



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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Hearing Program
Docket No. 502
Tuesday, October 19, 2021
2:00 p.m.
Zoom Remote Public Hearing

I. Opening by Council

A. Statement read by Presiding Officer.

B. Motions

1. WNNET Motion to Dismiss – Failure of Mandatory Notice, dated October 8, 2021

C. Administrative Notice taken by Council

FEDERAL

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
2. FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF ENGINEERING AND TECHNOLOGY, *Evaluating Compliance with FCC-Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, OET Bulletin No. 65*, August 1997, available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet65/oet65.pdf
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>
9. Actions That May Have a Significant Environmental Effect, for Which Environmental Assessments (EAs) Must be Prepared, 47 C.F.R. § 1.1307, as amended, *available at*. <https://www.gpo.gov/fdsys/pkg/CFR-2013-title47-vol1/pdf/CFR-2013-title47-vol1-sec1-1307.pdf>
10. Radiofrequency Radiation Exposure Limits, 47 C.F.R. § 1.1310, as amended, *available at* <https://www.gpo.gov/fdsys/pkg/CFR-2002-title47-vol1/pdf/CFR-2002-title47-vol1-sec1-1310.pdf>
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 March 2021, *available at* <https://www.fws.gov/migratorybirds/pdf/management/usfwscommmtowerguidance.pdf>
15. National Park Service, United States Department of the Interior, *National Register of Historic Places* *available at* <https://www.nps.gov/subjects/nationalregister/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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24. FEDERAL COMMUNICATIONS COMMISSION, *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, *Second Report and Order*, FCC 18-30, March 30, 2018, available at <https://docs.fcc.gov/public/attachments/FCC-18-30A1.pdf>
25. FEDERAL COMMUNICATIONS COMMISSION, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment/Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, *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>
26. FEDERAL COMMUNICATIONS COMMISSION, *FCC Fact Sheet: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, *Third Report and Order*, FCC 18-133, September 27, 2018, available at <https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf>
27. FEDERAL COMMUNICATIONS COMMISSION, *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, *Declaratory Ruling and Notice of Proposed Rulemaking*, FCC 20-75, June 10, 2020, available at <https://ecfsapi.fcc.gov/file/0610971105336/FCC-20-75A1.pdf>
28. FEDERAL COMMUNICATIONS COMMISSION, *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, *Report and Order*, FCC 20-153, November 3, 2020, available at <https://docs.fcc.gov/public/attachments/FCC-20-153A1.pdf>
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STATE

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33. **DOCKET NO. 432** – Feasibility study of back-up power requirements for telecommunications towers and antennas pursuant to Public Act 12-148, available at https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-432
34. **DOCKET NO. 486** - Tarpon Towers II, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 796 Woodin Street, Hamden, Connecticut, available at https://portal.ct.gov/CSC/1_Applications-and-Other-Pending-Matters/Applications/3_DocketNos400s/Docket-No-486--TarponHamden

Department of Energy and Environmental Protection

35. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, CONNECTICUT COUNCIL ON SOIL AND WATER CONSERVATION, *Connecticut Guidelines for Soil Erosion and Sediment Control, DEP Bulletin 34*, last revised November 2007, available at <https://portal.ct.gov/DEEP/Water/Soil-Erosion-and-Sediment-Control-Guidelines/Guidelines-for-Soil-Erosion-and-Sediment-Control>
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38. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Connecticut Air Quality Standards*, Effective April 15, 2014, Regulations of Connecticut State Agencies §§ 22a-174-24, et seq.

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40. STATE OF CONNECTICUT, DEPT. OF PUBLIC UTILITY CONTROL, Docket No. 08-06-19, DPUC Investigation into the Deployment of Distributed Antenna System (DAS) in the Public Rights of Way, September 29, 2010.
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Department of Transportation

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55. STATE OF CONNECTICUT, EXECUTIVE ORDER NO. 7, Protection of Public Health and Safety During COVID-19 Pandemic and Response, March 12, 2020, and subsequent orders related thereto, available at <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7.pdf>
56. STATE OF CONNECTICUT, PUBLIC ACT NO. 21-2, Sections 149-150, July 1, 2021, available at <https://www.cga.ct.gov/2021/act/pa/pdf/2021PA-00002-R00SB-01202SS1-PA.pdf>
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MAPS

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79. NATIONAL AUDUBON SOCIETY, *Connecticut Important Bird Areas*, available at <http://netapp.audubon.org/iba/state/US-CT>
80. Mail-A-Map Street Map, Woodbridge, available at <http://mailamap.com/street-maps>
81. UNITED STATES GEOLOGICAL SURVEY, Interactive Topographical Map Viewer, available at <https://ngmdb.usgs.gov/topoview/viewer/#4/39.98/-100.06>

C. State Agency comments

1. Connecticut Airport Authority Comments, dated June 8, 2021
2. Connecticut Department of Transportation Comments, dated August 6, 2021

D. Public Official comments

1. Senator Richard Blumenthal Comments, dated June 21, 2021
2. Senator Cabrera, Senator Maroney and Representative Welander Comments, dated May 26, 2021
3. Congresswoman Rosa L. DeLauro Comments, dated August 23, 2021

II. Appearance by Applicant Cellco Partnership d/b/a Verizon Wireless (VER)

Representative: Kenneth C. Baldwin, Esq.
Robinson & Cole LLP

A. Administrative Notice.

1.

B. Exhibits for Identification.

1. Application for a Certificate of Environmental Compatibility and Public Need filed by Cellco Partnership d/b/a Verizon Wireless, received May 13, 2021, and attachments and bulk file exhibits including:

Bulk file exhibits:

- a. Technical Report
 - b. Zoning Regulations for the Town of Woodbridge
 - c. Town of Woodbridge Inland Wetlands and Watercourses Regulations
 - d. Town of Woodbridge 2015-25 Plan of Conservation and Development
2. Applicant's Affidavit of Publication, dated May 24, 2021
 3. Signed Protective Order, dated June 3, 2021
 4. Applicant's Responses to Council Interrogatories, Set One, dated June 30, 2021
 5. Applicant's Sign Posting Affidavit, dated July 12, 2021
 6. Applicant's Corrected Revised Viewshed Map "Area of Seasonal Visibility", dated July 13, 2021
 7. Applicant's Responses to Council Interrogatories, Set Two, dated August 17, 2021
 8. Applicant's Late-Filed Exhibits, dated August 17, 2021
 9. Applicant's Responses to WNNET's Interrogatories, dated August 17, 2021
 10. Applicant's Supplemental Late-Filed Exhibits, August 18, 2021
 11. Applicant's Late-Filed Exhibits, dated September 14, 2021

C. Swear Witnesses

1. Ziad Cheiban, Radio Frequency Engineer, Verizon Wireless
2. Timothy Parks - Real Estate/Regulatory Specialist, Verizon Wireless
3. Sylvester Bhembe, Project Manager, Hudson Design Group LLC
4. Michael Libertine, LEP, Director of Siting and Permitting, All-Points Technology Corp. P.C.
5. Brian Gaudet, Project Manager, All-Points Technology Corp. P.C.
6. Dean Gustafson, Senior Wetland Scientist and Professional Soil Scientist, All-Points Technology Corp. P.C.

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

E. Cross Examination.

1. Council
2. Grouped Party/Intervenor and CEPA Intervenors:
 - a. Woodbridge Newton Neighborhood Environmental Trust (WNNET)
 - b. Mark and Michele Greengarden and Ochsner Place, LLC (GGO)
3. Town of Woodbridge

III. Appearance by Grouped Party/Intervenor/CEPA Intervenors:

Woodbridge Newton Neighborhood
Environmental Trust (WNNET)

Representative:

Keith R. Ainsworth, Esq.
Law Offices of Keith R. Ainsworth,
Esq. LLC

Mark and Michele Greengarden
Ochsner Place, LLC (GGO)

A. Administrative Notice.

B. Exhibits for Identification.

1. WNNET's Application to Intervene Under CEPA §22a-19, §4-177a and §16-50n, dated June 8, 2021
2. Mark and Michele Greengarden and Ochsner Place, LLC Request for Status, dated June 22, 2021
3. WNNET's Responses to Council Interrogatories, Set One, dated July 6, 2021 and attached photographs:
 - a. 06/25/2021 Mark Greengarden/end of Soundview cul-de-sac
 - b. 11/09/2020 15 Soundview Drive Ring doorbell camera
 - c. 04/15/2021 Judy Letis/backyard of 7 Soundview Drive
 - d. 03/20/2021 Michele Greengarden/end of 15 Soundview Drive driveway
 - e. 03/10/2021 Kristy Laydon/facing Soundview Drive cul-de-sac
 - f. 03/10/2021 Mark Greengarden/from Soundview Drive cul-de-sac
 - g. 03/10/2021 Mark Greengarden/from Soundview Drive cul-de-sac
 - h. 03/10/2021 Mark Greengarden/from 15 Soundview Drive driveway
 - i. 03/10/2021 Mark Greengarden/from 15 Soundview Drive garage
 - j. 03/10/2021 Mark Greengarden/from 15 Soundview Drive garage (2nd floor)
 - k. 03/10/2021 Mark Greengarden/from 15 Soundview Drive master bedroom
 - l. 03/10/2021 Kristy Laydon/from in front of 114 Newton Road
 - m. 03/10/2021 Steven Kleinstein/from corner of Newton and Swamp
 - n. 03/10/2021 Steven Kleinstein/from Newton - Burnt Swamp intersection
 - o. 03/10/2021 Kristy Laydon/from backyard of 8 Forest Glen Drive
 - p. 03/10/2021 Kristy Laydon/from backyard of 16 Forest Glen Drive
4. WNNET's Isotope Report & Coverage Analysis and attached Resume of David Maxson, received August 24, 2021
5. WNNET Letter Report of Edgar Smith and attached Resume of Edgar Smith, received August 24, 2021
 - a. Drone Flight Site Visit to Newton Road Neighborhood

6. WNNET's Late-Filed Exhibits and resume of Mitchell Smooke, received September 14, 2021

C. Swear Witnesses

1. David P. Maxson, Isotrope, LLC
2. Edgar H. Smith, Geomatrix Productions, Inc.
3. Marie-helene Gratton,
4. Mark Greengarden
5. Shelly Greengarden
6. Mitchell Smooke, Professor of Mechanical Engineering & Materials Science, Yale University

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

E. Cross Examination.

1. Council
2. Applicant
3. Town of Woodbridge

IV. Appearance by Party:

Town of Woodbridge (Town)

Representatives:

Ira W. Bloom, Esq.
Nicholas R. Bamonte, Esq.
Berchem Moses PC
Gerald Weiner, Esq.
Town of Woodbridge

A. Administrative Notice.

B. Exhibits for Identification.

1. Town of Woodbridge Request for Party Status, dated June 9, 2021
2. Town of Woodbridge Pre-filed Testimony of First Selectwoman Beth Heller, dated June 6, 2021
3. Town of Woodbridge Responses to Council Interrogatories, Set One, dated August 17, 2021

C. Swear Witnesses

1. Beth Heller, First Selectwoman, Town of Woodbridge

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

E. Cross Examination.

1. Council
2. Applicant

3. Grouped Party/Intervenor and CEPA Intervenors:
 - a. Woodbridge Newton Neighborhood Environmental Trust (WNNET)
 - b. Mark and Michele Greengarden and Ochsner Place, LLC (GGO)

V. Closing by Siting Council.