



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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Hearing Program

Docket No. 488

Tuesday, August 11, 2020

1:00 p.m.

Zoom Remote Public Hearing

I. Opening by Council

A. Statement read by Presiding Officer.

B. Motions

1. Bald Hill Road Neighbors Objection to Protective Order and Non-Disclosure Agreement and Motion to Implead a Necessary and Indispensable Party, dated July 28, 2020
2. Bald Hill Road Neighbors Motion to Amend Non-Disclosure Agreement, dated July 31, 2020
3. Planned Development Alliance of Northwest Connecticut, Inc. Motion to Strike Testimony, dated August 3, 2020

C. Administrative Notice taken by Council

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1. FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF ENGINEERING AND TECHNOLOGY, *Questions and Answers About Biological Effects and Potential Hazards of Radiofrequency Electromagnetic Fields, OET Bulletin No. 56*, August 1999, available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet56/oet56e4.pdf
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3. FEDERAL COMMUNICATIONS COMMISSION, *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation Report and Order*, August 1, 1996, available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Orders/1996/fcc96326.pdf
4. Telecommunications Act of 1996, as amended, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C), available at <https://transition.fcc.gov/Reports/tcom1996.pdf>
5. FEDERAL COMMUNICATIONS COMMISSION, *Warning, Alert and Response Network Act*, Pub. L. No. 109-437, 120 Stat. 1936 (2006), (codified at 47 U.S.C. §332(d)(1)) (2006), available at <https://transition.fcc.gov/pshs/docs/emergency-information/emas-warn-act.pdf>

6. Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 615-615b, as amended, *available at* <https://www.congress.gov/bill/106th-congress/house-bill/438/text/ih>.
7. Enhance 911 Act of 2004, as amended, 47 U.S.C. § 942, as amended, *available at* <https://www.gpo.gov/fdsys/pkg/PLAW-108publ494/pdf/PLAW-108publ494.pdf>
8. Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 Wireless Facilities Deployment 2012, *available at* <https://www.gpo.gov/fdsys/pkg/PLAW-112publ96/pdf/PLAW-112publ96.pdf>
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11. Presidential Proclamation No. 8460, 74 Fed. Reg. 234 (December 8, 2009), *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=86954>
12. Presidential Order No. 13616, Accelerating Broadband Infrastructure Development, 77 Fed. Reg. 119 (June 14, 2012), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-15183.pdf>
13. Presidential Policy Directive No. 21, Critical Infrastructure Security and Resilience, February 12, 2013, *available at* <https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil>
14. DIVISION OF MIGRATORY BIRD MANAGEMENT, UNITED STATES FISH & WILDLIFE SERVICE, UNITED STATES DEPARTMENT OF THE INTERIOR, *Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance and Decommissioning*, last updated August 2016, *available at* <https://www.fws.gov/migratorybirds/pdf/management/usfwscommtowerguidance.pdf>
15. National Park Service, United States Department of the Interior, *National Register of Historic Places* *available at* <https://www.nps.gov/nr/research/index.htm>
16. FEDERAL AVIATION ADMINISTRATION, *Obstruction Marking and Lighting, Advisory Circular AC No. 70/7460-1L*, December 4, 2015, *available at* https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_70_7460-1L_.pdf
17. FEDERAL AVIATION ADMINISTRATION, *Specification for Obstruction Lighting Equipment, Advisory Circular AC No. 150/5345-43J*, March 11, 2019, *available at* https://www.faa.gov/documentLibrary/media/Advisory_Circular/150-5345-43J.pdf

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19. Stephen J. Blumberg, et al, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July – December 2017*, Division of Health Interview Statistics, National Center for Health Statistics, U.S. Center of Disease Control, June 2018, available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201806.pdf>
20. FEDERAL COMMUNICATIONS COMMISSION, *Public Notice – Wireless Telecommunications Bureau Offers Guidance on Interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012*, DA 12-2407, January 25, 2013, available at https://apps.fcc.gov/edocs_public/attachmatch/DA-12-2047A1.pdf
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25. FEDERAL COMMUNICATIONS COMMISSION, *Third Report and Order and Declaratory Ruling*, FCC 18-111, August 3, 2018, available at <https://docs.fcc.gov/public/attachments/FCC-18-111A1.pdf>
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Department of Transportation

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MAPS

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- D. State Agency comments
1. State of Connecticut Council of Environmental Quality Comments, dated April 22, 2020
 2. State of Connecticut Department of Transportation Comments, dated June 23, 2020
- E. Telecommunications Carrier comments
1. T-Mobile comments, dated July 16, 2020
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II. Appearance by Applicants

Applicants: Homeland Towers, LLC & New Cingular Wireless PCS, LLC, d/b/a AT&T (ATTHT)

Representatives: Lucia Chiocchio, Esq.
Cuddy & Feder, LLP

A. Administrative Notice.

1. **PETITION NO. 1010** - New Cingular Wireless PCS, LLC declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed installation of an concealed tower on a water tank and associated equipment at a water treatment water plant located at 455 Valley Road, Greenwich, Connecticut. Record and Final Decision, *available at* https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-0001-1219/Petition-No-1010---ATTGreenwich
2. **DOCKET NO. 427** – American Towers LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at one of two sites: 171 Short Beach Road, Branford, Connecticut. Record and Final Decision, *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-427--East-HavenBranford
3. Connecticut State Division of Emergency Management and Homeland Security, FIRSTNET in Connecticut, *available at* <https://portal.ct.gov/DEMHS/Emergency-Management/Resources-For-Officials/Interoperable-Communications/FirstNet>
4. FirstNet (First Responder Network Authority) for Connecticut, *available at* <https://firstnet.gov/public-safety/firstnet-for/connecticut>
5. **DOCKET NO. 342** - Optasite Towers LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 425 Litchfield Road, New Milford, Connecticut. Record and Final Decision, *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/2_DocketNos200-399/Docket-342-New-Milford
6. Public Utilities Regulatory Authority (“PURA”) Docket No. 18-06-13 – Application of New Cingular Wireless PCS, LLC for the Approval of a Construction Plan to Install Wireless Facilities within the Public Right-of-Way in Stamford - Bridgeport 106 *available at* [http://www.dpuc.state.ct.us/dockcurr.nsf/\(Web+Main+View/All+Dockets\)?OpenView&StartKey=18-06-13](http://www.dpuc.state.ct.us/dockcurr.nsf/(Web+Main+View/All+Dockets)?OpenView&StartKey=18-06-13)

B. Exhibits for Identification.

1. Application for a Certificate of Environmental Compatibility and Public Need filed by Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T received February 28, 2020, and attachments and bulk file exhibits including:
Bulk file exhibits:
 - a. Kent Connecticut 2012 Plan of Conservation and Development
 - b. Zoning Regulations, Town of Kent, Connecticut, Adopted 1965, effective December 30, 2019
 - c. Zoning Map, Town of Kent, Connecticut, effective July 1, 2018
 - d. Inland Wetlands and Watercourses Regulations, Town of Kent, Connecticut, originally adopted July 1, 1988, revised effective date March 15, 2019
 - e. Technical Report
2. Applicants' Responses to Council Interrogatories, Set One, dated April 17, 2020
3. Protective Order related to unredacted lease agreement, signed April 23, 2020
4. Applicants' Responses to Bald Hill Road Neighbors' Interrogatories, Set One, dated May 15, 2020
5. Applicants' Responses to Planned Development Alliance of Northwest Connecticut, Inc., Interrogatories Set One, dated May 15, 2020
6. Applicants' Supplemental Submission, dated July 16, 2020
7. Applicants' Responses to Council Interrogatories, Set Two, dated July 16, 2020
8. Applicants' Responses to the Town of Kent Interrogatories, Set One, dated July 16, 2020
9. Applicants' Responses to the Bald Hill Road Neighbors' Interrogatories, Set Two, dated July 16, 2020
10. Applicants' Affidavit of Sign Posting, dated July 16, 2020
11. Applicants' Pre-filed Testimony of Dan Stebbins, AT&T FirstNet Solutions Consultant, dated August 4, 2020
12. Applicants' Supplemental Submission, dated August 4, 2020
13. Applicants' Late-Filed Exhibits, dated August 6, 2020

C. Swear Witnesses

1. Raymond Vergati, Regional Manager, Homeland Towers LLC
2. Manuel Vincente, President, Homeland Towers LLC
3. Harry Carey, External Affairs, AT&T
4. Robert Burns, P.E., Project Manager, All Points Technology Corp. P.C.
5. Michael Libertine, LEP, Director of Siting and Permitting, All Points Technology Corp. P.C.
6. Brian Gaudet, Project Manager, All Points Technology Corp. P.C.
7. Martin Lavin, Radio Frequency Engineer, C² Systems on behalf of AT&T
8. Dan Stebbins, AT&T FirstNet Solutions Consultant

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. **Grouped Intervenor:**
 - a. Planned Development Alliance of Northwest Connecticut, LLC (PDA)
 - b. Spectacle Ridge Association, Inc. (SRA)
 - c. South Spectacle Lakeside Residents (Lakeside)
3. Bald Hill Road Neighbors (BHRN)
4. Town of Kent

III. Appearance by Grouped Intervenor/CEPA Intervenor: Planned Development Alliance of Northwest Connecticut, Inc. (PDA)

Representative: Keith R. Ainsworth, Esq.
Law Offices of Keith R. Ainsworth, Esq.

A. Administrative Notice.

1. **DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut. Decision and Order *available at* https://portal.ct.gov/-/media/CSC/1_Dockets-medialibrary/Docket_347/347CertPackpdf.pdf
2. **DOCKET NO. 355** - Cellco Partnership d/b/a Verizon Wireless Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 359 Litchfield Road, New Milford, Connecticut. Decision and Order *available at* https://portal.ct.gov/-/media/CSC/1_Dockets-medialibrary/Docket_355/355Certpdf.pdf
3. PUBLIC LAW 109–338—OCT. 12, 2006 - §272 – National Heritage Area Act establishing the Upper Housatonic Valley National Heritage Area, *available at* <https://www.congress.gov/109/plaws/publ338/PLAW-109publ338.pdf>
4. Upper Housatonic Valley National Heritage Area 2013 Management Plan, *available at* https://housatonicheritage.org/wpcontent/uploads/2019/10/UHVNHA_ManagementPlan_4.15.2014-B-web.pdf

B. Exhibits for Identification.

1. PDA Application to Intervene under CEPA §22a-19, §4-177a and §16-50n, dated March 3, 2020
2. PDA Responses to Council Interrogatories, Set One, dated May 11, 2020
3. PDA Pre-filed Testimony of Robert (Todd) Powell with attachments, dated July 16, 2020
4. PDA Pre-filed Testimony of Connie Manes, Kent Land Trust Letter to the Council, dated July 11, 2020
5. PDA Pre-filed Testimony of Connie Manes, Kent Land Trust, dated July 15, 2020

6. PDA Pre-filed Testimony and Affidavit of Paul Elconin, Director of Land Conservation, Northwest Connecticut Land Conservancy (f/k/a Weantinoge Heritage Land Trust), dated July 15, 2020
7. PDA Affidavit of David P. Maxson, WCP, Isotrope, LLC, dated July 15, 2020
8. PDA Pre-filed Testimony of David P. Maxson, WCP, Isotrope, LLC, Isotrope Coverage Analysis Attachment, dated July 16, 2020

C. Swear Witnesses

1. Robert (Todd) Powell, PDA
2. Connie A. Manes, Kent Land Trust
3. Paul Elconin, Director of Land Conservation, Northwest Connecticut Land Conservancy (f/k/a Weantinoge Heritage Land Trust)
4. David P. Maxson, WCP, Isotrope, LLC

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicants
3. Bald Hill Road Neighbors
4. Town of Kent

IV. Appearance by Party:

Bald Hill Road Neighbors (BHRN)

Representatives:

Anthony F. DiPentima, Esq.
Michael D. Rybak, Jr., Esq.
Guion, Stevens & Rybak, LLP

A. Administrative Notice

B. Exhibits for Identification:

1. BHRN Request for Party/Intervenor and CEPA Intervenor Status, dated March 20, 2020
2. BHRN Request to Add a Party and CEPA Intervenor, dated April 2, 2020
3. BHRN Responses to Council Interrogatories, Set One, dated May 7, 2020
4. BHRN Responses to Applicants' Interrogatories, dated May 8, 2020
5. BHRN Pre-filed Testimony of Peter Fitzpatrick with attachments, dated July 16, 2020
6. BHRN Pre-filed Testimony of R. Bruce Hunter with attachments, dated July 16, 2020

C. Swear Witnesses

1. R. Bruce Hunter, MAI
2. Peter Fitzpatrick

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicants
3. **Grouped Intervenors:**
 - a. Planned Development Alliance of Northwest Connecticut, LLC (PDA)
 - b. Spectacle Ridge Association, Inc. (SRA)
 - c. South Spectacle Lakeside Residents (Lakeside)
4. Town of Kent

V. Appearance by Party:

Town of Kent (Town)

Representatives:

Daniel E. Casagrande, Esq.
Cramer & Anderson, LLP

Daniel S. Rosemark, Esq.
Rosemark Law, LLC

A. Administrative Notice

1. **DOCKET NO. 467** - Homeland Towers, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at Brookfield Tax Assessor Map E10, Lot 014, 100 Pocono Road, Brookfield, Connecticut. Record and Final Decision, *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-467--Brookfield
2. **DOCKET NO. 473** - Homeland Towers, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 515 Morehouse Road, Easton, Connecticut. Record and Final Decision, *available at* https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-473HomelandVerizonEaston

B. Exhibits for Identification:

1. Town of Kent Request for Party and CEPA Intervenor Status, dated April 24, 2020
2. Town of Kent Pre-filed Testimony of Jean Conlon Speck, First Selectman, with attachments dated July 16, 2020
3. Town of Kent Pre-filed Testimony of Matthew Winter, Chairman, Planning & Zoning Commission, dated July 16, 2020
4. Town of Kent Pre-filed Testimony of Connie A. Manes, Chair, Kent Conservation Commission, dated July 16, 2020

C. Swear Witnesses

1. Jean Conlon Speck, First Selectman, Town of Kent
2. Matthew Winter, Chairman, Planning & Zoning Commission
3. Connie A. Manes, Chair, Kent Conservation Commission

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicants
3. **Grouped Intervenor:**
 - a. Planned Development Alliance of Northwest Connecticut, LLC (PDA)
 - b. Spectacle Ridge Association, Inc. (SRA)
 - c. South Spectacle Lakeside Residents (Lakeside)
4. Bald Hill Road Neighbors

VI. Appearance by Grouped Intervenor/CEPA Intervenor: Spectacle Ridge Association, Inc. (SRA)

Representative: Keith R. Ainsworth, Esq.
Law Offices of Keith R. Ainsworth, Esq.

A. Administrative Notice

B. Exhibits for Identification.

1. SRA Application to Intervene under CEPA §22a-19, §4-177a and §16-50n, dated July 16, 2020
2. SRA Pre-Filed Testimony of Matthew J. Sippel, Executive Committee Member, SRA, dated July 16, 2020

C. Swear Witnesses

1. Matthew Sippel, Executive Committee Member, Spectacle Ridge Association

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicants
3. Bald Hill Road Neighbors
4. Town of Kent

VII. Appearance by Grouped Intervenor/CEPA Intervenor: South Spectacle Lakeside Residents (Lakeside)

Representative: Keith R. Ainsworth, Esq.
Law Offices of Keith R. Ainsworth, Esq.

A. Administrative Notice

B. Exhibits for Identification.

1. Lakeside Application to Intervene under CEPA §22a-19, §4-177a and §16-50n, dated July 16, 2020
2. Lakeside Affidavit of Marleen Donnenfeld, dated July 15, 2020

C. Swear Witnesses

1. Marleen Donnenfeld, Lakeside Resident

D. Full Exhibits - Verification of exhibits by witnesses and admission by the Council.

E. Cross Examination.

1. Council
2. Applicants
3. Bald Hill Road Neighbors
4. Town of Kent

VIII. Continuation by Connecticut Siting Council.