



CITY OF NEW BRITAIN

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CORPORATION COUNSEL

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November 4, 2021

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

RE: **DOCKET NO. 503** - Arx Wireless Infrastructure, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 43 Osgood Avenue, New Britain, Connecticut.

Dear Attorney Bachman:

Attached please find 15 copies of City of New Britain's Proposed Findings of Fact, Dated November 4, 2021 with regard to the above-referenced matter.

Please contact our office if there are any questions.

Thank you,
Office of Corporation Counsel

Joseph E. Skelly, Jr.
Assistant Corporation Counsel

JES/tm
Enclosures

cc: Electronic copy served via e-mail to:
Service List dated July 15, 2021
siting.council@ct.gov

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE: :
 : DOCKET NO. 503
 :
 ARX WIRELESS INFRASTRUCTURE, LLC :
 APPLICATION FOR A CERTIFICATE OF :
 ENVIRONMENTAL COMPATIBILITY AND :
 PUBLIC NEED FOR THE CONSTRUCTION, :
 MAINTENANCE AND OPERATION OF A :
 TELECOMMUNICATIONS FACILITY :
 LOCATED AT 43 OSGOOD AVENUE :
 NEW BRITAIN, CONNECTICUT : November 4, 2021

**CITY OF NEW BRITAIN'S
PROPOSED FINDINGS OF FACT**

The Intervenor, City of New Britain files the following proposed findings of fact:

1. The property located at 43 Osgood Avenue was formerly occupied by the Israel Putnam Elementary School and is located in a S-3 Single Family Zone. (Affidavit of Steven P. Schiller, dated July 8, 2021, Exhibit A);
2. There is a masonry brick building on the subject property, which was constructed around 1900 and has a total floor area of approximately 30,500 square feet. (Affidavit of Steven P. Schiller, dated July 8, 2021, Exhibit A);
3. In 2016, the property owner applied for and was granted a variance to convert the former Israel Putnam Elementary School to a 34-unit age-restricted apartment complex. (Affidavit of Steven P. Schiller, dated July 8, 2021, Exhibit A);
4. Approval of the Cell Tower Application submitted by ARX Wireless Infrastructure, LLC would have an adverse effect on the redevelopment of 43 Osgood Avenue, including any construction of a 34-unit age-restricted apartment complex. (Affidavit of Steven P. Schiller, dated July 8, 2021, paragraph 11);

5. The building located at 43 Osgood Avenue has been vacant for an extended period of time, is badly deteriorated and has become a blighting influence on the residential neighborhood. (Affidavit of Steven P. Schiller, dated July 8, 2021, Exhibit A);
6. The Intervenor, City of New Britain, filed the following with the property owner: Notices of Imminent Danger dated May 14, 2021 and May 17, 2021, as well as a Notice of Violation dated June 15, 2021. (See City Notices and Orders for 43 Osgood Avenue dated July 26, 2021);
7. Mayor Erin E. Stewart testified at the September 2, 2021 hearing that the property owner of 43 Osgood Avenue has not taken any significant steps to remedy the violations referenced in paragraph six (6) and fines continue to accumulate on a daily basis. (Continued Evidentiary Hearing Transcript 2 p.m., September 2, 2021, Pg. 54);
8. The building which housed the former Israel Putnam Elementary School located at 43 Osgood Avenue is included in the City of New Britain's 1996 Grand List Historic Properties Survey, which is a consideration as it relates to eligibility for state and federal funding. (Affidavit of Steven P. Schiller, dated July 8, 2021, paragraph 12);
9. The fact that the State Historic Preservation Office (SHPO) wrote a letter dated November 24, 2020 that the proposed cell tower application would have no adverse effects to sites listed on or eligible listing for historical designation clearly ignored its own national register criteria on its website, which factors are:

“The quality of significant in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- a. that are associated with events that have made a significant contribution to the broad patterns of our history; or*
- b. that are associated with the lives of persons significant in our past, or*
- c. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a*


significant distinguishable entity whose components may lack individual distinction; or
d. that have yielded, or may be likely to yield, information important in prehistory or history. Properties that are less than 50 years of age, or moved or reconstructed buildings are generally not eligible for National Register listing unless exceptional significance can be shown”
(Letter from SHPO, dated November 24, 2020;
https://portal.ct.gov/-/media/DECD/Historic-Preservation/National_Register_Fact_Sheet.pdf);

10. Evidence was presented at the September 2, 2021 hearing that the Applicant had failed to consider alternate sites located at 48 Allen Street and 148 Farmington Avenue, which are in close proximity to 43 Osgood Avenue. (Continued Evidentiary Hearing Transcript 2 p.m., September 2, 2021, Pg. 17, 21, 34-35);
11. The Applicant from the beginning of this process focused exclusively on 43 Osgood Avenue as the preferred site and for the most part only sent certified letters to a number of property owners with clearly inadequate follow-up. (Continued Evidentiary Hearing Transcript 2 p.m., September 2, 2021, Pg. 11-21);
12. In the Site Search Summary for 48 Allen Street, ARX simply states “AT&T explored the use of this parcel for the development of a new tower, but it was deemed unusable due to a lack of interest from the owner who did not respond to AT&T’s certified letters.” (Site Search Summary, #7);
13. Based on the evidence presented, ARX was focused on 43 Osgood Avenue as the preferred site and did not adequately follow-up with the alternate sites listed in its Site Search Summary after only sending written letters to determine if there was any interest. (See Site Search Summary). ARX’s search of the alternative sites listed in the Site Search Summary primarily consisted of simply mailing a letter with very little to zero follow-up.

14. The proposed cell tower at 43 Osgood Avenue is in the middle of a highly populated residential neighborhood and there is significant opposition from the residents in the neighborhood surrounding 43 Osgood Avenue. (Pre-filed Testimony of Mayor Erin Stewart, dated July 13, 2021).
15. When comparing Attachment 3 (existing coverage) to Attachment 4 (coverage of application if granted) in Applicant's Exhibit E, there remains significant sections in the proposed coverage area which are either designated as less than 83 dBm or less than 93 dBm which is evidence that the proposed cell tower is not going to significantly increase cell coverage in the subject area. (Radio Frequency Engineering Report with Propagation Plots Attached, Pg. 9-10.)
16. Keith Coppins of ARX testified at the September 2, 2021 hearing that an ARX cell tower will provide better cellular coverage over the intended coverage area if the cell tower is placed somewhere in the vicinity of Farmington Avenue and Allen Street as opposed to 43 Osgood Avenue. (Continued Evidentiary Hearing Transcript 2 p.m., September 2, 2021, Pg. 18, 42);

INTERVENOR,
CITY OF NEW BRITAIN

By Office of Corporation Counsel

By 
Joseph E. Skelly, Jr.
Its Attorney

CERTIFICATION

I hereby certify that a copy of the above was or will immediately be mailed or delivered electronically or non-electronically on November 04, 2021 to all counsel and self-represented parties of record:

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Joseph E. Skelly, Jr.
Commissioner of the Superior Court