

NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

RE: 69 EAST GRAND AVENUE. Special Permit for installation of cellular antenna within existing church steeple within Quinnipiac Avenue National Register Historic District. (Owner: Pilgrim Congregational Church; Applicant: Jesse Langer of Updike, Kelly & Spellacy, P.C. on behalf of T-Mobile; Agent: Denise Sabo of Northeast Site Solutions)

REPORT: 1555-05

ACTION: Approve

Previous CPC Actions:

CPC 1538-02: Special Permit for installation of cellular antenna within existing church steeple with Quinnipiac Avenue National Register Historic District. Withdrawn January 2018.

CPC 1551-06: Special Permit for installation of cellular antenna within existing church steeple with Quinnipiac Avenue National Register Historic District. Denied without Prejudice December 19, 2018.

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

Application fee: \$250. February 20, 2019.

- LOA – T-Mobile dated January 29, 2019. Received February 20, 2019.
- LOA – Property Owner dated February 18, 2019. Received February 20, 2019.
- Parcel Card. Received February 20, 2019.
- Application Narrative dated February 20, 2019. Received February 20, 2019.
- Certificate of Appropriateness dated February 20, 2019. Received February 20, 2019.
- T-Mobile Existing and Proposed Coverage New Haven Area. Received March 15, 2019.
- Exhibit 1: Zoning Drawings. 5 sheets received February 20, 2019. No revisions made. Reprint of drawings received March 15, 2019.
 - T-1: Title Sheet. Drawing date August 2, 2017. Latest revision date November 7, 2018. Received February 20, 2019.
 - C-1: Plot Plan. Drawing date August 2, 2017. Latest revision date November 7, 2018. Received February 20, 2019.
 - A-1: Plan. Drawing date August 2, 2017. Latest revision date November 7, 2018. Received February 20, 2019.
 - A-2: Elevation. Drawing date August 2, 2017. Latest revision date November 7, 2018. Received February 20, 2019.
 - A-3: Equipment Specifications. Drawing date August 2, 2017. Latest revision date November 7, 2018. Received February 20, 2019.
- Exhibit 2: Certificate of Appropriateness (dated November 12, 2017) and Historic District Commission Minutes (dated November 8, 2017). Received February 20, 2019.
- Exhibit 3: Affidavit of Mark Richard dated February 13, 2019. Received February 20, 2019.
- Exhibit 4: Affidavit of Scott Heffernan dated February 15, 2019. Received February 20, 2019.
 - Planned Coverage of T-Mobile Site CTNH606A. Received February 20, 2019.
 - T-Mobile Existing Coverage New Haven Area. Received March 15, 2019.
 - KPI Slides for CT11304. 5 slides received February 20, 2019.
 - Average Number Connected RRC Users: CT11304C_A, B & C. Received February 20, 2019.
 - Downlink PRB Utilization Percentage: CT11304C_A, B & C. Received February 20, 2019.
 - Average UE DL Throughput (kbps): CT11304C_A, B & C. Received February 20, 2019.
 - Site CT11304C – Truecall Visual Data Representation (2-18-2019). Received February 20, 2019.

- Exhibit 5: Electromagnetic Energy Compliance Report dated February 19, 2019. Received February 20, 2019.
- Exhibit 6: Federal Aviation Administration (FAA) Compliance Results dated January 31, 2019. Received February 20, 2019. Signed document received March 18, 2019.
- Exhibit 7: GNCB Consulting Engineers, P.C. Structural Analysis dated February 18, 2019. Received February 20, 2019.
- Exhibit 8: Valley Restoration, LLC Inspection and Report; Photos. Dated February 2019. Received February 20, 2019.
- Exhibit 9: Concealment and Louver Specifications; Photo-Simulations. Dated September 25, 2017. Received February 20, 2019.
- Exhibit 10: Crane Plan dated February 12, 2019. Received February 20, 2019.
- Exhibit 11: Signatures in Support. Dated December 10, 2017. Received February 20, 2019.
- Exhibit 12: Slim Profile Condenser Specifications and Decibel Graph. Received February 20, 2019.
- Exhibit 13: Lo Monte Real Estate Market Study dated November 26, 2018. Received February 20, 2019.
- Letter to the Chairman Mattison and the City Plan Commission, RE: Review of T-Mobile submitted KPI data slides for Proposed CTNH606A, From Scott Heffernan, Centerline Communications, LLC, dated March 19, 2019. Received at the public hearing on March 20, 2019.
- Mitsubishi Electric PUZ-HA36NHA5 Heat Pump System Airborne Noise Assessment, Authored by Carl Cascio, Prepared by Acoustical Technologies Inc., Prepared for Northeast Site Solutions, LLC, dated March 19, 2019. Received at the public hearing on March 20, 2019.

BACKGROUND

Per the City of New Haven zoning regulations Sections 49 and 64, Jesse Langer of Updike, Kelly & Spellacy, P.C., on behalf of T-Mobile, has applied for a Special Permit to install T-Mobile antennas within an existing church steeple in the Quinnipiac Avenue National Register Historic District. The applicant received a Certificate of Appropriateness from the Historic District Commission on November 17, 2018.

Current site conditions: The Pilgrim Congregational Church occupies the entirety of the parcel at 69 East Grand Avenue and is located within the Quinnipiac Avenue National Register Historic District. The site is bounded by East Grand Avenue in the north, Lenox Street in the east and residential property in the south and west.

Proposed Activity: The applicant proposes to install nine T-Mobile antennas, data transmission lines, and associated hardware within the existing 120-foot tall Pilgrim Congregational Church steeple, construct a new equipment room on the second floor of the church, and install a condensing unit and a GPS antenna on the exterior of the church.

PUBLIC HEARING

A public hearing was held on March 20, 2019. Meeting minutes and a recording of the hearing are available for public inspection at the City Plan Department and on the city website. The public hearing was closed on March 20, 2019, but because of the volume of testimony and submitted written materials from the public, the Board did not yet vote on the item until April 17, 2019.

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 addresses each of the criteria under the Ordinance. Staff finds that all of the criteria are met. If the Commission should find that all the criteria are met, there is no discretion to deny the special permit application. The Commission must state their reason for approval or denial on the record.</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 RM-1 zone. The applicant received a Certificate of Appropriateness from the Historic District Commission on November 8, 2017 (17-07-CA).</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 medium-density residential use of the area. The proposed project is consistent with goals identified in New Haven Vision 2025 that encourages "private network providers to enhance the speed of existing broadband networks and foster partnerships among various providers to effectively manage public/ private Internet traffic and security. The Commission further recommends that careful consideration should be given to the design and location of any new wireless communication facilities within the city so that they do not adversely impact a community's character."</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 completely developed, with the Pilgrim Congregational Church occupying the entirety of the parcel. The antennas are completely concealed within the church steeple. The applicant presented that a GPS device will be externally installed so that it can receive a signal. The device will not have an adverse effect on any significant scenic vistas or on significant wildlife or vegetation habitat.</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, glare is expected. Once installed, the antenna will not generate additional traffic. Approximately 53 dB(A), equivalent to the noise level of moderate rainfall, will be produced from the proposed condensing unit that will installed along the wall inside of the church. Please see Mitsubishi Electric PUZ-HA36NHA5 Heat Pump System Airborne Noise Assessment, Prepared by Acoustical Technologies Inc. Contradicting expert testimony was submitted by the public to report that a range of 46-55 dB(A) will be detected at the property line in violation of the City's noise ordinance. Please see T-Mobile Proposed Condenser Location – Noise Study by Cote Acoustical Consulting LLC dated March 19, 2019. In the case of contradicting experts, the Commission must determine which expert it finds more credible to determine whether this condition is met.</i></p>
<p>f. <i>Historic preservation.</i> Features of historic significance shall not be significantly adversely affected by the granting of any special permit. If the subject property is within or abuts a historic district, the Commission may request a report from the Historic District Commission regarding those features essential to preserve the historical integrity of a building, district, or site or historical significance.</p>	<p><i>The church, which is more than 100 years old, is located within the Quinnipiac Avenue National Register Historic District. In addition to the installation of nine panel antennas within the church steeple, the existing louvers within the steeple will be replaced with visually identical RF-transparent louvers to allow RF signals to pass through from the antenna. The proposed antennas, equipment cabinets, accessory equipment, and slim condenser unit will be concealed within the church. Any exterior installations will not significantly adversely affect the granting of a special permit. The Commission may, but is not required to, request a report from the Historic District Commission to make this determination.</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 only visible changes to the site will be the replacement of the louvers in the steeple and the installation of a GPS antenna on the steeple. While the material of the proposed louvers will differ from what is currently in place, they will be visually identical to the existing louvers.</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 addition of the nine antennae inside the church steeple and the replacement of existing louvers are not expected to have a detrimental effect on the property values in the surrounding area. The replacement of the louvers is expected to enhance the appearance of the steeple. The findings of the real estate market study submitted by the applicant suggest that wireless facilities, specifically those that are concealed from public view, do not have a negative impact on property values. Please see Real Estate Market Study for 69 East Grand Avenue by John Lo Monte Real Estate Appraisers and Consultants dated November 26, 2018 for additional information. The public submitted a contrary appraisal report that states that property values would be impacted by 10% to over 20% because of the perception of health and safety concerns, aesthetic reasons or potential risk of investment. In the case of contradicting experts, the Commission must determine which expert it finds more credible to determine whether this condition is met.</i></p>
<p>i. <i>Traffic impact.</i></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;

DISCUSSION

Staff finds that the applicant has submitted sufficient testimony to address each of the conditions to support the approval of the special permit. The FCC has prohibited Commissions from denying telecommunications applications based on health and safety impacts, real or perceived. The Commission has received contradicting expert testimony regarding property values and noise. The Commission must determine which experts it finds most credible. If the applicant's experts have satisfied the Commission, the Commission does not have discretion in its approval of the special permit. If the Commission is persuaded by the public's experts on either property values or noise or both, it may deny the application on those grounds.

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. T-Mobile (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