



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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

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www.ct.gov/esc

CERTIFIED MAIL RETURN RECEIPT REQUESTED

February 15, 2019

Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103

RE: **PETITION NO. 1358** - Cellco Partnership d/b/a Verizon Wireless 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 a new approximately 34-foot Eversource-owned utility pole that is not used principally for electric distribution service located in a public right-of-way adjacent to 53 Goodwives River Road, Darien, Connecticut.

Dear Attorney Baldwin:

At a public meeting held on February 14, 2019, 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 Darien;
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 December 4, 2018 and additional information received on December 24, 2018.

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

Sincerely,



James J. Murphy, Jr.
Acting Chairman

JM/MP/lm

Enclosure: Staff Report dated February 14, 2019

c: The Honorable Jayme J. Stevenson, First Selectman, Town of Darien
Kathleen Clarke Buch, Town Administrator, Town of Darien
Jeremy Ginsberg, Planning & Zoning Director, Town of Darien



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Petition No. 1358

Cellco

Goodwives River Road, Darien

Small Cell Facility

Staff Report

February 14, 2019

Introduction

On December 6, 2018, the Connecticut Siting Council (Council) received a petition (Petition) from Cellco Partnership d/b/a Verizon Wireless (Cellco) 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 a new approximately 34-foot utility pole that will not be used for electric distribution service in a public right of way (ROW) adjacent to 53 Goodwives River Road, Darien, Connecticut.

Cellco's existing "Darien" cell site at 126 Ledge Road currently provides wireless service (coverage) to the area around the proposed facility. However, Cellco is currently experiencing a significant capacity problem with its Beta Sector antennas at the existing Darien cell site.

Notice was provided to the Town of Darien (as both the host municipality and the ROW owner) and the immediate adjoining property owners on or about December 4, 2018. On December 11, 2018, the Council sent correspondence to the Town of Darien (Town) stating that the Council has received the Petition and invited the municipality to contact the Council with any questions or comments by January 5, 2019.

The Council submitted interrogatories to Cellco on December 14, 2018. Cellco responded to the Council's interrogatories on December 20, 2018.

A field review of the proposed project site occurred on December 27, 2018. Council member Larry Levesque; Michael Perrone of the Council staff; Kenneth Baldwin, Esq., Robinson & Cole LLP (representing Cellco); Liz Glidden, Cellco; and Rachel Gillin, adjoining landowner at 53 Goodwives River Road, attended the field review.

By letter dated January 5, 2019, Darien First Selectman Stevenson objected to the proposed small cell facility due to public safety concerns posed by the installation of small cell technology in close proximity to homes and the installation of the new utility pole small cell facility on an unusually narrow and winding roadway. Attached to the First Selectman's correspondence is a letter from Ms. Gillin, dated January 2, 2019, with concerns about the proposal related to site search, need, visual impacts, traffic site lines, and radio frequency emissions.¹ A copy of the Town's January 5, 2019 correspondence and Ms. Gillin's January 2, 2019 correspondence is attached hereto.

On January 17, 2019, pursuant to CGS §4-176(e) of the Uniform Administrative Procedure Act (UAPA), which requires an administrative agency to take action on a petition within 60 days of receipt, the Council voted to set the date by which to render a decision on the above-referenced petition as no later than March 6, 2019 to allow Cellco to consult with Ms. Gillin and the Town. March 6, 2019 is the 90-day deadline for a decision for review of an application for attachment of a small wireless facility using a new structure mandated by the Federal Communications Commission (FCC) in its Declaratory Ruling and Third Report and Order adopted on September 26, 2018.

¹ Ms. Gillin submitted the same correspondence to the Council on January 5, 2019.

mandated by the Federal Communications Commission (FCC) in its Declaratory Ruling and Third Report and Order adopted on September 26, 2018.

Since the field review on December 27, 2018, Cellco has been in consultation with Ms. Gillin and the Town to answer questions regarding the proposal and Cellco's site search that resulted in the proposed facility location. No changes to the proposed facility are proposed at this time as a result of the consultations.

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

(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 Cellco, a certified telecommunications provider. Thus, the Council has jurisdiction over the proposed small cell facility.

Proposed Small Cell Facility

Cellco proposes to provide capacity relief by establishing a new small cell wireless facility along Goodwives River Road. The proposed facility would provide wireless service in Cellco's 2100 MHz frequency range only. Specifically, Cellco would install a small cell antenna on the top of a wood pole to be owned by Eversource. Cellco has a master pole attachment license agreement with Eversource to install antennas on electric distribution poles.

Cellco's proposed wood pole would have a height of approximately 34 feet above ground level (agl)² and be located in the Town's road ROW on the west side of Goodwives River Road, adjacent to 53 Goodwives River Road. A canister antenna would be installed on top of the pole that would reach a maximum height of approximately 37.4 feet agl. Cellco's equipment would attach to the south side of the pole and extend radially/vertically a maximum of about 12 inches from the side of the pole. Specifically, a remote radio head and power supply would be attached to the pole at an elevation of approximately 12 feet agl. A service disconnect box would be attached to the pole at approximately 8.5 feet agl.

Electrical and telephone service would be run overhead from an existing pole on the opposite side of Goodwives River Road (adjacent to 48 Goodwives River Road) and would attach to the proposed pole at an

² The proposed wood pole would be approximately 40 feet in length. Approximately six feet would be buried, and approximately 34 feet would extend above grade.

elevation of approximately 29 feet agl. A two-inch polyvinyl chloride (PVC) conduit would be attached to the pole and would run from the utility attachment to Cellco's equipment.

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, Sprint, T-Mobile, and Verizon 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.

Public Safety

A Professional Engineer duly licensed in the State of Connecticut has certified that the proposed pole would be structurally adequate to support the proposed loading.

The calculated power density would be 2.9 percent of the applicable limit using a -10 dB off-beam adjustment.

Notice to the Federal Aviation Administration is not required.

Environmental

The proposed facility would not be located within a 100-year or 500-year flood zone. The nearest wetland and watercourse are associated with the Goodwives River, located approximately 165 feet to the west-northwest of the proposed facility.

The proposed pole would be buried about 6 feet into the ground. Based on the ground elevation and the underlying well-drained to excessively well-drained soils, Cellco does not anticipate that groundwater would be encountered by Eversource during the installation of the pole. The proposed project would not be located within a Connecticut Department of Energy and Environmental Protection (DEEP)-designated Aquifer Protection Area.

The proposed facility would comply with DEEP Noise Control Standards.

The proposed project would not be located within the shaded area of DEEP Natural Diversity Database.

No tree removal is required for the proposed project.

The site is located within Darien's One Family Residential (R-1) Zone. The surrounding land use is single-family residential. The nearest residence to the proposed small cell facility is 53 Goodwives River Road, which is approximately 75 feet to the northwest of the proposed facility site.

While there are residences located on both sides of Goodwives River Road, the visual impact is not expected to be significant due to the maximum height of the facility being less than eight feet taller than the existing approximately 30-foot agl Eversource poles located in the vicinity. While the proposed pole may initially have a slightly different color than the existing poles, the pole would "weather" and eventually match the color of the existing poles for visual consistency. No ground equipment compound would be necessary because all equipment would be attached to the new pole.

Facility Construction

Eversource would be responsible for the installation of the new pole and would typically perform such work during the day. Once the pole is set, Cellco would be responsible for the installation of the small cell antenna and related equipment. Installation of the small cell equipment, including electrical connections, is typically completed in about eight hours and would occur during daylight hours.

Conclusion

Cellco 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.

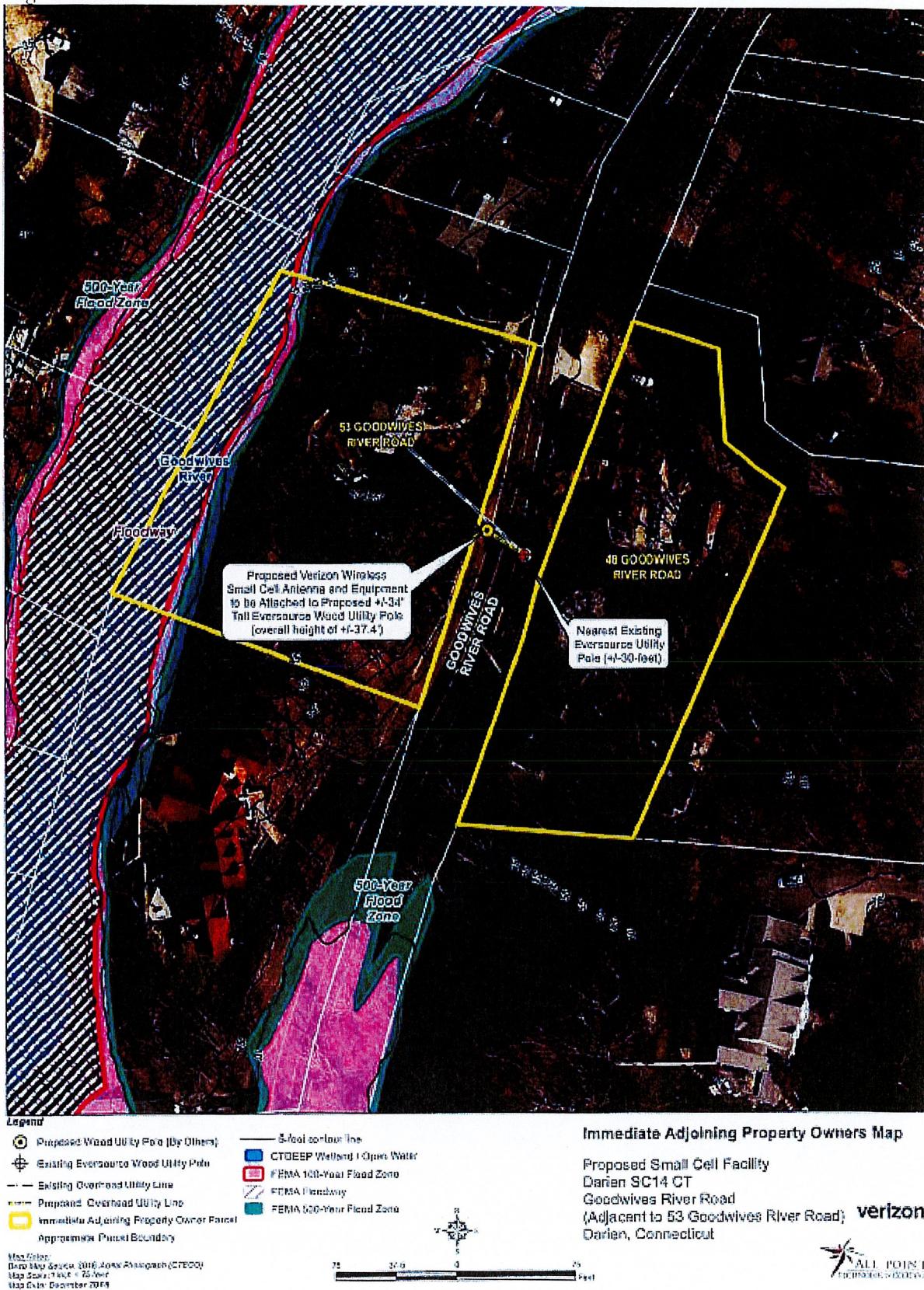


Figure 1. Proposed Site Plan

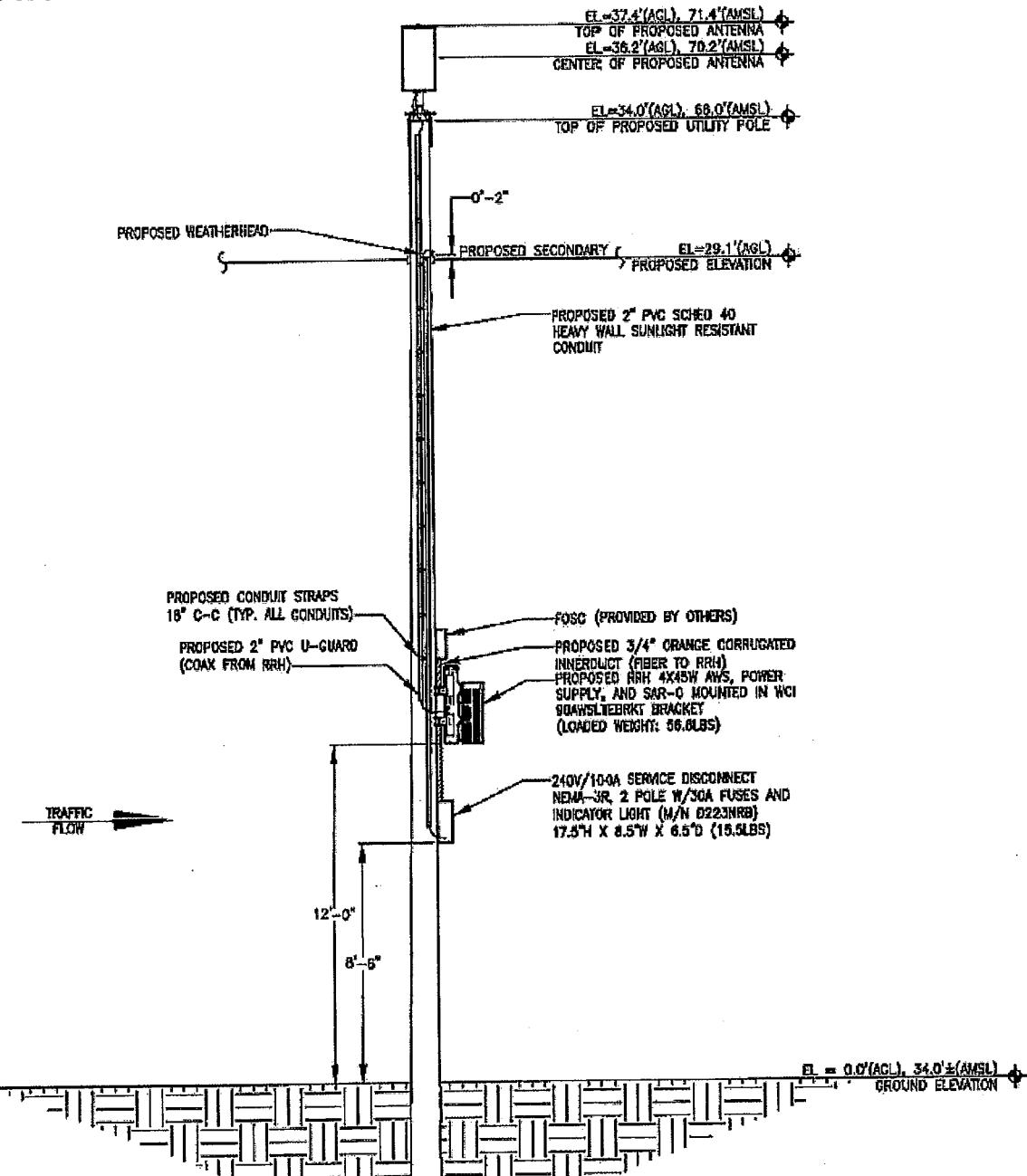
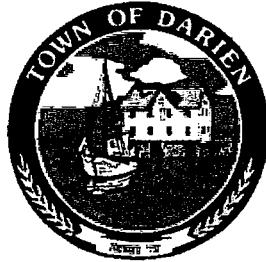


Figure 2. Proposed Small Cell Facility Elevation Drawing.



TOWN OF DARIEN

OFFICE OF THE SELECTMEN

JAYME J. STEVENSON
FIRST SELECTMAN

CHARLES A. KOONS
SUSAN J. MARKS
PAMELA H. SPARKMAN
MARC E. THORNE

KATHLEEN CLARKE BUCH, CPFO
TOWN ADMINISTRATOR

January 5, 2019

Melanie A. Bachman
Executive Director
State of Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

RE: *Town of Darien Objection to Petition No. 1358* – Celco Partnership d/b/a Verizon Wireless petition for declaratory ruling, pursuant to Connecticut General Statutes S4-176 and S16-50k, for the proposed installation of a small cell wireless telecommunications facility on a new approximately 34-foot Eversource-owned utility pole that is not used principally for electric distribution service located in a public right-of-way adjacent to 53 Goodwives River Road, Darien, Connecticut

Dear Director Bachman,

In accordance with Connecticut Siting Council procedures, I am filing a formal objection, on behalf of the Town of Darien, to the above referenced Petition No.1358. My objections join and sustain objections (attached) you have received from abutting neighbors at 53 Goodwives River Road (Rachel and Bradley Gillin) and 48 Goodwives River Road (Andrea and James Bonfils). Specifically, I object due to public safety concerns posed by the installation of small cell technology in close proximity to homes and of new utility pole, only for small cell infrastructure, on an unusually narrow and winding roadway.

As Darien's First Selectman, I would like to ask for a meeting with representatives from Celco and the Siting Council, if appropriate, for me and my staff to be presented a detailed plan for addressing the alleged "capacity problems" of Celco's existing Ledge Road tower site. Working closely with the Town of Darien to collaborate on a more comprehensive solution will yield the best result for our community and help avoid future objections.

We understand the Connecticut Siting Council has exclusive jurisdiction over this proposal but we urge you to deny this petition in favor of finding a better long term solution to the Ledge Road Tower capacity problems.

Respectfully,

Jayme J. Stevenson
First Selectman, Town of Darien

CC: Mr. and Mrs. Bradley Gillin, 53 Goodwives River Road
Mr. and Mrs. James Bonfils, 48 Goodwives River Road
Tracey V. Alston, Community Relations Specialist, Eversource
Jeremy Ginsberg, Planning & Zoning Director, Town of Darien
Edward L. Gentile, Jr., P.E., Director of Public Works, Town of Darien
Kenneth C. Baldwin, Robinson & Cole LLP

January 2, 2019

Mrs. Jayme Stevenson
First Selectman
2 Renshaw Road, Room 202
Darien, CT 06820

Dear Mrs. Stevenson,

Permit me to share my concerns regarding the proposal to install a small wireless telecommunications facility on Goodwives River Road (GRR), so that they may be taken into consideration prior to the expiration of your window to submit comment. As you are aware, Eversource is looking to install a new pole on a narrow strip of town-owned land in front of 49 and 53 GRR, opposite pre-existing utility poles on the north side of the roadway. This new pole would then be leased to Cellco (Verizon) for installation and operation of the related small cell tower facility equipment. Verizon is petitioning the Connecticut Siting Council for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required. The Council provided materials to your office and to Planning and Zoning on 12/11/18 and is accepting comments until 1/5/19. A site inspection held in front of my property on 12/27/18 was attended by a representative from Verizon and their Counsel (Ken Baldwin) as well as an attorney and a representative from the Siting Council. While there was no representation from the town of Darien, I was able to attend and had an opportunity to ask questions, the responses to which give way to concerns I would like to address to you.

Upon request, Attorney Baldwin provided a listing of approved small cell sites throughout the town. There are a total of ten over the past 19 months, each currently awaiting installation; locations are marked on Exhibit A. Section II of Verizon's petition details a "significant capacity problem" at the existing Ledge Road cell site, noting installation of a small cell facility at GRR would provide capacity relief. This language is very vague and unspecific, yet was reiterated by Attorney Baldwin who stated the proposed location would provide needed relief to the area south of the Ledge Road location. If this is indeed accurate, why is it that petitions for other previously approved sites located south of Ledge road note this same problem and corresponding mitigation? As an example, the Darien SC17 site approved over a year ago on 10/11/17 (and still awaiting construction) is 0.86 miles south of the GRR location. Are we to believe an addition on GRR would fully mitigate this "capacity problem" or is it likely that many more petitions will follow? If history is any indication, I anticipate the latter as one Tokeneke neighborhood will soon be home to a cluster of five small cell facilities located within a third of a mile radius from one another (SC5, SC6, SC7, SC12, SC16)? With that in mind, to what extent is Verizon being held accountable for providing a detailed overview of the full scope of the mitigation plan needed to fully address their stated "capacity problem"? I question the authenticity of Verizon's assertion that these small cell facilities are being undertaken "to provide customers and emergency service providers with enhanced and more reliable wireless, voice and data services in the vicinity of the Facility" and fear this argument is an attempt to fear-monger municipalities and abutting property owners into acceptance of these installations. Responses provided to the Siting Council by Verizon on 12/20/18 note installation of the related equipment takes approximately 8 hours. If they are so critical to fixing Verizon's capacity problem and if we are truly less safe without this equipment, I would like to know why not a single one of the ten approved Darien sites have been implemented since initial approval 19 months ago (Darien SC19, 41 Wee Burn Road approved 5/24/2017).

As the meeting attendees discussed the target installation site of a new utility pole, I asked how common it was for new utility poles to be erected for the sole purpose of housing telecommunications equipment. Verizon's Counsel indicted it is highly usual as this proposed site would be the first small cell instance Darien, and the second instance in the entire state of CT he's aware of, requiring installation of a new utility pole. With that in mind, I ask that you consider the effect legislation has already had on the ability of local municipalities to maintain unencumbered jurisdiction over town-owned land. Enabling

extension beyond the pre-existing footprint of the public utility infrastructure to support this newer small cell technology sets a dangerous precedent in our municipality, paving the way for telecommunications companies to broaden their footprint as newer technology dependent on close range installations becomes available. If the expansion pace of small cell facilities continues, and should a new precedent be set in Darien to allow utility companies to expand the scope of their pre-existing footprint at will, please consider how ongoing insertion of brand new structures stands to change the face of our natural landscape. Section III-A1 of Verizon's petition states it "will not involve a significant alteration in the physical and environmental characteristics of Goodwives River road" and section III-A2 notes the visual impacts will be "minimal and limited". Having visited the Rowayton SC5 installation, I disagree with these assertions: Verizon is proposing installation of a utility pole, a canister antenna, radio equipment and electrical equipment (and presumably fiber optic connections, coaxial cables and a disconnect device). All are structures which currently do not exist directly along my property line, are not visually appealing, and are not naturally occurring in our surrounding environment.

Beyond this concern, and as an abutting property owner, I would also note the sections of roadway leading up to the hillcrest at 53:49 GRR have long been a safety concern as cars regularly drive well above the posted speed limit up and down this access way. The desire of local residents for installation of a speed bump isn't feasible given lack of the requisite yardage of clear sight. In the absence of a bump, there is no deterrent to slow cars down as they approach the summit of the hill, the grade of which is too steep to provide a view to the other side. To add a further obstruction just beyond the hillcrest on the southern side of this already narrow, winding roadway with many twists and turns seems to inject added risk to those frequenting, and living along, this roadway.

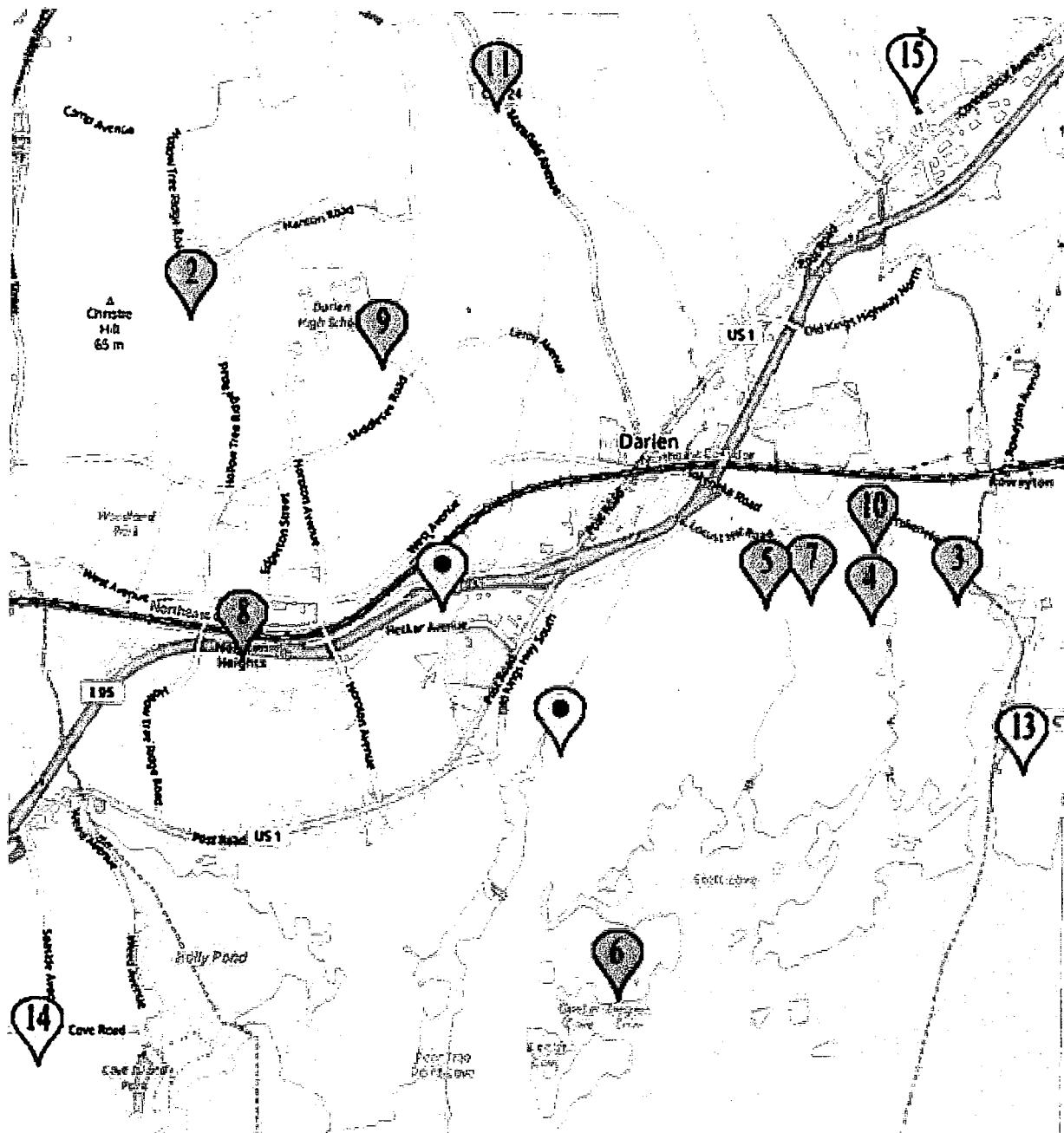
Lastly, when asked if there were any risks to abutting property owners Verizon was aware of (specific to this proposal), Liz Glidden of Verizon quickly responded there were no risks Verizon was aware of. Her response was astounding as risk-free transactions in this day and age are unheard of. In contrast, her Counsel Attorney Baldwin quickly stated there were no *significant* risks. When I then asked that Attorney Baldwin consider *any* risk, regardless of calibration, he would not commit to a specific answer and simply referenced the results of Verizon's internally prepared calculations which show adherence to FCC guidelines for maximum levels of radio frequency exposure. As our discussion continued, Attorney Baldwin also noted small cell facilities have only been in prevalent use by Verizon for the past 3.5 years. This limited period hardly seems sufficient to study the long-term health effects of small cell radio frequency exposure on those living in direct proximity, much less for those ring-fenced within a cluster of facilities as is intended in the aforementioned Tokeneke area. If there are longitudinal studies available for this specific technology and related equipment, I am interested in reviewing those materials.

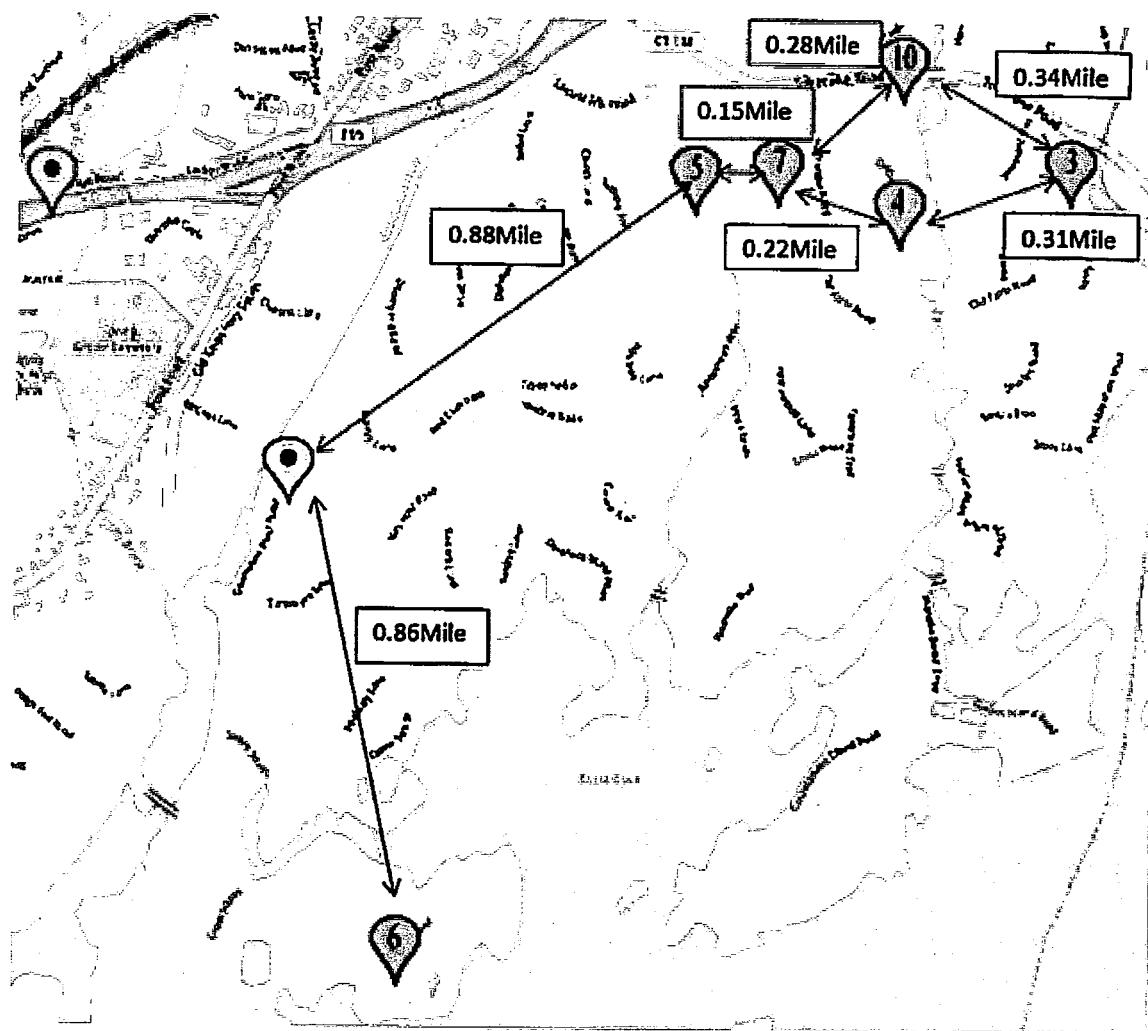
I understand you are returning from vacation today (January 2nd): in your absence I reached out to the other parties in receipt of the Siting Council Petition. During my 12/27/18 conversation with listed recipient Mr. Jeremy Ginsberg, he would not indicate whether comment from Planning and Zoning would be returned to the state council, simply deferring to you specifically as being the sole authority in making that determination. I was informed by your office that these materials are generally not returned with comment; in this instance I'd ask that there be some thoughtful discussion about the concerns noted above, prior to making that determination. Lastly, I've provided a list of questions I will be submitting to the Siting Council, for response by Verizon. I look forward to hearing from you.

Regards,
Rachel Gillin

EXHIBIT A

Approved  and Proposed  , Small Cell Locations in Darien. Three completed installations in Stamford and Norwalk





 Darien Cell Site - Ledge Rd. 126, Ledge Road, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 SC-19, 5/24/17 41, Wee Burn Lane, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC7, 8/20/17 Five Mile River Road, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06853, USA

 Darien SC18, 8/2/17 35, Driftway Lane, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC12, 8/2/17 11, Arrowhead Way, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC17, 10/11/17 Great Island, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC5, 12/7/17 7, Old Farm Road, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC2, 11/29/17 Heights Road, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC4, 2/21/18 2, High School Lane, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC6, 8/13/18 210, Tokeneke Road, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 Darien SC3, 10/24/18 293, Mansfield Avenue, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 Proposed SC14 53, Goodwines River Road, Boston Post Road Historic District, Darien, Fairfield, Connecticut, 06820, USA

 Rowayton CT SC5 82, Rowayton Avenue, Norwalk, Fairfield, Connecticut, 06853, USA

 Stamford SC2 CT 831, Cove Road, Stamford, Fairfield, Connecticut, 06902, USA

 Richards Avenue, Norwalk,

ABUTTER INTERROGATORIES TO PETITIONER

1. Using the attached or similar zoning map for the town of Darien, what specific area is small cell facility SC14 site meant to cure “capacity problems” for?
 - a. Would installation of the SC14 facility fully mitigate those capacity problems referenced in Petition #1358 or is it likely that installation of additional small cell facilities would be required in the noted area?
 - b. If there is any likelihood that further small cell facilities would be required, how many such installations would be required?
2. Would new guy wires be needed for installation of the SC14 small cell facility?
3. When will installation of the 10 previously approved small cell facility sites in Darien be complete?
4. If approval is granted for installation of SC14, approximately how long post approval will it take until installation is complete and the facility is actively working as intended?
5. Have any longitudinal studies been conducted to observe the effects of exposure to the specific small cell equipment noted in Petition #1358? If so, please provide the associated reference information and corresponding study duration.
6. Have there been any proposed sites in Darien which were subsequently rejected by the Connecticut Siting Committee? If so, please provide those petition numbers.
7. In light of the proposed installation site’s proximity to the property line of 53 GRR, will Verizon (Cellco) and Eversource indemnify abutting property owners from any and all liability resulting from injury, death or property damage, associated with the proposed installation and any related equipment?

