource-owned utility pole (Project) that supports parking lot lighting. The proposed facility would provide additional coverage and capacity relief in the central portion of Westport.

On September 26, 2019, AT&T notified property abutters and the Town of Westport (Town) of its intent to file an application for approval of the Project to the Public Utilities Regulatory Authority (PURA). At the time of AT&T's notice to the abutters and Town, AT&T believed the existing utility pole (#19468) was within a public right-of-way, and thus subject to PURA's jurisdiction, as set forth in its decision in PURA Docket No. 16-06-38 dated December 14, 2016. AT&T did not receive any comments from the abutters or the Town.

Subsequent to AT&T's notice to the abutters and Town, AT&T determined that the existing utility pole was located on private property and not within a public right-of-way, and thus subject to the Council's jurisdiction, rather than PURA's jurisdiction.

On November 19, 2019, the Council sent correspondence to the Town stating that the Council has received the Petition and invited the Town to contact the Council with any questions or comments by December 18, 2019. The Council has not received any comments to date.

Jurisdiction

Pursuant to CGS §16-50i(a)(6), the Council has exclusive jurisdiction over telecommunications towers, including associated equipment, owned or operated by the state, a public service company or a certified telecommunications provider, or used in a cellular system.

Under Regulations of Connecticut State Agencies §16-50j-2a (30), "Tower" means a structure, whether free standing or attached to a building or another structure, that has a height greater than its diameter and that is high relative to its surroundings, or that is used to support antennas for sending or receiving radio frequency signals, or for sending or receiving signals to or from satellites, or any of these, which is or is to be:

(A) **used principally to support one or more antennas** for receiving or sending radio frequency signals, or for sending or receiving signals to or from satellites, or any of these, and



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(B) owned or operated by the state, a public service company as defined in Section 16-1 of the Connecticut General Statutes, or a certified telecommunications provider, or used in a cellular system, as defined in Section 16-50i(a) of the Connecticut General Statutes. (Emphasis added).

The proposed utility pole will be used principally to support the small cell facility rather than to provide electric distribution service. It will be owned by Eversource, a public utility, and it will be operated by AT&T, a certified telecommunications provider. Thus, the Council has jurisdiction over the proposed small cell facility.

Proposed Small Cell Facility

The proposed small cell facility consists of a canister antenna that would be installed on a replacement wood utility pole located in a landscape island in the center of a shopping plaza parking lot. The existing wood pole extends to a height of approximately 25 feet above ground level (agl) and supports an overhead power line and two arch-style parking lot lights. The utility pole is located approximately 50 feet east from Post Road West.

The wood replacement pole would extend to a height of 34 feet agl. A single canister antenna, 10 inches in diameter by 24.9 inches high, would be mounted on top of the pole, with the top of the antenna extending to a height of 37 feet agl. The two lights on the existing pole would be re-located to the replacement pole.

AT&T would attach a 23-inch long by 15-inch wide by 39-inch high equipment cabinet on the pole, at a minimum height of 11.5 feet agl. A small meter box and a switch box would be mounted on the pole below the cabinet at a minimum height of 8 feet agl. Coax and fiber lines serving the antenna and equipment cabinet would be attached to the exterior of the pole, installed within polyvinyl chloride (PVC) conduit or protected by U-Guard plastic covering. Electric and telephone service to the small cell would be determined at a later date based on in-field conditions.

Public Safety

No backup power is proposed for this small cell facility. Commercial Mobile Radio Service (CMRS) providers are licensed by and are under the jurisdiction and authority of the FCC. At present, no standards for backup power for CMRS providers have been promulgated by the FCC. Every year since 2006, AT&T, and other wireless carriers, have certified their compliance with the CTIA Business Continuity/Disaster Recovery Program and the Communications Security, Reliability and Interoperability Council standards and best practices to ensure network reliability during power outages.

The calculated power density would be less than one percent of the applicable limit using a -10 dB off-beam adjustment. A radio frequency warning sign would be placed on the equipment cabinet in accordance with Institute of Electrical and Electronic Engineers standards.

The Project would be constructed in accordance with the 2015 International Building Code, 2017 National Electric Code, 2018 Connecticut State Building Code, and the American National Standards Institute "Structural Standards for Steel Antenna Towers and Antenna Support Structures" Revision G.

Environmental

The Project is located within a parking lot landscape island. No trees would be removed. Soil erosion and sedimentation control measures would be implemented during construction.

The Project site is not within a designated flood zone.

The Project site is zoned General Business District. The replacement pole and proposed small cell facility would be consistent with existing utility infrastructure in the surrounding area.

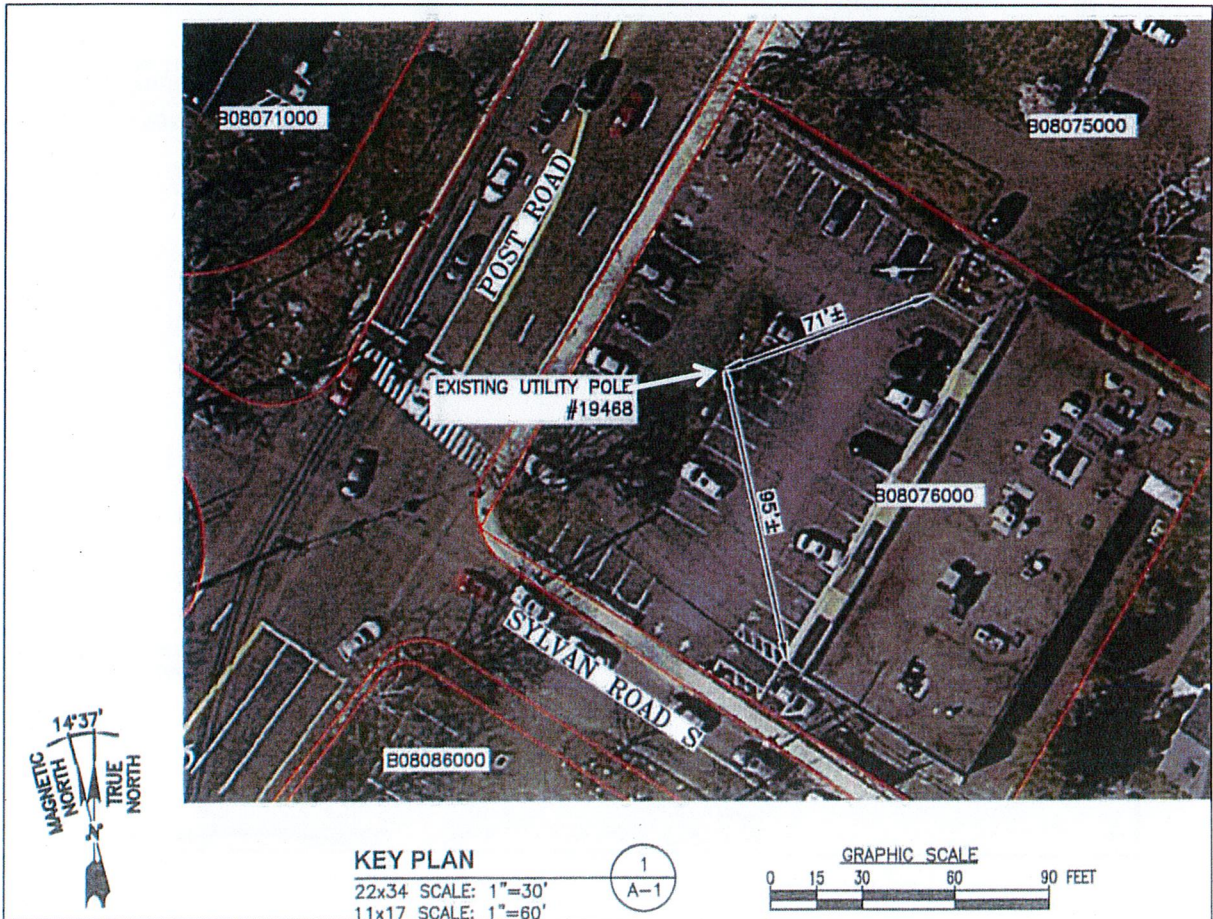
Conclusion

AT&T contends that this proposed project would not have a substantial adverse environmental impact.

If approved, staff recommends the following condition:

1. Approval of any minor project changes be delegated to Council staff.

Project Location



Project Plan

