

## NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

**RE:** 55 CHURCH STREET. Special Permit to install a rooftop wireless telecommunications facility in a BD-1 zone. (Owner: 45-55 Church Street LLC; Applicant: Cellco Partnership d/b/a Verizon Wireless; Agent: Kenneth Baldwin of Robinson & Cole LLP)

**REPORT:** 1556-06

**ACTION:** Approval with Conditions

### Previous CPC Actions:

- **CPC 1394-02:** Special Permit to install Rooftop Telecommunications Facility in a BD-1 zone. Approved September 20, 2006.
- **CPC 1403-01:** Special Permit for Wireless Telecommunications Facility in a BD zone. Approved May 16, 2007.

**Submission: Special Permit Application Packet including DATA and SPECIAL PERMIT forms.**

**Application fee: \$250. March 1, 2019.**

- Letter from Property Owner, 45-55 Church Street, LLC dated October 25, 2018. Received March 1, 2019.
- Project Description received March 1, 2019.
- Regulatory Compliance Statement. Received April 10, 2019.
- Letter from the State Historic Preservation Office dated February 28, 2019. Received April 10, 2019.
- Proposed Verizon Wireless 700, 850, 1900, and 2100 MHz Coverage Map. Received April 10, 2019.
- Application drawings. 6 sheets received March 1, 2019.
  - T-1: Title Sheet. Drawing date October 29, 2018. Revised November 5, 2018. Received March 1, 2019.
  - C-1: Site Plan. Drawing date October 29, 2018. Revised November 5, 2018. Received March 1, 2019.
  - A-1: Roof Plan. Drawing date October 29, 2018. Revised November 5, 2018. Received March 1, 2019.
  - A-2: West Elevation & Enlarged Equipment Plan. Drawing date October 29, 2018. Revised November 5, 2018. Received March 1, 2019.
  - A-3: Equipment Details. Drawing date October 29, 2018. Revised November 5, 2018. Received March 1, 2019.
  - A-4: Details. Drawing date October 29, 2018. Revised November 5, 2018. Received March 1, 2019.

### BACKGROUND

Per the City of New Haven zoning regulations Sections 49 and 64, Kenneth C. Baldwin of Robinson & Cole LLP on behalf of Cellco Partnership d/b/a Verizon Wireless ("Cellco"), has applied for a Special Permit to establish a rooftop wireless telecommunications facility at 55 Church Street. Due to the building's location within the Ninth Square National Register Historic District and the fact that it is a contributing building within the District, rooftop telecommunications installations are permitted by Special Permit in accord with Section 49(d)(3). Cellco Partnership d/b/a Verizon Wireless ("Cellco") also has telecommunication installations on the rooftops of 780 State Street, 89-91 Shelton Avenue, and 129 Church Street.

**Current conditions:** The project site, along the rooftop of an existing building, consists of an operating Sprint telecommunications facility.

**Proposed Activity:** The proposed project includes the installation of twelve (12) façade-mounted antennas in three (3) sectors (one sector in the southwest corner and two sectors in the southeast corner of the building); nine (9) remote radio heads ("RRHS) attached to a ballast frame structure in the southeast corner of the roof, and

associated equipment on a steel platform along the west side of the roof. The proposed antennas will be installed behind RF transparent screening enclosures.

**PUBLIC HEARING**

A public hearing was held on April 17, 2019. Meeting minutes and a recording of the hearing are available for public inspection at the City Plan Department and on the city website.

**SPECIAL PERMIT**

Section 64(e) of the New Haven Zoning Ordinance states:

*Statement of purpose.* The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Special Permit Criteria § 64(e)(2)	Comments
<p>a. <i>Burden of proof.</i> A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.</p>	<p><i>The Special Permit application establishes the applicant's eligibility because all Ordinance requirements are met.</i></p>
<p>b. <i>Ordinance compliance.</i> The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.</p>	<p><i>The proposed use is consistent with the uses in the BD-1 zone.</i></p>
<p>c. <i>Comprehensive Plan of Conservation and Development.</i> The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p><i>The proposed antenna is not an active use and does not seem to have potential to conflict with or inhibit further development of the planned residential and commercial mixed use of the area. The proposed project is consistent with goals identified in New Haven Vision 2025 that encourages the establishment of a reliable wireless communications network in the City.</i></p>
<p>d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.</p>	<p><i>The site is fully occupied by the building on which the antennas will sit; no natural features are present.</i></p>

<p>e. <i>Hazard protection.</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.</p>	<p><i>No hazardous materials will be stored on-site. No vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare is expected. Once installed, the antennas will not generate any traffic or storage requirements.</i></p>
<p>f. <i>Historic preservation.</i></p>	<p><i>The antennas will be placed on a building within the Ninth Square Historic District. Historic resources in the area will not be adversely affected by the proposed project. The applicant has consulted with the State Historic Preservation Office (SHPO) about the proposed installation. The SHPO determined that the Cellco facility will have no adverse effect on the sites listed on the National Register of Historic Places. See SHPO response letter for additional information.</i></p>
<p>g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.</p>	<p><i>The proposed facility design is similar to the existing telecommunications facility on site as well as several roof-top telecommunications facilities in the surrounding buildings.</i></p>
<p>h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.</p>	<p><i>The proposed use and site design will not have a detrimental effect on the property values in the surrounding area.</i></p>
<p>i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.</p>	<p><i>The proposed antennas will not generate any additional traffic.</i></p>

**SEC. 49 REGULATION OF WIRELESS COMMUNICATIONS**

**(e) General Standards. The application shall include the following:**  
**REQUIRED DOCUMENTATION**

- (1) Site justification statement, including a description of the narrowing process that eliminated other potential sites;
- (2) Antenna height. The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved;

- (3) Antenna tower setback. If a new tower is constructed (as opposed to mounting the antenna on an existing structure, the minimum distance between the base of the tower and any guy wire anchors or any property line shall be the largest of the following: (a) 30% of antenna height (b) the minimum setback in the underlying zoning district (c) 40 feet;
- (4) Roof mounted antenna. If the equipment is located on the roof of a building, the area of the equipment building and other equipment structures shall not occupy more than 25% of the roof area. Setbacks from roof edge shall be 10 feet, or 10% of roof depth (measured from edge facing public street to opposite edge of roof), whichever is greater;
- (5) Antenna tower safety. The antenna tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended;
- (6) Site soil report. A soil report complying with Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual standards, as amended, shall be submitted to verify the design specifications of the foundation for the tower and anchors for the guy wires, if used;
- (7) Fencing. Unless the antenna is mounted on an existing structure, a fence with a maximum height of eight feet shall be required around the tower and other equipment;
- (8) Landscaping. To soften the appearance of a wireless site and screen as much of the tower as possible, a fence surrounding the tower and other ground level features such as a building, ground landscaping shall be required;
- (9) Any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping may be permitted if the same degree of screening as the required landscaping is achieved, as determined by the executive director (or designee) of the City Plan Department.
  - a. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three feet on center maximum) or a row of evergreen trees (planted ten feet on center maximum). The evergreen screen shall be a minimum height of six feet at planting and shall grow to a minimum of 15 feet at maturity.
  - b. Existing vegetation on and around the site shall be preserved to the greatest extent possible;
- (10) Commercial advertising shall not be allowed on an antenna or antenna tower;
- (11) Signal lights or illumination shall not be permitted unless required by the Federal Communications Commission (FCC) the Federal Aviation Administration (FAA) or the Connecticut Siting Council;
- (12) All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited;
- (13) Joint use accommodated. To minimize the number of antenna or wireless site towers in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communication companies and local police, fire and ambulance companies unless it is determined to be technically unfeasible based on information submitted by the applicant. The city may require independent outside evaluation of such materials at the applicant's expense;
- (14) The related unmanned equipment and/or building(s) shall not contain more than 750 square feet of gross floor area or be more than twelve feet in height;

**(f) Standards for special permit approval.**

**REQUIRED DOCUMENTATION**

(1) Using technological evidence, the applicant must demonstrate that the proposed location is necessary to satisfy its function in the company's grid system. Specific locations will be evaluated using the following criteria (not listed in any order of priority);

- (a) Availability of suitable structures for antenna mounting;
- (b) Topography as it relates to line of sight transmission for optimum service efficiency;
- (c) Leasable lands and willing landlords;
- (d) Screening potential of existing vegetation, structures and topographic features;
- (e) Compatibility with adjacent land uses;
- (f) Least number of sites to cover desired area;
- (g) Greatest coverage consistent with physical requirements;
- (h) Opportunities to mitigate possible visual impact;
- (i) Availability of sites not within an established single-family community;
- (j) Preservation of view corridors, vistas;
- (k) Potential for preservation of pre-existing character of site;
- (l) Minimal impact on residential areas surrounding commercial or industrial zoned sites;
- (m) Selection of sites which lend themselves to visual mitigation;
- (n) Availability of road access;

- (o) Availability of electric power;
- (p) Availability of land based telephone lines or microwave link capability;

If a tower is proposed the application shall include support materials that show the location of tall structures within one quarter mile radius of the site proposed, that the owners of those locations have been contacted and asked for permission to install the antenna on those structures and denied for other than economic reasons. This would include smoke stacks, water towers, tall buildings, antennas or towers of other wireless communications companies, other communication towers (fire, police, etc.) and other tall structures.

The City Plan Commission may deny an application to construct a new tower if it is determined that the applicant has not made a good faith effort to mount the antenna on an existing structure.

#### **DISCUSSION**

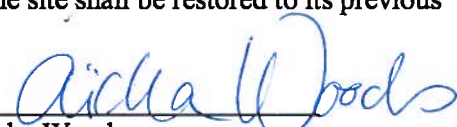
Staff recommend further discussion between the Commission and the applicant to determine that a sufficient amount of information has been provided to confirm that Special Permit standards have been met.

#### **CONDITIONS OF APPROVAL:**

The conditions of approval of the Special Permit under §64 and §49 of the New Haven Zoning Ordinance for wireless communications antennas are as follows:

1. An original signed copy of this decision/report shall be recorded on the City's Land Records. Proof of such recording (volume and page number) shall be provided to the City Plan Department, prior to issuance of permit for installation.
2. Verizon (or its successor) shall submit to the Zoning Administrator annually during the month of January an affidavit that the facility is in active use as a wireless site and shall certify that such use will continue for the coming calendar year.
3. If this wireless site becomes inactive for six consecutive months in any calendar year or part of any calendar year, the service facility owner shall remove it. This removal shall occur within ninety days of the end of such six-month period. Upon removal, the site shall be restored to its previous appearance.

**ADOPTED:** April 17, 2019  
Leslie Radcliffe  
Vice Chair

**ATTEST:**   
Aicha Woods  
Director, City Plan Department