



STATE OF CONNECTICUT  
*CONNECTICUT SITING COUNCIL*

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

Web Site: [portal.ct.gov/csc](http://portal.ct.gov/csc)

**VIA ELECTRONIC MAIL**

July 18, 2024

TO: Service List, dated September 23, 2022

FROM: Melanie Bachman, Executive Director *MAB*

RE: **DOCKET NO. 509R** - Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 1837 Ponus Ridge Road, New Canaan, Connecticut. **Court -Ordered Remand Regarding Connecticut Siting Council Membership under Conn. Gen. Stat. §16-50j(b)**

---

At a public meeting held on July 18, 2024, the Connecticut Siting Council (Council) issued its draft remand findings of fact, as a result of the May 6, 2024 Court-ordered remand regarding Council Membership under Conn. Gen. Stat. §16-50j(b). Parties and intervenors may identify errors or inconsistencies between the Council's draft remand findings of fact and the record; however, no new information, evidence, argument, or reply briefs will be considered by the Council.

Parties and Intervenors may file written comments with the Council on the Draft Remand Findings of Fact issued on this matter by the close of business on July 25, 2024.

MAB/RDM/laf

Enclosure

<b>DOCKET NO. 509R</b> - Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 1837 Ponus Ridge Road, New Canaan, Connecticut. <b>Court-ordered Remand Regarding Connecticut Siting Council Membership.</b>	} Connecticut Siting Council
--	------------------------------------

**July 12, 2024**

## **DRAFT Remand Findings of Fact**

### **Introduction**

1. Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T (Applicants), in accordance with provisions of Connecticut General Statutes (C.G.S.) § 16-50g, *et seq.*, applied to the Connecticut Siting Council (Council) on May 6, 2022, for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 110-foot\* stealth “tree” monopole (monopine) wireless telecommunications facility at 1837 Ponus Ridge Road, New Canaan, Connecticut (refer to Figures 1 and 2).  
  
\*The monopole or faux “tree trunk” would be 110 feet high. The top “tree branches” would reach a maximum height of 115 feet.  
  
(Applicants 1, pp. 1-2; Applicants 1, Attachment 4)
2. Homeland Towers, LLC (HT) is a New York limited liability company with an office at 9 Harmony Street, Danbury, Connecticut. HT currently owns and/or operates numerous tower facilities in Connecticut. HT would construct, maintain and operate the proposed facility and would be the Certificate Holder. (Applicants 1, p. 3)
3. New Cingular Wireless PCS, LLC d/b/a AT&T (AT&T) is a Delaware limited liability company with an office at 84 Deerfield Lane, Meriden, Connecticut. AT&T is licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service to Connecticut. (Applicants 1, p. 3)
4. The parties to this proceeding are Applicants; Mark Buschmann; Jamie Buschmann, Trustee; Mark Buschmann, Trustee; and the New Canaan Neighbors (NCN). (Record)
5. The members of NCN consist of the property owners at 59 and 60 Squires Lane, and 331 Dan’s Highway. (Record; NCN 1; NCN 2, response 6; Tr. 5, pp. 165-172)
6. The Intervenor to this proceeding is Cellco Partnership d/b/a Verizon Wireless (Cellco). (Record)
7. The Connecticut Environmental Protection Act (CEPA) intervenors to this proceeding are NCN and Mark Buschmann. (Record)
8. On May 27, 2022, the Council grouped the following parties and CEPA intervenor with the same interests pursuant to C.G.S. §16-50n(c): Mark Buschmann, Jamie Buschmann, Trustee and Mark Buschmann, Trustee (Buschmanns). (Record)

9. CEPA is an intervention statute that limits participation to consideration of unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state. (Record; C.G.S. §22a-14, *et seq.* (2021))
10. The Connecticut Environmental Policy Act (CEPoA), a supplement to CEPA, specifically applies to actions proposed to be undertaken by state departments, institutions or agencies, or funded in whole or in part by the state, that may significantly affect the environment, such as construction of state buildings and infrastructure by the Department of Administrative Services and Department of Transportation (DOT). It does not apply to private entities. HT and AT&T are private entities. (Applicants 1, p. 3; C.G.S. §22a-1a, *et seq.* (2021); *City of New Haven v. Conn. Siting Council*, 2002 Conn. Super. LEXIS 2753 (Conn. Super. 2002))
11. CEPA and CEPoA overlap the Council's enabling statute, the Public Utility Environmental Standards Act (PUESA). Under PUESA, the Council has discretion to consider other state laws as it shall deem appropriate, but has no obligation to apply any particular requirements outside of PUESA. (C.G.S. §16-50x (2021); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014); *Burton v. Dominion Nuclear Conn., Inc.*, 300 Conn. 542 (2011))
12. The purpose of the proposed facility is to provide reliable wireless communications services for AT&T and Cellco customers and address significant coverage deficiencies in AT&T's and Cellco's networks in portions of northwestern New Canaan and northeastern Stamford. (Applicants 1, p. 9; Cellco 2, response 6; Applicants 1f – Wireless Market Study, p. 6)
13. Under C.G.S. §16-50p(b), there is a presumption of public need for personal wireless services and the Council is limited to consideration of a specific need for any proposed facility to be used to provide such services to the public. (C.G.S. §16-50p(b) (2021); Council Administrative Notice Item No. 4; Tr. 3, pp. 7-10; Tr. 4, pp. 111-114)
14. Also under C.G.S. §16-50p(b), the Council must examine whether the proposed facility may be shared with any public or private entity that provides service to the public if the shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, and may impose reasonable conditions as it deems necessary to promote the immediate and shared use of telecommunications facilities and avoid the unnecessary proliferation of such facilities consistent with the state tower sharing policy. (C.G.S. §16-50p(b) (2021); C.G.S. §16-50aa (2021); Tr. 5, pp. 7-8)
15. Pursuant to C.G.S. § 16-50l (b), Applicants provided public notice of the filing of the application that was published in the Stamford Advocate on April 11 and April 12, 2022. (Applicants 2)
16. Pursuant to C.G.S. § 16-50l (b), notice of the application was provided to all abutting property owners by certified mail on April 7, 2022. A certified mail receipt from one abutting property owner (Aquarion Water Company) was not received. Applicants resent notice to this abutter by First Class mail on May 5, 2022. (Applicants 1 p. 4, Attachment 11; Applicants 4, response 1)
17. On April 7, 2022, Applicants provided notice to all federal, state and local officials and agencies listed in C.G.S. § 16-50l (b). (Applicants 1, p. 4, Attachment 12)

**Procedural Matters**

18. On March 10, 2020, Governor Lamont issued a Declaration of Public Health and Civil Preparedness Emergencies, proclaiming a state of emergency throughout the state as a result of the COVID-19 pandemic. (Council Administrative Notice Item No. 57)
19. On March 12, 2020, Governor Lamont issued Executive Order No. (EO) 7 ordering a prohibition of large gatherings, among other orders and directives. (Council Administrative Notice Item No. 57)
20. On March 14, 2020, and as subsequently extended, Governor Lamont issued EO 7B ordering suspension of in-person open meeting requirements of all public agencies under C.G.S. §1-225. (Council Administrative Notice Item Nos. 57 and 58)
21. Public Act (PA) 22-3 took effect on April 30, 2022. It permits public agencies to hold remote meetings under the Freedom of Information Act (FOIA) and the Uniform Administrative Procedure Act. FOIA defines “meeting” in relevant part as “any hearing or other proceeding of a public agency.” (Council Administrative Notice Item No. 59; C.G.S. §1-200, *et seq.* (2021))
22. PA 22-3 allows public agencies to hold remote meetings provided that:
  - a) The public has the ability to view or listen to each meeting or proceeding in real-time, by telephone, video, or other technology;
  - b) Any such meeting or proceeding is recorded or transcribed and such recording or transcript shall be posted on the agency’s website within seven (7) days of the meeting or proceeding;
  - c) The required notice and agenda for each meeting or proceeding is posted on the agency’s website and shall include information on how the meeting will be conducted and how the public can access it any materials relevant to matters on the agenda shall be submitted to the agency and posted on the agency’s website for public inspection prior to, during and after the meeting; and
  - d) All speakers taking part in any such meeting shall clearly state their name and title before speaking on each occasion they speak.(Council Administrative Notice Item No. 59)
23. Upon receipt of the application, the Council sent a letter to the Town of New Canaan (Town) on April 18, 2022, as notification that the application was received and is being processed, in accordance with C.G.S. § 16-50gg. (Record)
24. On April 22 and July 12, 2022, the Town Planning and Zoning Commission submitted correspondence to the Council with recommendations to consider utilizing a wood fence and a structure resembling a residential accessory structure (ex. a barn) to enclose the equipment, focus on addressing the base of the structure and review Section 7.8 of the Town Zoning Regulations. (Record)
25. Local zoning regulations do not apply to facilities under the exclusive jurisdiction of the Council. Pursuant to C.G.S §16-50x, the Council has exclusive jurisdiction over telecommunications facilities throughout the state. It shall consider any location preferences provided by the host municipality under C.G.S §16-50gg as the Council shall deem appropriate. (C.G.S. §16-50x (2021))

26. During a regular Council meeting on May 12, 2022, the application was deemed complete pursuant to Regulations of Connecticut State Agencies (R.C.S.A.) § 16-50l-1a and the public hearing schedule was approved by the Council. (Record; Transcript 1 – June 28, 2022 - 2:00 p.m. [Tr. 1], pp. 8-9)
27. Pursuant to C.G.S. § 16-50m, on May 16, 2022, the Council sent a letter to the Town and City of Stamford, which is located within 2,500 feet of the proposed facility site, to provide notification of the scheduled public hearing via Zoom conferencing and to invite the municipalities to participate. (Record)
28. Pursuant to C.G.S. § 16-50m, the Council published legal notice of the date and time of the remote public hearing via Zoom conferencing in the New Canaan Advertiser on May 19, 2022. (Record; Tr. 1, pp. 8-9)
29. The Council’s Hearing Notice did not refer to a public field review of the proposed site. Field reviews are neither required by statute nor an integral part of the public hearing process. The purpose of a field review is an investigative tool to acquaint members of a reviewing commission with the subject property. (Record; Tr. 1, pp. 8-9; *Manor Development Corp. v. Conservation Comm. of Simsbury*, 180 Conn. 692, 701 (1980); *Grimes v. Conservation Comm. of Litchfield*, 243 Conn. 266, 278 (1997))
30. On May 13, 2022, in lieu of an in-person field review of the proposed site, the Council requested that Applicants submit photographic documentation of site-specific features into the record intended to serve as a “virtual” field review of the site. On June 2, 2022, Applicants submitted such information in response to the Council’s interrogatories. (Record; Applicants 4, Response 32; Tr. 1, pp. 8-11)
31. On May 27, 2022, the Council issued a Protective Order related to the disclosure of the monthly rent and financial terms contained within the lease agreement for the proposed site, pursuant to C.G.S. §1-210(b) and consistent with the Conclusions of Law adopted in Council Docket 366. (Record; Applicants 3)
32. Pursuant to C.G.S. §16-50p(g), the Council shall in no way be limited by Applicants already having acquired land or an interest therein for the purpose of constructing the proposed facility. (C.G.S. §16-50p(g) (2021); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007); Tr. 1, pp. 11-20)
33. The Council’s evaluation criteria under C.G.S. §16-50p does not include the consideration of property ownership or property values nor is the Council otherwise obligated to take into account the status of property ownership or property values. (C.G.S. §16-50p (2021); *Westport v. Conn. Siting Council*, 47 Conn. Supp. 382 (2001); *Goldfisher v. Conn. Siting Council*, 95 Conn. App. 193 (2006); Tr. 1, pp. 12-20; Transcript 2 – June 28, 2022, 6:30 p.m. [Tr. 2], p. 145)
34. On May 31, 2022, Mark Buschmann and Mark Buschmann, Trustee submitted a Motion to Dismiss, or in the Alternative, Motion for Stay of Proceeding (Motion to Dismiss) on the basis that the Council is improperly constituted under its enabling statute, and therefore lacks the power to act on the application. (Record)

35. On June 8, 2022, the Council held a remote pre-hearing conference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists and filing of pre-hearing interrogatories. Procedures for the remote public hearing via Zoom conferencing were also discussed. (Council Pre-Hearing Conference and Remote Hearing Procedure Memoranda, dated June 1, 2022; R.C.S.A §16-50j-22a; R.C.S.A. §16-50j-26)
36. In compliance with R.C.S.A. §16-50j-21, Applicants installed a four-foot by eight-foot sign along Ponus Ridge Road in the vicinity of the access drive for the proposed site on June 13, 2022. The sign presented information regarding the proposed telecommunications facility and the Council's public hearing. (Applicants 5; Tr. 1, pp. 12-13; Record)
37. On June 14, 2022, Mark Buschmann and Mark Buschmann, Trustee submitted a Motion for Site Inspection to the Council. On the same date, Buschmanns submitted a request to the property owner's counsel for access to the site to conduct invasive testing. (Record; Buschmanns 4)
38. On June 23, 2022, during a regular meeting, the Council denied Mark Buschmann and Mark Buschmann, Trustee's May 31, 2022 Motion to Dismiss on the basis that the Council is properly constituted under its enabling statute and has the power to act. (Record; June 23, 2022 Council Meeting Minutes; R.C.S.A §16-50j-22a; R.C.S.A. §16-50j-26)
39. On June 23, 2022 and June 27, 2022, NCN and Buschmanns, respectively, submitted Motions to Compel Applicants' Responses to NCN's Interrogatory Nos. 14 and 20, and Buschmanns' Interrogatory Nos. 1, 2 and 25. (Record)
40. On June 27, 2022, Buschmanns submitted a Motion in Limine to preclude Applicants' tree survey table, site survey, wetlands inspection, and U.S Fish and Wildlife Service (USFWS) and Department of Energy and Environmental Protection (DEEP) Natural Diversity Database (NDDB) Compliance Report based on the absence of the authors from Applicants' witness list. (Record)
41. Pursuant to C.G.S. § 16-50m, the Council gave due notice of a remote public hearing to be held on June 28, 2022, beginning with the evidentiary session at 2:00 p.m. and continuing with the public comment session at 6:30 p.m. via Zoom conferencing. The Council provided information for video/computer access or audio only telephone access. (Council's Hearing Notice dated May 16, 2022; Tr. 1, p. 1; Tr. 2, p. 138)
42. During the June 28, 2022 evidentiary hearing session, the Council:
  - a) Denied Buschmanns' June 14, 2022 Motion for Site Inspection on the bases that there is no statutory requirement for a field review, the Council has no authority to grant third party access to private property and the motion was untimely;
  - b) Granted NCN's June 23, 2022 Motion to Compel Applicant Responses to NCN Interrogatory No. 14 requesting an itemized cost breakdown of small cell installations, and denied NCN's Motion to Compel Applicant Responses to NCN Interrogatory No. 20 requesting the names of the tenants residing at 1837 Ponus Ridge Road as the information is irrelevant to the Council's evaluation of the proposed facility;
  - c) Granted Buschmanns' June 27, 2022 Motion to Compel Applicant Responses to Buschmann Interrogatory No. 25 requesting the resumes of Michael Libertine and Deborah Gustafson in part as it related to the resume of Michael Libertine, and denied Buschmanns' Motion to Compel Applicant Responses to Buschmann Interrogatory Nos. 1 and 2 requesting the names and addresses of the members of the owners of the host parcel and a



copy of the deed by which the owner acquired title as the information is irrelevant to the Council's evaluation of the proposed facility; and

- d) Denied Buschmanns' June 27, 2022 Motion in Limine to preclude Applicants' tree survey table, site survey, wetlands inspection, and USFWS and DEEP NDDDB Compliance Report based on the verification of Applicants' exhibits by the appropriate sworn witness who prepared, supervised or assisted in the preparation of the exhibits and cross examination of those witnesses on the exhibits by the Council, parties and intervenors during the proceedings.

(Record; Tr. 1, pp. 8-23; R.C.S.A. §16-50j-22a; R.C.S.A. §16-50j-26)

- 43. The 6:30 p.m. public comment session afforded interested persons the opportunity to provide oral limited appearance statements. Interested persons were also afforded an opportunity to provide written limited appearance statements at any time up to 30 days after the close of the evidentiary record. Limited appearance statements in this proceeding, whether oral or written, were not provided under oath nor subject to cross examination. (Tr. 1, pp. 6-7; Tr. 2; C.G.S. §16-50n(f) (2021))
- 44. The Council continued the remote evidentiary hearing session via Zoom conferencing on July 14, 2022 beginning at 2:00 p.m., on August 16, 2022 beginning at 2:00 p.m. and on September 8, 2022 beginning at 1:00 p.m. (Council's Continued Hearing Memoranda dated June 29, July 15, and August 17, 2022. (Transcript 3- July 14, 2022 – 2:00 p.m. [Tr. 3], p. 1; Transcript 4- August 16, 2022– 2:00 p.m. [Tr. 4] p. 1; Transcript 5- September 8, 2022– 1:00 p.m. [Tr. 5] p. 1)
- 45. In compliance with PA 22-3:
  - a) The public had the ability to view and listen to the remote public hearings in real-time, by computer, smartphone, tablet or telephone;
  - b) The remote public hearings were recorded and transcribed, and such recordings and transcripts were posted on the Council's website on June 28, 2022 and July 11, 2022; July 14, 2022 and August 1, 2022; August 16, 2022 and August 31, 2022; and September 9, 2022 and September 26, 2022 respectively;
  - c) The Hearing Notice, Hearing Program, Citizens Guide for Siting Council Procedures and Instructions for Public Access to the Remote Hearings were posted on the Council's website;
  - d) Prior to, during and after the remote public hearings, the record of the proceeding has been, and remains, available on the Council's website for public inspection; and
  - e) The Council, parties and intervenors provided their information for identification purposes during the remote public hearings.(Hearing Notice dated May 19, 2022; Tr. 1; Tr. 2; Tr. 3; Tr. 4; Tr. 5; Record)
- 46. The purpose of discovery is to provide the Council, parties and intervenors access to all relevant information in an efficient and timely manner to ensure that a complete and accurate record is compiled. (R.C.S.A. §16-50j-22a)
- 47. Applicants' witnesses prepared, supervised or assisted in the preparation of Applicants' exhibits. The Council, parties and intervenors were provided opportunities to cross examine Applicants' witness panel on the exhibits. (Applicants 1-16; Tr. 1; Tr. 3; Tr. 4; Tr. 5; Record)
- 48. During the August 16, 2022 continued evidentiary hearing session, NCN cross-examined Applicants. During the September 8, 2022 evidentiary hearing session, without withdrawing its party status, NCN elected not to continue its cross-examination of Applicants. NCN did not limit its cross-examination as to any other parties or intervenors in the proceeding. (Tr. 4, pp. 52-148; Tr. 5, pp. 14-18)

49. In an administrative proceeding, irrelevant, immaterial or unduly repetitious evidence shall be excluded, and an agency has the right to believe or disbelieve the evidence presented by any witness, even an expert, in whole or in part. (C.G.S. §4-178 (2021); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25).
50. On August 31, 2022, NCN submitted a Motion to Strike portions of the record that refer to the Town's public safety equipment on the basis that the Town was not a party or intervenor to the proceeding and municipal public safety equipment is not jurisdictional to the Council. (Record)
51. During the September 8, 2022 evidentiary hearing session, the Council denied NCN's Motion to Strike on the basis that the state tower sharing policy requires the Council to provide notice of a proposed facility to the municipality in which the facility is to be located, examine whether the facility may be shared with any public or private entity that provides service to the public if the shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, and impose reasonable conditions as the Council deems necessary to promote the immediate and future shared use of telecommunications facilities and avoid the unnecessary proliferation of such facilities. (C.G.S. §16-50p(b)(1) and (2) (2021); C.G.S. §16-50aa (2021); R.C.S.A. §16-50j-22a; R.C.S.A. §16-50j-26)
52. Also during the September 8, 2022 evidentiary hearing session, the Council requested Applicants to submit revised and certified Site Plan Sheets EX-1 and EX-2 as a late-filed exhibit. Applicants submitted the requested late-filed exhibit on September 15, 2022. (Record; Applicants 17)
53. On September 15, 2022, the Council issued a memorandum to the service list regarding comments and/or requests for an additional evidentiary hearing session specifically limited to cross-examination on the late-filed exhibit by September 22, 2022. (Record; Council Memorandum, September 15, 2022)
54. On September 21, 2022, Buschmanns requested the opportunity to cross-examine Earle Newman, L.S. on Site Plan Sheet EX-1 and Michael Rozeski on Site Plan Sheet EX-2 rather than Applicants' witness panel. Earle Newman, L.S. and Michael Rozeski are neither Applicants' witnesses nor parties or intervenors to the proceeding. (Record)
55. NCN did not submit any comments or a request for an additional evidentiary hearing session on Applicants' September 15, 2022 late-filed exhibit. (Record)
56. Pursuant to C.G.S. §16-50n(f), during a regular meeting held on September 29, 2022 the Council denied Buschmanns' Request to Cross Examine Earle Newman, L.S. and Michael Rozeski on Applicants' September 15, 2022 late-filed exhibit, closed the evidentiary record for Docket 509, and established October 27, 2022 as the deadline for the submission of briefs and proposed findings of fact. (Record; Council Meeting Minutes and Memorandum, September 29, 2022)
57. On October 27, 2022, Buschmanns and NCN submitted post-hearing briefs and proposed findings of fact. Also on October 27, 2022, Applicants submitted a post-hearing brief. (Record)
58. Constitutional principles permit an administrative agency to organize its hearing schedule so as to balance its interest in reasonable, orderly and non-repetitive proceedings against the risk of erroneous deprivation of a private interest. It is not unconstitutional for the Council, in good faith, to balance its statutory time constraints against the desire of a party, intervenor or CEPA intervenor for more time to present their objections to a proposal. (*Concerned Citizens of Sterling v. Conn.*



*Siting Council*, 215 Conn. 474 (1990); *Pet v. Dept. of Public Health*, 228 Conn. 651 (1994); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014))

### **State Agency Comment**

59. Pursuant to C.G.S. § 16-50j (g), on May 16, 2022, the following state agencies were solicited by the Council to submit written comments regarding the proposed facility: DEEP; Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Agriculture (DOAg); DOT; Connecticut Airport Authority (CAA); Department of Emergency Services and Public Protection (DESPP); and State Historic Preservation Office (SHPO). (Record)
60. On June 1, 2022, the Council received comments from DPH related to water quality.<sup>1</sup> Water quality, among other environmental concerns, are addressed in the Environmental Considerations section of this document, pursuant to C.G.S. §16-50p. (Record; C.G.S. §16-50p (2021))
61. In its comments, DPH did not identify the proposed facility site and/or host parcel as Class I or Class II watershed land that is owned by a water company. (Record)
62. DPH recommended Aquarion Water Company (Aquarion) be contacted prior to commencement of construction and allowed to periodically inspect the site. Applicants, with consent from the host parcel owner, would make accommodations for Aquarion personnel to access the site for a pre-construction and post-construction visit if the project is approved. (Record; Applicants 11, response 7; Applicants 15; Tr. 1, pp. 115-118, 132; Tr. 4, pp. 21-24, 80)
63. On June 27 and August 9, 2022, the Council received comments from CEQ related to visibility, water quality and wildlife.<sup>2</sup> Visibility, water quality and wildlife, among other environmental concerns, are addressed in the Environmental Considerations section of this document, pursuant to C.G.S. §16-50p. (Record; C.G.S. §16-50p (2021); Council Administrative Notice Item Nos. 60, 61 and 62)
64. No other state agencies responded with comment on the application. (Record)
65. While the Council is obligated to consult with and solicit comments from state agencies by statute, the Council is not required to abide by the comments from state agencies. (C.G.S. §16-50p(g) (2021); *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007)).

### **Municipal Consultation**

66. In 2011, AT&T met with the Town to discuss wireless service needs, including but not limited to, upgrades at existing sites, collocation, and development of new tower sites in Town and in adjacent municipalities, such as the facilities which were subsequently approved by the Council in Docket

---

<sup>1</sup>[https://portal.ct.gov/-/media/CSC/1\\_Dockets-medialibrary/1\\_MEDIA\\_DO500\\_600/DO509/ProceduralCorrespondence/DO509-DPHcommentsrecd.pdf](https://portal.ct.gov/-/media/CSC/1_Dockets-medialibrary/1_MEDIA_DO500_600/DO509/ProceduralCorrespondence/DO509-DPHcommentsrecd.pdf) (DPH comments, dated June 1, 2022)

<sup>2</sup>[https://portal.ct.gov/-/media/CSC/1\\_Dockets-medialibrary/1\\_MEDIA\\_DO500\\_600/DO509/ProceduralCorrespondence/DO509-CEQcommentsrecd.pdf](https://portal.ct.gov/-/media/CSC/1_Dockets-medialibrary/1_MEDIA_DO500_600/DO509/ProceduralCorrespondence/DO509-CEQcommentsrecd.pdf); [https://portal.ct.gov/-/media/CSC/1\\_Dockets-medialibrary/1\\_MEDIA\\_DO500\\_600/DO509/ProceduralCorrespondence/DO509-CEQ-Addtnlcommentsrecd.pdf](https://portal.ct.gov/-/media/CSC/1_Dockets-medialibrary/1_MEDIA_DO500_600/DO509/ProceduralCorrespondence/DO509-CEQ-Addtnlcommentsrecd.pdf) (CEQ comments, dated June 27, 2022 and August 9, 2022)

- 442 and Docket 487. Discussions also included the need to develop a new tower site to serve the northwest New Canaan area. (Applicants 4, response 17)
67. Discussions between AT&T and the Town continued into 2013, after which the Town informed AT&T that it would conduct its own study to determine carrier coverage needs. (Applicants 4, response 17)
68. In 2014, the Town commissioned an independent wireless market study (Wireless Market Study) to perform a technical evaluation of existing commercial wireless services in the community. The Wireless Market Study determined that AT&T and Cellco have non-reliable coverage in the northwest portion of Town, west of Route 124 (Oenoke Ridge). (Applicants 1f, Wireless Market Study, p. 6)
69. The Wireless Market Study did not propose a particular property to serve the northwest New Canaan area. A location pin for a potential wireless facility was placed at the intersection of Dan's Highway and West Street. There are no Town-owned properties at this location. (Applicants 1f – Wireless Market Study)
70. Capacity needs were not within the scope of the Wireless Market Study. (Applicants 1f, Wireless Market Study)
71. The Town chose HT through a Request for Proposals (RFP) process in 2016 to develop telecommunications sites in town to help meet coverage needs identified in the 2014 Wireless Market Study. At the request of the Town, HT would try to develop towers that did not exceed a height of 110 feet above ground level (agl). (Tr. 1, pp. 78-79; NCN Administrative Notice Item Nos. 53 and 60uu)
72. On October 5, 2021, HT met with Town officials to discuss the preliminary design of the proposed facility at 1837 Ponus Ridge Road. A follow up discussion occurred on November 5, 2021 to discuss a redesign of the access road, stormwater runoff and erosion control measures. (Applicants 1, p. 23)
73. On December 1, 2021, the Town Office of Emergency Management and Town Fire Department submitted correspondence to Applicants in support of the proposed facility expressing interest in co-location of equipment for the Town public safety radio network. (Applicants 6)
74. On December 6, 2021, the Town Police Department and Board of Police Commissioners and Town Community Emergency Response Team submitted correspondence to Applicants in support of the proposed facility expressing interest in co-location of equipment for the Town public safety radio network. (Applicants 6)
75. Pursuant to C.G.S. § 16-50/(f), Applicants commenced the 90-day pre-application municipal consultation process by submitting a technical report for the proposed facility to the Town on December 14, 2021. (Applicants 1, pp. 23-24)
76. On January 24, 2022, at the request of the Town, Applicants participated in a virtual and in-person Public Information Meeting at the Town Hall that was attended by town officials and approximately 50 residents. In addition to questions regarding the facility, concerns expressed by the residents included, but were not limited to, concerns about health effects from radio frequency emissions, diminished property values and aesthetics. (Applicants 1, p. 24)

77. During the public comment session of the Council's hearing held on June 28, 2022, among a total of 7 persons who made oral limited appearance statements about the proposed facility, the Town First Selectman, Fire Chief, Community Emergency Response Team Executive Director, Emergency Management Services Captain and Deputy Chief of Police made oral limited appearance statements in support of the proposed facility. (Tr. 2, pp. 149-162)
78. On July 6, 2022, Buschmanns submitted a Motion to Strike Limited Appearance Statements, or in the alternative, Motion to Compel Appearance for Cross Examination and Request to Reply and Present Oral Argument on Council Staff's Recommended Disposition of the Motion (Motion to Strike). Specifically, Buschmanns moved to strike the oral limited appearance statements made by the Town First Selectman, Fire Chief, Community Emergency Response Team Executive Director, and Deputy Chief of Police, or in the alternative, moved the Council to compel the Town representatives to appear at the next public hearing session, place them under oath, and make them available for cross-examination. (Record)
79. During the evidentiary session held on July 14, 2022, the Council denied Buschmanns' Motion to Strike, its alternative and the request to reply and provide oral argument on the basis that:
- a) C.G.S. §16-50n states any person may make a limited appearance at a hearing, and persons making limited appearance statements are not subject to cross-examination and do not have the right to cross-examine parties and intervenors;
  - b) C.G.S. §4-177c states persons not named as parties or intervenors may, in the discretion of the Presiding Officer, be given an opportunity to present oral or written statements;
  - c) R.C.S.A. §16-50j-28(e) states if the Council proposes to consider a limited appearance statement as evidence, the Council shall give all parties and intervenors an opportunity to cross-examine the person who made the statement; and
  - d) Buschmanns will have an opportunity to file a written response to the Council's disposition of its motion in its post-hearing brief.
- (Record; Tr. 3, pp. 6-14; R.C.S.A. §16-50j-22a; R.C.S.A. §16-50j-26)

#### **Public Need for Service**

80. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
81. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states and has established design standards to ensure technical integrity and nationwide compatibility among all systems. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
82. Section 253 of the Telecommunications Act of 1996 prohibits any state or local statute or regulation, or other state or local legal requirement from prohibiting or having the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
83. Section 704 of the Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services and from prohibiting or having the effect of prohibiting the provision of personal wireless services. This section also requires state or local governments to act on applications within a reasonable period of time and to make any denial of an

- application in writing supported by substantial evidence in a written record. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
84. Section 704 of the Telecommunications Act of 1996 also prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions, which include effects on human health and wildlife, to the extent that such towers and equipment comply with FCC’s regulations concerning such emissions. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
  85. Section 706 of the Telecommunications Act of 1996 requires each state commission with regulatory jurisdiction over telecommunications services to encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans, including elementary and secondary schools, by utilizing regulating methods that promote competition in the local telecommunications market and remove barriers to infrastructure investment. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
  86. In December 2009, President Barack Obama recognized cell phone towers as critical infrastructure vital to the United States. The Department of Homeland Security, in collaboration with other federal stakeholders, state, local, and tribal governments, and private sector partners, has developed the National Infrastructure Protection Plan (NIPP) to establish a framework for securing resources and maintaining resilience from all hazards during an event or emergency. (Council Administrative Notice Item No. 11 –Presidential Proclamation 8460, Critical Infrastructure Protection)
  87. In February 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act (also referred to as the Spectrum Act) to advance wireless broadband service for both public safety and commercial users. The Act established the First Responder Network Authority (FirstNet) to oversee the construction and operation of a nationwide public safety wireless broadband network. Section 6409 of the Act contributes to the twin goals of commercial and public safety wireless broadband deployment through several measures that promote rapid deployment of the network facilities needed for the provision of broadband wireless services. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012)
  88. In June 2012, President Barack Obama issued an Executive Order to accelerate broadband infrastructure deployment declaring that broadband access is a crucial resource essential to the nation’s global competitiveness, driving job creation, promoting innovation, expanding markets for American businesses and affording public safety agencies the opportunity for greater levels of effectiveness and interoperability. (Council Administrative Notice Item No. 12 – Presidential Executive Order 13616, Accelerating Broadband Infrastructure Development; Council Administrative Notice Item No. 23 – FCC Wireless Infrastructure Report and Order)
  89. The Western Connecticut Council of Governments (WestCoG), in its *2020-2030 Regional Plan of Conservation and Development*, states “advanced telecommunication is a part of an essential infrastructure system that attracts and retains businesses in the region. A faster, more reliable connection can give businesses a significant advantage over their competitors”. (Buschmanns Administrative Notice Item No. 3, p. 31)
  90. Pursuant to Section 6409(a) of the Spectrum Act, a state or local government may not deny and shall approve any request for collocation, removal or replacement of equipment on an existing wireless tower provided that this does not constitute a substantial change in the physical dimensions of the tower. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012; Council Administrative Notice Item No. 23 – FCC Wireless Infrastructure Report and Order)

91. In June 2020, the FCC issued a declaratory ruling that heights of existing towers located outside of the public right-of-way could increase by up to 20 feet plus the height of a new antenna without constituting a substantial change in the physical dimensions of a tower. (Council Administrative Notice Item No. 27)
92. In November 2020, the FCC issued an order that ground excavation or deployment up to 30 feet in any direction beyond the site boundary of existing towers located outside of the public right-of-way does not constitute a substantial change in the physical dimensions of a tower (Council Administrative Notice Item No. 28)
93. According to state policy, if the Council finds that a request for shared use of a facility by a municipality or other person, firm, corporation or public agency is technically, legally, environmentally and economically feasible, and the Council finds that the request for shared use of a facility meets public safety concerns, the Council shall issue an order approving such shared use to avoid the unnecessary proliferation of towers in the state. (C.G.S. §16-50aa)
94. On May 16, 2022, the Council sent correspondence to other telecommunications carriers not intervening in the proceeding requesting that carriers interested in locating on the proposed facility in the foreseeable future to notify the Council by June 21, 2022. No carriers responded to the Council's solicitation. (Record)
95. The facility would be designed to accommodate four wireless carriers and municipal antennas. HT has agreements with AT&T, Cellco, and the Town to locate equipment at the site. (Applicants 1, Attachment 4; Tr. 4, p. 123; NCN Administrative Notice Item No. 60dd and hh)

#### **AT&T's Existing and Proposed Wireless Services**

96. AT&T has a significant coverage deficiency in its wireless communications network in portions of northwestern New Canaan and northeastern Stamford. The coverage deficiency was confirmed by coverage modeling and a drive test. (Applicants 1, p. 9, Attachment 1; Applicants 8, response 12)
97. Roads in the area without adequate service include, but are not limited to, Ponus Ridge Road, Dan's Highway, and High Ridge Road (Route 137). (Applicants 1, Attachment 4)
98. AT&T proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3550 MHz frequencies at the site. All frequencies are capable of supporting 5G services. 5G services would not be deployed initially given that the need in the area is coverage related. (Applicants 1, Attachment 1; Applicants 4, response 13; Tr. 4, pp. 143-145)
99. No structural modifications are required to support 5G services. (Tr. 1, pp. 128-129)
100. AT&T designs its network using a -93 dBm signal level threshold for reliable in-vehicle service and -83 dBm for reliable in-building service. (Applicants 1, Attachment 1)
101. The 700 MHz frequency provides the largest area of service and therefore defines the coverage footprint of the AT&T wireless network. Other higher frequencies (850 MHz, 1900 MHz, 2100 MHz) used in AT&T's network provide smaller coverage footprints and are used to provide additional capacity to the system, reducing the customer load on the 700 MHz system, thereby increasing the data speeds available to users that only have 700 MHz coverage. (Applicants 1, response 12)

102. AT&T currently operates five facilities within four miles of the proposed site. None of these facilities are able to provide adequate coverage to the proposed service area (refer to Figures 3 and 4). (Applicants 1, Attachment 1)
103. AT&T began its search for a site in northwest New Canaan several years ago. The search area was centered to the west of Dan's Highway. AT&T funded an installation to serve the area in February 2021. (Applicants 1, p. 2; Applicants 4, response 4, response 8)
104. AT&T's proposed installation at the 106-foot level of the tower would provide a 700 MHz coverage footprint of 1.47 square miles at -83 dBm and 3.72 square miles at -93 dBm. Within the -93 dBm footprint, 1.9 miles of main roads and 16.3 miles of secondary roads would have reliable service (refer to Figure 5). (Applicants 1, Attachment 1)
105. AT&T's installation would provide over one mile of new in-vehicle coverage to Route 137 (High Ridge Road) west of the proposed site. (Applicants 1, Attachment 4; Applicants 4, response 15)
106. Due to the large coverage gaps in northwest New Canaan, and the hilly, forested terrain of the area, the proposed site would not be able to serve the entire area of need. For example, coverage gaps would remain on West Road and on the northern section of Route 124 east of the site, and in the Ponus Ridge Road area at the northeast end of Laurel Reservoir. AT&T would need additional sites to serve remaining areas of coverage need. (Applicants 1, Attachment 1, Tr. 2, pp. 83-85)
107. The coverage footprint is within a Town Cellular Communication Priority area. (Applicants 1a, POCD p. 77)

#### **Cellco's Existing and Proposed Wireless Services**

108. Cellco has a significant coverage deficiency in its wireless communications network in portions of northwestern New Canaan and northeastern Stamford. (Cellco 1; Cellco 2, Attachment 2)
109. Roads in the area without adequate service include, but are not limited to, Ponus Ridge Road, Dan's Highway, and Route 137. (Cellco 1, Attachment 2)
110. Cellco proposes to operate 700 MHz, 850 MHz, 1900 MHz, 2100 MHz, 3700 MHz frequencies at the site. The 850 MHz, 2100 MHz, and 3700 MHz frequencies are capable of supporting 5G services. (Cellco 2, response 7, response 12)
111. Cellco designs its network using a -95 dB Reference Signal Received Power (RSRP) standard for reliable in-vehicle service and -85 dB RSRP standard for reliable in-building service. (Cellco 2, response 6)
112. Cellco currently operates six facilities within four miles of the proposed site. None of these facilities are able to provide adequate coverage to the proposed service area (refer to Figure 6). (Cellco 2, response 11, Attachment 2)
113. Cellco issued a search ring for a site in northwest New Canaan in April 2021. The search area was centered near Ponus Ridge Road and Dan's Highway. Due to the presence of HT's proposed site that met Cellco's objectives, no other properties were investigated. (Cellco 2, response 4, Attachment 3)



114. Cellco's proposed installation at the 95-foot level of the tower would provide a 700 MHz coverage footprint of 4.2 square miles at -85 dB RSRP and 8.7 square miles at -95 dB RSRP. (refer to Figure 7). (Cellco 2, response 6, Attachment 3)
115. Cellco's installation would provide reliable in-vehicle service to 2.9 miles of Route 137 in Stamford, and 3.7 miles of Ponus Ridge Road and 1.1 miles of West Road in New Canaan. (Cellco 2, response 6, Attachment 3)
116. In addition to providing reliable service to the surrounding area, the proposed site would also provide capacity relief to Cellco's existing Stamford NW facility (Beta sector). (Cellco 2, response 13)
117. Lowering the height of Cellco's proposed antennas would reduce the coverage footprint, particularly with respect to the higher frequencies (1900 MHz, 2100 MHz). (Cellco 2, response 14)

#### **Site Selection**

118. HT began searching for a site in the northwest New Canaan/northeast Stamford area in early 2018. The search included low and high elevation terrain to the east, west and south of Laurel Reservoir. (Applicants 1, response 5; Tr. 1, pp. 76-78)
119. There are no existing towers, buildings, utility poles or other structures within the search area that would meet coverage objectives for AT&T and Cellco. (Applicants 1, Attachment 2; Applicants 7, response 18; Tr. 1, p. 120)
120. HT investigated 24 sites (refer to Figure 8) in the search area, as follows:
  - 1) **1837 Ponus Ridge Road, New Canaan** – a 5.1 acre parcel that HT selected as the proposed site through a lease agreement with the landowner, 1837 LLC.
  - 2) **1845 Ponus Ridge Road, New Canaan**: a 6.5-acre parcel. The landowner was not interested in a lease.
  - 3) **Ponus Ridge Road, New Canaan**: 153.4 acres owned by Aquarion. Aquarion was not interested in a lease. The property is protected Class I watershed land and has a deed restriction. HT also explored the possibility of partially using Aquarion land and the Town road right-of-way for a facility; however, not enough space was available.
  - 4) **197 Dan's Highway, New Canaan**: 6.4-acre parcel. Landowner did not respond to lease inquiry.
  - 5) **195 Dan's Highway, New Canaan**: 9.0-acre parcel. Landowner did not respond to lease inquiry.
  - 6) **Proprietor's Circle, New Canaan (MBL# 28 14 71)**: a 4.0-acre parcel. The property owner was not interested in a lease.
  - 7) **Wellesley Drive, New Canaan (MBL#27 208 150)**: 40-acre parcel owned by the New Canaan Land Conservation Trust known as Watson-Symington Preserve. The land trust did not respond to lease inquiry.
  - 8) **Reservoir Lane, Stamford (MBL# 004 2759)**: 44.5-acre parcel owned by the State of Connecticut. Landowner did not respond to lease inquiry.
  - 9) **2975 High Ridge Road, Stamford**: 1.2-acre parcel. Landowner did not respond to lease inquiry.

- 10) **High Ridge Road, Stamford (MBL# 004 3504)**: 53.2-acre parcel. Landowner did not respond to lease inquiry.
  - 11) **Laurel Road, Stamford (MBL# 004 2788)**: 21.8-acre parcel owned by the State of Connecticut. Landowner did not respond to lease inquiry.
  - 12) **0 Ingleside Drive, Stamford**: 6.2-acre parcel owned by the Stamford Land Conservation Trust. The land trust did not respond to lease inquiry. Deed has development restriction.
  - 13) **Laurel Road, Stamford (MBL# 004 2784)**: 3.1-acre parcel owned by the State of Connecticut. Landowner did not respond to lease inquiry.
  - 14) **Laurel Road, Stamford (MBL# 004 2782)**: 3.4-acre parcel owned by Aquarion. Aquarion was not interested in a lease. The property is protected Class I watershed land and has a deed restriction.
  - 15) **Reservoir Lane, Stamford (MBL# 004, 2786)**: 13.0-acre parcel owned by Aquarion. Aquarion was not interested in a lease. The property is protected Class I watershed land and has a deed restriction.
  - 16) **Laurel Road, Stamford (MBL# 004 2781)**: 2.0-acre parcel owned by the State of Connecticut. Landowner did not respond to lease inquiry.
  - 17) **312 Laurel Road, Stamford**: 3.0-acre parcel owned by Aquarion. Aquarion was not interested in a lease. The property is protected Class I watershed land and has a deed restriction.
  - 18) **High Ridge Road, Stamford (MBL# 002 6882)**: 2.0-acre parcel. Landowner did not respond to lease inquiry.
  - 19) **107 Hickory Road, Stamford (MBL# 0304/1670/35)**: 9.5-acre parcel. Landowner did not respond to lease inquiry.
  - 20) **High Ridge Road, Stamford (MBL# 004 0537)**: 2.0-acre parcel. Landowner not interested in a lease.
  - 21) **104 Dan's Highway, New Canaan**: 51.9-acre parcel. Landowner did not respond to lease inquiry.
  - 22) **Ponus Ridge Road, New Canaan (MBL# 23 26 3)**: 3.6-acre parcel owned by the State of Connecticut. Landowner did not respond to lease inquiry.
  - 23) **Lot B Ingleside Drive, Stamford**: 51.9-acre parcel. Landowner did not respond to lease inquiry.
  - 24) **168 Lost District Drive, New Canaan**: a 4.0-acre parcel. The landowner was considering a facility to assist the Town with emergency communications but did not want a tall structure on the property. A facility at this location would not satisfy AT&T's wireless service objectives (an antenna height of 110 feet was modeled) and the parcel is too close to an existing AT&T site.  
(Applicants 1, Attachment 2; NCN 4, Exhibit 9)
121. Certified mailings were sent to the owners of the 24 properties that were investigated. All certified mail receipts were received. (Applicants 1, Attachment 2; Applicants 4, response 7; Applicants 8, response 5; NCN 4, Exhibit 8; Tr. 1, pp. 28, 80-81, 99-100; Tr. 4, pp. 106-113)
122. The Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility nor shall the Council be limited in any way by the applicant having already acquired land or an interest therein for the purpose of constructing a facility. (Tr. 1, pp. 12-16; *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007); C.G.S. §16-50p(g)(2021))

123. DPH may grant a permit for the lease or change in use of water company land to allow for telecommunications facilities and antennas, associated equipment, related access drives and utilities if the lease or change in use will not have an adverse impact on the purity and adequacy of the public drinking water supply. (Public Act 13-298; C.G.S. §25-32(q) (2021))
124. The host parcel is residentially-developed and is not Class I or Class II watershed land. (Tr. 4, p. 116; Buschmanns Administrative Notice Item No. 6)
125. During the proceeding, Buschmanns retained a Radio Frequency (RF) consultant (360°RF) who issued a report suggesting that three other locations east of the proposed site with higher elevation terrain could better serve the community: 982 Oenoke Ridge Road; 40 Dan's Highway, and 40 River Wind Road. 360°RF did not approach these property owners to determine if they were willing to lease space for a telecommunications facility. (Buschmanns 6: Tr. 5, pp. 83, 85-88, 122)
126. The 982 Oenoke Ridge Road property currently hosts Town communications equipment – police fire, medical, public works and the community emergency response. The Town was using the roof of a barn on the property to host an antenna through an agreement with the former property owner with the understanding that it would be a temporary installation. Due to a recent change of property ownership, the Town is seeking to relocate its communications equipment to the proposed tower as the existing location uses space in the residence basement for electrical connections and lacks adequate emergency backup power. (Tr. 1, pp. 89-93; NCN Administrative Notice Item No. 60ff, gg and hh)
127. The properties at 982 Oenoke Ridge Road, 40 Dan's Highway and 40 River Wind Road are located approximately 1.5 miles east, 0.7-mile east and 0.5 mile southeast of Ponus Ridge Road, respectively, from the area of coverage need. (Applicants 7, response 20, response 21; Applicants 11, response 10)
128. At the request of the Council, AT&T performed propagation modeling and a terrain analysis for all three locations suggested by 360°RF. The coverage models at 110 feet agl using the 700 MHz frequency and the terrain analysis indicate each of the three sites would not provide reliable in-vehicle service to the north and northwest areas of the proposed coverage footprint, particularly in the Lost District Road area of New Canaan or the northern portions of Route 137 in Stamford. (Applicants 11, response 10; Tr. 1, pp. 106-108; Buschmanns 6)
129. Although 360°RF's report depicts coverage over a wide area from the three locations, 360°RF acknowledged their models may be inaccurate but still present alternatives that may offer superior coverage to areas with deficient service. (Tr. 5, pp. 122-127)
130. For any site to be considered a feasible and prudent alternative to a proposed facility site, it must be available to host the proposed facility. The Council has no authority to force a property owner to agree to sell or lease land, or any portion thereof, as a primary or alternative location for a proposed facility. (*Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007); Tr. 1; pp. 79-81; Tr. 3, pp. 48-50; Tr. 4, pp. 140-141; Tr. 5, pp. 83-84)
131. 360°RF indicated that they do not design wireless networks and acknowledged AT&T's models are likely to be more precise than their modeling. (Tr. 5, pp. 113-114, 126-127)

#### ***Small Cells and Distributed Antenna Systems***

132. Small cells or distributed antenna systems would not be a practicable or feasible means of addressing the existing coverage deficiency in New Canaan and Stamford that have no AT&T

- service. Small cells are typically installed to serve a limited specific area. The proposed tower (macrosite) would enable AT&T and Cellco to provide wireless service to a large area. (Applicants 4, response 18; Tr. 5, p. 62; Applicants 1f, Wireless Market Study, p. 47; Cellco 2)
133. A small cell would offer significantly reduced signal propagation, approximately 5% of the area of an equivalent macrosite in areas like New Canaan, as it would not extend above the tree canopy. (Applicants 1f, Wireless Market Study, p. 47)
134. AT&T installs small cells in Connecticut to provide capacity relief in targeted areas. AT&T has over 200 small cells approved and either constructed or planned for deployment in urban/downtown areas and more densely populated areas of the state such as Bridgeport, New Britain, Waterbury, Danbury, New London and Greenwich. (Applicants 4, response 18)
135. AT&T estimates at least 30 utility pole small cells would be required to provide in-building service to the proposed service area. This estimate assumes that utility poles for small cell installations are either available to AT&T or can be installed in any location deemed appropriate for network needs. (Applicants 4, response 18)
136. Small cell limitations include a reduction in the number of frequencies deployed, the lack of structure sharing with other carriers and the lack of emergency backup power. (Applicants 4, response 18; Tr. 1, pp. 86-88)
137. Small cells would not be able to support Town emergency communication equipment. (Tr. 1, p. 96)
138. The estimated cost of a single small cell, not including a fiber connection, ranges from \$50,000 to \$70,000. Approximate costs are as follows;
- |                                      |          |
|--------------------------------------|----------|
| Equipment:                           | \$13,000 |
| Construction/integration:            | \$24,500 |
| Soft costs (legal/site acquisition): | \$20,000 |
| Finance:                             | \$3,000  |
- \*Fiber connection to the node averages \$50,000 to \$70,000 per node.  
(Applicants 13)
139. Neither AT&T nor Cellco have small cells in the area surrounding the proposed tower. (Applicants 1, Attachment 1; Tr. 5, pp. 62-63)

#### **Facility Description**

140. Pursuant to R.C.S.A. §16-50j-2a(29), “Site” means a contiguous parcel of property with specified boundaries, including, but not limited to, the leased area, right-of-way, access and easements on which a facility and associated equipment is located, shall be located or is proposed to be located. (R.C.S.A. §16-50j-2a(29))
141. The proposed site is located on an approximate 5.1-acre irregular shaped parcel at 1837 Ponus Ridge Road. The parcel has frontage on Ponus Ridge Road (refer to Figure 9). (Applicants 1, Attachment 3, Attachment 4)
142. Topographic features of the site were field surveyed by a Connecticut licensed land surveyor in April 2021. Property boundary information was obtained from land/deed records and on-site monuments. There are minor discrepancies between Applicants’ site plan and the survey in Town records along the plot line at the southern extent of the property, along the boundary with Ponus

- Ridge Road, and along a short section of the northwest property boundary to an undeveloped parcel, where the boundary appears to follow an intermittent watercourse. The Applicants' surveyor has completed the surveyor closure report. (Applicants 1, Attachment 4; Applicants 7, response 3; Tr. 5, pp. 25-26; Buschmanns 6, Pre-filed Testimony of Guy Hesketh)
143. The subject property is in a 4 Acre Residence Zone district and is developed with a residence, accessed from Ponus Ridge Road. (Applicants 1, Attachment 3, Attachment 4)
  144. The residence is located in the southeast portion of the parcel. The remaining areas consist of a forested, sloping hillside with a wetland/stream system in the northwest section of the property. (Applicants 1, Attachment 3, Attachment 4)
  145. Surrounding land use is zoned residential. Two developed residential lots exist to the north and east of the subject site, and an undeveloped lot is located to the northwest. Ponus Ridge Road, a paved public road, abuts the property to the south and west, across which are watershed lands associated with Laurel Reservoir. (Applicants 1, Attachment 2, Attachment 3, Attachment 4)
  146. The proposed tower site is located near the top of the hillside in the central-northeast portion of the host parcel, at an approximate elevation of 394 feet above mean sea level (amsl) (refer to Figure 10). (Applicants 1, Attachment 4)
  147. The proposed facility would consist of a 110-foot monopole designed as a faux pine tree (monopine). The top of the faux tree branches would extend to approximately 115 feet agl (refer to Figure 11). (Applicants 1, Attachment 4)
  148. AT&T would install six antennas at a tower centerline height of 106 feet agl. (Applicants 1, Attachment 1)
  149. Cellco would install nine antennas at a tower centerline height of 95 feet agl. (Cellco 2, response 1)
  150. The proposed tower is designed to support Town emergency communications equipment. The site plan depicts municipal antennas on the tower, as follows: one 12-foot whip antenna and 2 dish antennas at the top of the tower and one 12-foot whip antenna at the approximate 60-foot level of the tower. (Applicants 15; Tr. 1, pp. 46-47)
  151. A 3,000 square foot equipment compound would be constructed at the base of the tower, within a 5,100 square-foot lease area. The compound is oriented generally in an east-west direction. (Applicants 1, Attachment 4)
  152. Within the compound, AT&T and Cellco would install equipment cabinets on concrete pads. Each carrier would also install an emergency backup generator and associated propane tank. (Applicants 6; Cellco 2, response 1)
  153. HT would provide space on the northeast side of the compound for the installation of up to four separate 500-gallon propane tanks, arranged in a single row. AT&T and Cellco would utilize two of the tank locations and the expressed an interest in a third tank location, leaving one for a future tower tenant. (Applicants 4, response 19; Applicants 15; Tr. 1, pp. 105-106)
  154. The proposed equipment compound would be enclosed by an eight-foot high, wood shadowbox fence with a twelve-foot wide vehicle access gate and evergreen landscaping along the northern and eastern sides. A vehicle turnaround area is adjacent to the compound gate. (Tr. 3, pp. 31-33,

- 67; Tr. 4, p. 44; Applicants 1, p. 13; Applicants 1, Attachment 4; Applicants 15; Council Administrative Notice Item No. 35)
155. Access to the site would follow the existing paved driveway for a distance of approximately 15 feet. From that point, a new 12-foot wide, 460-foot long access drive would extend north, ascending the hillside and gradually turning south to the compound access gate. The upper 210 feet of the access drive would have a gravel surface. The lower 250 feet of the access drive would have a paved surface. (Applicants, 7, response 15; Applicants 10)
156. The slope of the access drive varies but is generally 19 percent along the lower section (maximum 19.4%), decreasing to approximately 9 percent along the upper section. HT typically specifies pavement for slopes greater than 12 percent. (Applicants 7, Attachment 3; Applicants 15; Tr. 1, pp. 47-48)
157. Underground utilities (electric/telecommunications) would be installed from the compound along the downslope side of the access drive to an existing overhead utility pole located on Ponus Ridge Road. Due to geological conditions, the utilities may have to be installed within the access drive. (Applicants 1, Attachment 4; Applicants 10; Tr. 1, pp. 48-49)
158. The site does not require a water supply or wastewater utilities. There would be no water connection to the site. (Applicants 1, p. 17; Applicants 10)
159. The host parcel contains ledge outcrops. Some of the slopes on the host parcel are 25 percent or greater. (Applicants 1a, p. 85; Applicants 4, response 32- Attachment 6; Tr. 1, p. 42)
160. A geotechnical survey would be performed prior to construction to evaluate subsurface conditions as part of the Development and Management (D&M) Plan. The geotechnical survey would be used to design the tower and foundation and potential stormwater controls such as rain gardens. (Applicants 8, response 4; Tr. 1, pp. 44-45; Tr. 3, pp. 25-27, 54-55; Tr. 4, p. 46)
161. A D&M Plan is a condition of a Council final decision that must be met prior to commencement of construction and constitutes the “nuts and bolts” of a facility approved by the Council. (C.G.S. §16-50p (2021); R.C.S.A. §16-50j-75, *et seq.*; *Town of Westport v. Conn. Siting Council*, 260 Conn. 266 (2002))
162. For telecommunications facility construction, geotechnical investigations are typically conducted after the final site location and facility design have been approved by the Council with a condition for the results of the geotechnical investigation to be submitted as part of the D&M Plan. (Applicants Administrative Notice Item Nos. 1, 3-23; Buschmanns Administrative Notice Item Nos. 15 and 16; NCN Administrative Notice Item Nos. 2, 5, 7-9, 11, 13, 17, 30-31)
163. The geotechnical study would be conducted using All-Terrain Vehicle (ATV) drill rigs. Some minor tree/brush clearing may be required to allow access for the ATV drill rig to the boring locations. HT would bore holes in the compound area, tower locations and in the area of the stilling basins. (Tr. 3, pp. 24-27)
164. Applicants anticipate removing ledge within the construction area by chipping; however, if blasting is required, it would be conducted in accordance with blasting protocols in accordance with state and municipal regulations. Blasting protocols may include blast surveys of nearby structures and water wells. (Applicants 4, response 12; Tr. 1, pp. 44-45; Tr. 3, 27-28, 99; Tr. 4, p. 47; Tr. 5, p. 80)



165. Construction of the facility would require approximately 3,550 cubic yards of cut and approximately 1,500 cubic yards of fill. HT would utilize as much of the on-site excavated/removed material as possible to avoid importing fill to the site. Additionally, there will be approximately 250 cubic yards of crushed stone for surfacing of the compound and the upper portion of the access drive. (Applicants 15, Attachment 3; Tr. 5, pp. 51-52)
166. HT intends to reuse excavated/removed materials for site construction. Large ledge material might be crushed on site for reuse. The construction contractor would decide what material would be reused on site or removed based on material pricing at the time of construction. (Applicants 8, Response 2; Tr. 1, pp. 45-46)
167. Ledge that is encountered during development of the access road may reduce the amount of site disturbance as it would function as a natural, stable surface that would act as a retaining wall. If favorable rock conditions are encountered, the limit of disturbance (LOD) and associated tree clearing could decrease. (Tr. 3, pp. 98-99; Tr. 4, p. 48)
168. There are approximately 11 residences within 1,000 feet of the proposed tower. The nearest residence is approximately 273 feet to the north (59 Squires Lane). (Applicants 1, Attachment 3)
169. The abutting property boundaries from the proposed tower are approximately 110 feet to the east (359 Dan's Highway – Buschmanns property), 130 feet to the northeast (59 Squires Lane), 357 feet to the west (1845 Ponus Ridge Road) and 248 feet to the southwest (Ponus Ridge Road right-of-way). (Applicants 1 Attachment 3; Applicants 10)
170. The compound would be 45 feet to the eastern property boundary (359 Dan's Highway) and 72 feet to the northeast property boundary (59 Squires Lane). (Applicants 1, Attachment 3; Applicants 10)
171. HT anticipates the facility could be constructed within 8 weeks, followed by 2 weeks of site testing/integration for the carriers. Work hours are projected to be Monday through Friday from 9 AM to 5 PM. (Applicants 1, p. 25; Tr. 1, p. 126- 128)
172. Site construction would commence following Council approval of a D&M Plan for the facility. (Applicants 1, p. 25)
173. A copy, or notice of the filing of a D&M Plan with the Council, is required to be provided to the service list for comment. (R.C.S.A. §16-50j-75(e))
174. The Council has statutory authority to order a D&M Plan and the Council's D&M Plan process has been upheld by the Connecticut Supreme Court. (C.G.S. §16-50p (2021); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014); Council Administrative Notice Item No. 61)
175. Once operational, HT would access the site for quarterly maintenance visits. Carriers typically visit a site every 2-3 months. (Applicants 1, p. 17; Tr. 1, p. 53, 118-119)

### ***Revised Tower/Compound Configuration***

176. In order to increase the distance to the eastern property boundary (359 Dan's Highway) and preserve some of the intervening vegetation, the Applicants, with consent from the property owner, modified the tower and compound configuration by shifting the tower location slightly to the northwest and rotating the compound approximately 90 degrees, so it aligns generally in a northeast-southwest direction instead of an east-west direction (Revised Configuration) (refer to **Figure 12**). (Applicants 11, response 9; Tr. 3, p. 66; Tr. 5, 33-35)

177. Changes associated with the Revised Configuration location from the initial location are as follows;

<u>Distance from Tower/Compound</u>	<u>Initial Location*</u>	<u>Revised Location*</u>
to west property line	357' / 337'	315' / 295'
to north property line	144' / 122'	134' / 95'
to northeast property line	130' / 72'	167' / 106'
to east property line	110' / 45'	153' / 108'
to southwest property line	248' / 247'	226' / 203'

\*approximate distances

(Applicants 10; Applicants 11, response 9, Attachment 3)

178. The Revised Configuration consists of a 3,515 square-foot compound within a 5,590 square-foot lease area. (Applicants 10; Applicants 11, response 9, Attachment 3)

179. The ground elevation of the Revised Configuration tower would be 396 feet amsl. The height of the Revised Configuration tower above ground level would not change. (Applicants 15)

180. During the proceeding, at the request of the Council, the Applicants examined the feasibility of relocating the site to a location lower down the hillside, north of the existing driveway and approximately 70 feet from Ponus Ridge Road. A tower in this location would have to be taller, 150 feet, to keep the top of the tower at the same height amsl to provide the same coverage footprint. Due to the sloping hillside, a rectangular compound with 100-foot long retaining walls, 8 to 15 feet high, would be required to create a level surface for the compound and tower. There would be a significant amount of earthwork in closer proximity to Laurel Reservoir. Construction would be difficult due to the operation of construction equipment on 2:1 slopes. (Applicants 11, response 8; Tr. 3, pp. 40- 45 97-99; Tr. 4, p. 75)

181. The estimated cost of the proposed facility is:

Tower and Foundation	\$150,000
Site Development	\$150,000
Facility/Utility Installation	\$130,000
AT&T Equipment and Materials	\$107,000

Cellco Equipment	\$175,000
Cellco Construction/Utilities	\$155,000

<b><u>Total Estimated Costs</u></b>	<b><u>\$867,000</u></b>
-------------------------------------	-------------------------

(Applicants 1, p .24; Cellco 2, response 2)

182. HT would recover construction costs associated with the facility by the revenue generated from leasing space on the facility to other wireless providers. (Applicants 4, response 2)

183. AT&T and Cellco would recover the costs of its equipment as part of its business operations and services provided. (Applicants 4, response 2; Cellco response 3)

184. Neither the project, nor any portion thereof, is proposed to be undertaken by state departments, institutions or agencies or to be funded in whole or in part by the state through any grant or contract. (Tr. 5, p. 46; C.G.S. §22a-1, *et seq.* (2021))

**Public Health and Safety**

185. The Wireless Communications and Public Safety Act of 1999 (911 Act) was enacted by Congress to promote and enhance public safety by making 9-1-1 the universal emergency assistance number, by furthering deployment of wireless 9-1-1 capabilities, and by encouraging construction and operation of seamless ubiquitous and reliable networks for wireless services. (Council Administrative Notice Item No. 6 - Wireless Communications and Public Safety Act of 1999)
186. The proposed facility would be in compliance with the requirements of the 911 Act and would provide Enhanced 911 services. (Applicants 1, p. 10; Cellco 2, response 18)
187. Wireless carriers have voluntarily begun supporting text-to-911 services nationwide in areas where municipal Public Safety Answering Points (PSAP) support text-to-911 technology. Text-to-911 will extend emergency services to those who are deaf, hard of hearing, have a speech disability, or are in situations where a voice call to 911 may be dangerous or impossible. However, even after a carrier upgrades its network, a user's ability to text to 911 is limited by the ability of the local 911 call center to accept a text message. The FCC does not have the authority to regulate 911 call centers; therefore, it cannot require them to accept text messages. (Council Administrative Notice Item No. 21 – FCC Text-to-911: Quick Facts & FAQs)
188. AT&T's and Cellco's proposed equipment installations would be capable of supporting text-to-911 service. (Applicants 1, p. 10; Cellco 2, response 17)
189. Pursuant to the Warning, Alert and Response Network Act of 2006, "Wireless Emergency Alerts" (WEA) is a public safety system that allows customers who own enabled mobile devices to receive geographically-targeted, text messages alerting them of imminent threats to safety in their area. WEA complements the existing Emergency Alert System that is implemented by the FCC and FEMA at the federal level through broadcasters and other media service providers, including wireless carriers. (Council Administrative Notice No. 5 – FCC WARN Act)
190. AT&T's and Cellco's proposed equipment would provide WEA services. (Applicants 1, pp. 10-11; Cellco 2, response 19)
191. FirstNet is a subscriber service available to local emergency response entities that would allow preferred wireless service on AT&T's 700 MHz system during emergencies. AT&T and FirstNet work together to determine which sites in coverage deficient areas are prioritized. (Applicants 1, p. 11; Applicants 4, response 22, response 23)
192. The State Department of Emergency Management Services also acknowledged a lack of emergency communications in this area of the state. (Applicants 4, response 22, response 23; Tr. 1, p. 129)
193. FirstNet is independent of the Town's public safety communications system. (Applicants 1, p. 11)
194. The proposed facility would provide service for visitors of the Heroy Recreational Area in Stamford. (Applicants 1, Attachment 1; Cellco 2, Attachments 2 and 3)
195. Pursuant to C.G.S. §16-50p(a)(3)(G), the tower would be constructed in accordance with the current governing standard in the State of Connecticut for tower design and in accordance with the currently adopted International Building Code. (Applicants 1, Attachment 4; Applicants 4, response 11)

196. The proposed tower would not require notice to the Federal Aviation Administration or constitute an obstruction or hazard to air navigation and therefore would not require any obstruction marking or lighting. (Applicants 1, p. 18)
197. Security measures at the site would include, but are not limited to, the proposed compound fence, a locked vehicle gate, and silent intrusion alarms on the equipment cabinets. (Applicants 4, response 10)
198. A radio frequency safety sign and a HT emergency contact sign would be installed on the compound fence. (Applicants 1, Attachment 4)
199. The Applicants submitted a site plan that shows a tower yield point at 80 feet. For the Revised Configuration tower/compound, the tower setback radius\* would remain within the parcel boundary and a hinge point would not be necessary. (Applicants 1, Attachment 4; Applicants 15; Tr. 3, p. 53)  
\*The horizontal distance equal to the tower height that extends radially from the center of the tower.
200. Operational noise from the facility would comply with DEEP Noise Control Regulations. (Applicants 1, p. 22)
201. Construction noise is exempt from the DEEP Noise Control Regulations §22a-69-1.8(g), which includes, but is not limited to, “physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property.” (R.C.S.A. §22a-69-1.8(g))
202. Blasting would not have an adverse environmental effect on the on-site wetland or Laurel Reservoir. Construction and mitigation methods may change if blasting is required but the proposed LOD would not expand. (Tr. 4, pp. 47-48)
203. The geologic map of Connecticut indicates the site area contains bedrock formations that can cause acid rock drainage when the rock is exposed to precipitation as a result of construction activities. The geotechnical study would determine the composition of the bedrock. (Applicants 8, response 11; Tr. 4, pp. 48-50)
204. Acid rock drainage can cause water potability issues regarding smell and taste. DPH has recommended levels for constitutes of concern. (Tr. 5, pp 40-43)
205. Acid rock drainage is not common but is a consideration for construction projects with a significant amount of bedrock removal in certain geologic formations. (Tr. 5, pp. 43-44, 53-54)
206. To minimize the effect of acid rock drainage on groundwater and drinking water, Applicants would follow *DEEP’s Guidance Document for Evaluating Potential Hydrological Impacts Associated with Blasting & Development Activities*, dated December 2019. Measures include, but are not limited to, bedrock evaluation, rock handling and removal, private well water considerations and/or testing. (Applicants 15; Tr. 5, pp. 28-33; Buschmanns Administrative Notice No. 39)
207. The proposed site is not located within a Federal Emergency Management Agency designated flood zones. (Applicants 1, p. 19)

208. The proposed access drive would have a slope that reaches 19.4 percent. There would be no issue with vehicles, propane trucks and fire apparatus from ascending the access drive. (Applicants 15; Tr. 1, p. 58)
209. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T's and Cellco's antennas is 54.2 percent of the standard\* for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas in a sector would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (Applicants 1, Attachment 7; Cellco 3, response 20; Council Administrative Notice Item No. 2 – FCC OET Bulletin No. 65; Applicants Administrative Notice Item No. 2)

\*This includes a 10 dB off-beam pattern loss to account for the lower relative gain below the antennas.

### ***Emergency Backup Power***

210. In response to two significant storm events in 2011, Governor Malloy formed a Two Storm Panel (Panel) that was charged with an objective review and evaluation of Connecticut's approach to the prevention, planning and mitigation of impacts associated with emergencies and natural disasters that can reasonably be anticipated to impact the state. (Final Report of the Two Storm Panel, (Council Administrative Notice Item No. 53)
211. Consistent with the findings and recommendations of the Panel, and in accordance with C.G.S. §16-50//, the Council, in consultation and coordination with DEEP, DESPP and PURA, studied the feasibility of requiring backup power for telecommunications towers and antennas as the reliability of such telecommunications service is considered to be in the public interest and necessary for the public health and safety. (Council Administrative Notice Item No. 34 – Council Docket No. 432)
212. Commercial Mobile Radio Service (CMRS) providers are licensed by and are under the jurisdiction and authority of the FCC. At present, no standards for backup power for CMRS providers have been promulgated by the FCC. (Council Administrative Notice Item No. 34 – Council Docket No. 432)
213. AT&T would install a 15-kW propane-fueled generator and an associated 500-gallon propane tank for backup power. The generator would be tested on a weekly basis. (Applicants 1, p. 17; Applicants 15)
214. Cellco proposes to install a 30-kilowatt propane-fueled generator with an associated 500-gallon propane tank for backup power. Cellco's proposed generator would provide approximately 5 to 7 days of run time before it requires refilling. Cellco would also install a 4-hour backup battery at the site. (Cellco 2, response 15, response 16)
215. Cellco's generator would be tested weekly, typically mid-morning for approximately 15 minutes. (Tr. 5, pp. 65-66)

- 216. The Town indicated to Applicants that it proposes a 25-kW generator with a 500 gallon above-ground propane tank as a backup fuel source for its equipment. The estimated run time was not specified. (Applicants 4, response 19)
- 217. A shared emergency backup generator among multiple carriers is not preferred from a public safety aspect in order to avoid a single point of failure. (Tr. 4, pp. 15-16)
- 218. According to R.C.S.A. §22a-69-1.8, noise created as a result of, or relating to, an emergency, such as an emergency backup generator, is exempt from the DEEP Noise Control Regulations. (R.C.S.A. §22a-69-1.8)

## **Environmental Considerations**

### *Air and Water Quality*

- 219. Operation of the proposed facility would not produce air emissions, excluding operation of the emergency backup generator. (Applicants 1, p. 17; Applicants 7, response 6)
- 220. Pursuant to R.C.S.A. §22a-174-3b, the emergency backup generator would be managed to comply with DEEP's "permit by rule" criteria and would comply with air emissions. Therefore, the generator would be exempt from general air permit requirements. (Applicants 1, p. 17; R.C.S.A. §22a-174-3b)
- 221. Initially, Applicants proposed a diesel-fueled emergency generator at the site. In its comments to the Council, DPH recommended the use of a propane generators, and if possible, a shared propane generator. Applicants subsequently redesigned the compound area to accommodate propane generators and an associated 500-gallon propane tanks for each carrier. (Applicants 7, response 6; Applicants 15)
- 222. To protect subsurface and surface water quality during construction, Applicants developed Petroleum Materials Spill and Prevention procedures which include, but are not limited to, servicing construction machinery outside of the public supply watershed, absorbent pad protection during refueling, an on-site spill kits, spill control cleanup, and notification procedures. (Applicants 15)
- 223. The Inland Wetlands and Watercourses Act (IWWA), C.G.S. §22a-36, *et seq.*, contains a specific legislative finding that the inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed, and the preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. (C.G.S. §22a-36, *et seq.* (2021))
- 224. The IWWA grants regulatory agencies with the authority to regulate upland review areas in its discretion if it finds such regulations necessary to protect wetlands or watercourses from activity that will likely affect those areas. (C.G.S. §22a-42a (2021))
- 225. The IWWA forbids regulatory agencies from issuing a permit for a regulated activity unless it finds on the basis of the record that a feasible and prudent alternative does not exist. (C.G.S. §22a-41 (2021))
- 226. The northern portion of host parcel contains a forested hillside seep wetland system with an interior diffuse intermittent watercourse flowing south/southwest (refer to **Figure 13**). The watercourse is



directed under Ponus Ridge Road via a culvert and flows to Laurel Reservoir, a public water supply, owned by Aquarion. (Applicants 1, Attachment 6; Tr. 5, pp. 39-40)

227. A Wetland Inspection was conducted on June 3, 2021. It identified one wetland area along the western boundary of the host parcel and recommended appropriate erosion and sedimentation controls in compliance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control* (2002 E&S Guidelines) and additional measures be incorporated into the site design due to the proximity of Laurel Reservoir. (Applicants 1, Attachment 6)
228. The wetland functions as wildlife habitat and to maintain water quality through sediment and nutrient removal, stormwater filtration and infiltration, groundwater recharge, and water temperature moderation. A formal wetland functions and values assessment was not conducted. (Applicants 7, response 5; Tr. 3, p. 119)
229. According to DEEP mapping, the intermittent stream begins near the Squires Lane cul-de-sac. There are several catch basins at the edge of the cul-de-sac that collect and discharge water into the intermittent stream. The intermittent stream also flows alongside the driveway of 59 Squires Lane before entering the host parcel. (NCN Administrative Notice Item No. 60 m; Buschmanns Administrative Notice Item No. 9)
230. The intermittent stream is a Class I Stream, defined as a free-flowing stream per the DEEP's classification system. (Buschmanns Administrative Notice No. 9)
231. A "First-Order Stream Tributary" is "a stream which directly enters a reservoir." The intermittent stream is a First-Order Stream Tributary. (R.C.S.A. §25-37c-1; Buschmanns Administrative Notice Item No. 9)
232. The water quality of the intermittent stream and associated wetland could be affected by activities occurring in the residential areas upstream of the site parcel, such as sand use on public roads and driveways, pesticide and herbicide use on residential lawns, and failing septic systems. (Tr. 5, pp. 44-45)
233. An undisturbed vegetative buffer between a developed area and a wetland resource can filter pollutants and protect water quality from stormwater runoff. (Council Administrative Notice Item No. 37 - *2004 Stormwater Quality Manual*, pp. 4-3 – 4-4)
234. Generally, a minimum 100-foot undisturbed upland buffer along a wetland boundary or on either side of a watercourse should be maintained to promote water quality. Establishment of buffers should also consider slopes and the sensitivity of wetland/watercourse resources. (Council Administrative Notice Item No. 37 - *2004 Stormwater Quality Manual*, pp. 4-3 – 4-4)

235. The Western Connecticut Council of Governments (WestCoG) suggests the establishment of riparian buffers of 50 to 100 feet of undisturbed land on either side of a watercourse to filter and attenuate nutrients and sediment discharges. The buffers also would lower stream temperatures if protected by a forest canopy and maintain pathways for animals. (Buschmanns Administrative Notice Item No. 3, pp. 28-29)
236. The minimum distance from the construction LOD (for the access road) to the wetland is approximately 105 feet. An undisturbed forested canopy would be maintained between the intermittent watercourse/wetland area. Post-construction, the access drive would be 137 feet from the wetland at its closest point. (Applicants 11, response 1, Attachment 3)
237. Construction of the proposed facility would not directly impact the wetland or watercourse. Indirect effects could include the discharge of sediment during construction, discharge of post-construction stormwater and changes to drainage patterns from site construction. (Applicants 7, response 5)
238. To reduce the potential for indirect wetland impacts during construction, HT would establish erosion and sedimentation (E&S) controls consistent with the 2002 E&S Guidelines, with monitoring of the E&S controls by a civil engineer independent of the contractor. In addition, HT would implement a wetland protection plan to be monitored by a wetland scientist. (Applicants 7, response 5; Applicants 15)
239. Erosion control blankets would be specified to stabilize steep slope areas (slopes greater than 3:1), such as the embankments for the access drive, consistent with the 2002 E&S Guidelines. The blankets would be seeded to promote a stable vegetated slope. The blankets would also be composed of 100 percent natural fiber to reduce the possibility for wildlife entanglement. (Applicants 7, Attachment 3; Applicants 15; Tr. 1, pp. 45-46, 111-113)
240. The post-construction stormwater management system is designed to separate the overall site development drainage area into smaller drainage areas so that water is collected and treated at different points on the hillside to avoid larger, concentrated stormwater flows near the bottom of the hill. (Applicants 11, Attachment 3; Tr. 4, pp. 24-25)
241. The stormwater management system is designed to not increase off-parcel runoff. (Tr. 4, pp. 17-18)
242. The Applicants designed the preliminary stormwater management system based on a 10-year/24-hour storm event (5.5 inches), in accordance with the *2004 Connecticut Stormwater Quality Manual*. The Applicants could design the site in accordance with a 25-year/24-hour storm event, as required by Town criteria. To meet the 25-year storm criteria, the diameter of the stormwater control pipes discharging to the stilling basins pipes would increase. The size of stilling basins would not change because they are sized larger than the 10-year storm criteria. (Applicants 11, response 2; Tr. 3, pp. 22-23; Tr. 5, pp. 38-39)
243. The final stormwater management design would be submitted as part of the D&M Plan after the geotechnical study is completed. The site can be designed to have no negative impact to on-site and off-site water quality, including but not limited to, the on-site wetland and Laurel Reservoir. (Tr. 3 pp. 22, 101-113)
244. HT would examine the feasibility of installing a rain garden to promote stormwater infiltration if geotechnical conditions allow. The rain garden would be similar in size to one of the larger proposed stilling basins. (Tr. 1, pp. 55-56; 114-115; Tr. 4, pp. 17-18)

245. HT would implement a construction phasing plan to reduce the potential for erosion. A preliminary phasing plan has been developed that would be revised as necessary as part of the D&M Plan. Main elements of the preliminary phasing plan include site clearing and grubbing to install E&S controls, completion of clearing/grubbing and the seeding of disturbed areas, excavation and rough grading of the access drive and swales, installation of stilling basins, excavation and grading of the compound and tower area, finalizing the access drive and swales, paving the lower access drive, completing structural elements, installing landscaping and final seeding of disturbed areas. The contractor may alter the construction sequence based on field conditions, weather or other factors upon approval of the project engineer. (Applicants 12, response 4, Attachment 1; Tr. 4, pp. 29-34)
246. Pursuant to C.G.S. §22a-430b, a DEEP Stormwater Permit is required for any disturbance greater than 1 acre. In addition to a Stormwater Pollution Control Plan, DEEP Stormwater Permits require the installation of site-specific water quality protection measures in accordance with the 2002 E&S Guidelines. (C.G.S. §22a-430b; DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities. (DEEP-WPED-GP-015))
247. The construction LOD for the proposed site is approximately 0.85-acre. The project would not require a DEEP Stormwater Permit. (Applicants 10, Applicants 4, response 31; Applicants 11)
248. During the proceeding, Buschmanns compared the proposed telecommunications facility LOD to the limits of disturbance associated with two solar electric generating facility sites in East Lyme and Sprague that were unanimously approved by the Council in 2013 and 2015, respectively. The limits of disturbance for those facilities amounted to approximately 27 acres in East Lyme and 144 acres in Sprague. Each required issuance of a DEEP Stormwater Permit. (Buschmanns Administrative Notice Item Nos. 19 and 20; Tr. 4 pp. 39-40; Tr. 5, p. 149)
249. Post-construction drainage along the access drive would be controlled by a riprap-lined swale that would be installed along the lower half of the driveway. The road would be pitched so that runoff is directed into the swale. There would be four points along the swale where stormwater would be diverted and discharged into a riprap-lined stilling basin. Overall, the design directs stormwater into rip rap swales, over check dams, into a pipe sump where it is collected and then discharged into a stilling basin. (Applicants 7, Attachment 3; Tr. 1, pp. 47-52)
250. The stilling basins (Nos. 1 through 4, with 1 being the most upgradient and 4 the lowest) are approximately two feet deep and are designed to slow down water velocity before it is discharged as overland flow. If a small amount of water is present that doesn't overtop the basin outfall, it would be retained and infiltrate. (Applicants 1, Attachment 4; Tr. 1, pp. 49-50)
251. Generally, the existing hillside below the stilling basins has a 2:1 slope. The two larger stilling basins – No. 2 and No. 3 - would discharge down the forested hillside towards Ponus Ridge Road. Stilling basins No. 2 and No. 3 are 64 feet and 24 feet from the road, respectively. Stilling basin No. 4 discharges onto the existing residential driveway that extends uphill from Ponus Ridge Road. Stilling basin No. 1 is a small basin located at the base of the access drive curve. (Applicants 1, Attachment 4, Applicants 15; Tr. 3, p. 90; Tr. 4, p. 72)
252. If ledge is present in the access road swale location, the bedrock would be removed to meet the proposed swale depth. To control stormwater velocity, the swale would be lined with rip rap with seven check dams installed at certain intervals. (Applicants 7, Attachment 3; Tr. 1, pp. 46-47)

253. The stormwater management system is designed to maintain existing local drainage flow patterns to the extent feasible. Based on hydraulic calculations associated with the proposed drainage system, 10-year storm) the development of the stie would not change the peak discharge from the site parcel for the 2, 10, 25 and 100-year design storms. A stormwater report would be included within the D&M Plan. (Applicants 12, response 5; Tr. 4, pp. 34-36)
254. Stormwater discharge from the site would continue to follow existing patterns. It would reach the edge of Ponus Ridge Road and either flow along the road and property boundary or sheet flow across if the flow velocity is large enough. (Tr. 4, p. 35-36; Tr. 5, pp. 36-38)
255. Existing runoff patterns along Ponus Ridge Road rely primarily on sheet flow except for a small swale and a culvert in the northwestern corner that conveys an intermittent stream under the road that discharges towards the Laurel Reservoir. The LOD is not within 160 feet of the existing culvert. (Applicants 14 response 2; Buschmanns 6, Pre-filed testimony of David Ziaks, p. 2)
256. Ponus Ridge Road contains a shallow road crown so that water flowing southerly from the road crown would be directed to the reservoir and water that flows northerly from the road crown would be directed towards the north side of the road, along the host parcel boundary. Crown overtopping is a possibility. (Buschmanns 6, Pre-filed testimony of David Ziaks, p. 2)
257. The site is not located within a state-designated aquifer protection area. (Council Administrative Notice Item No. 79; Buschmanns Administrative Notice Item No. 3, p. 86)
258. The proposed site is located within a public water supply watershed for Laurel Reservoir. The reservoir is an important public drinking water supply that serves over 120,000 customers in lower Fairfield County. (Applicants 1, Attachment 4; Buschmanns Administrative Notice Item No. 3, p. 86, and No. 24)
259. The public water supply watershed includes a large area of northwestern New Canaan, including higher elevation areas (compared to the Laurel Reservoir elevation) northeast of Ponus Ridge Road. Most of this area is developed with single-family residences and roadways. Several streams flow downgradient through these developed residential areas, eventually flowing into Laurel Reservoir. (Applicants 1a; POCD pp. 6, 85; Buschmanns Administrative Notice Item No. 3, p. 86; Applicants 1, Attachment 4)
260. The proposed site is upgradient of Laurel Reservoir. The nearest point of the proposed access drive and proposed compound to the reservoir is approximately 190 feet and 410 feet, respectively. (Applicants 7, response 16)
261. The nearest point of the existing driveway and residence on the host parcel to the reservoir is approximately 150 feet and 125 feet, respectively. The nearest edge of the reservoir to Ponus Ridge Road across from the host parcel is approximately 25 feet. (Applicants 1, Attachment 4)
262. The residence and driveway on the property at the south corner of Dan's Highway and Ponus Ridge Road is approximately 180 feet and 100 feet, respectively, from Laurel Reservoir at its closest point. (Applicants 1, Attachment 4)
263. The residence and driveway on the property at the north corner of Lakewind Road and Ponus Ridge Road is approximately 150 feet and 60 feet, respectively, from Laurel Reservoir at its closest point. (Applicants 1, Attachment 4)

264. In Docket 388, the Council approved a 170-foot monopole telecommunications facility within the watershed of Lake Dawson, a public drinking water supply reservoir in Woodbridge. The tower is approximately 725 feet from the reservoir. (NCN Administrative Notice Item No. 17)
265. In Docket 380, the Council approved a 160-foot monopole telecommunications facility within a drinking watershed for the Nepaug Reservoir in New Hartford. The abutting property, owned by the Metropolitan District Commission, is 150 feet from the compound. The proposed access road to the approved tower location crossed a steep ravine associated with Spruce Brook, a major tributary to the Nepaug Reservoir and a First-Order Stream Tributary. The brook crossing required the construction of an open bottom bridge over the brook, with bridge abutments on the slopes above the brook. The tower is approximately 1,700 feet from the reservoir. (NCN Administrative Notice No. 19; R.C.S.A. § 25-37c-1)
266. In Docket 223, the Council approved a 160-foot monopole telecommunications facility within a drinking watershed for the Mount Higby Reservoir in Middlefield. The approved tower is 30 feet from Middletown Water Department property. The compound is approximately 80 feet from Fall Brook, a First-Order Stream Tributary, which flows into the Mount Higby Reservoir. The tower is approximately 1,400 feet from the reservoir. (NCN Administrative Notice Item No. 23; Buschmanns Administrative Notice Item No. 9; R.C.S.A. § 25-37c-1)
267. Roads and highways typically generate high stormwater pollutant loads, including, but not limited to, sediments, metals, chlorides, and hydrocarbons, due to vehicle traffic and winter deicing activities. (Council Administrative Notice Item No. 37; Tr. 4, pp. 69-70)
268. To reduce the effects of deicers on drinking water supplies, WestCoG developed and presented best practices used to limit the amount of salt or sodium chloride applied to roads. WestCoG stressed that the use of these substances should only be used if necessary during winter. (Buschmanns Administrative Notice Item No. 3, p. 89)
269. Sand, salt and/or deicers would most likely be necessary for winter site access. HT would use sand at the site. (Tr. 4, pp. 69-70; Tr. 5, p. 131)
270. HT would not regularly plow the access drive during winter months. The individual carriers would plow the access drive on an as needed basis. (Applicants 7, response 4)

### ***Forests and Parks***

271. There are no parks within one mile of the proposed site. (Applicants 8; Applicants 1a, p. 55)
272. The host parcel contains a forest patch that extends onto abutting properties. The proposed tower site would be located in an area that is comprised of mature upland hardwood forest dominated by an overstory of red, white, and black oak and sugar maples. (Applicants 1, Attachment 4; Buschmanns 6 - Pre-filed testimony of Michael Klemens, p. 1)
273. The edge of this existing forest patch is less than 300 feet from residential development and other non-forested areas. Forested areas less than 300 feet from the forest edge, such as this forest patch, is susceptible to invasive species, light spillage, and desiccation. No core forest (greater than 300 feet from the forest edge), is present or would be affected by site development. (Applicants 1, Attachment 4; Applicants 7, response 11; Buschmanns 6 - Pre-filed testimony of Michael Klemens; Tr. 3, pp. 33-34; Tr. 5, pp. 99-100)

274. Approximately 0.85-acre of forest would be cleared to develop the site. Approximately 103 trees greater than 6-inches diameter at breast height, including dead trees, would be removed. Several trees immediately adjacent to the construction area would be marked for protection to alert the contractor to minimize root damage. HT does not anticipate root damage that would affect the integrity of the trees. (Applicants 17; Tr. 1, p. 54-55)
275. Although the forest on the site is already susceptible to invasive species, HT would implement an invasive species control plan to prevent invasive species from taking hold in the disturbed areas of the site. (Buschmanns 6 - Pre-filed-testimony of Michael Klemens; Applicants 15)

### *Fish and Wildlife*

276. The intermittent stream on the host parcel does not support brook trout. (Buschmann Administrative Notice No. 9)
277. DEEP NDDDB maps show approximate locations of state-listed endangered, threatened, and special concern species and are used to find areas of potential conservation concern. (Council Administrative Notice Item No. 42; Buschmann Administrative Notice Item No. 14)
278. On January 7, 2022, DEEP issued a NDDDB Determination letter for the proposed facility, identifying three state-listed species known to occur in the area of the site: little brown bat, red bat, and eastern box turtle. Large mature rough bark tree species occur at the site that could support these bat species. (Applicants 1, Attachment 10; Buschmanns 6 - Pre-filed testimony of Michael Klemens)
279. To avoid impacts to state-listed species, DEEP recommends field surveys of the site be performed to identify the presence or absence of state-listed species and provided to DEEP for review. If field surveys are not undertaken, DEEP recommends assuming that all identified state-listed species are present on the site, developing plans to protect each species and providing those plans to DEEP for review. (Applicants 1, Attachment 9; Applicants 7, Response 22; Applicants' Administrative Notice Item Nos. 21-23; Buschmanns Administrative Notice Item No. 21)
280. DEEP-recommended protective measures for bats include, but are not limited to, maintain native vegetation and tree roosts, avoid directing lights towards bat habitat, preserve open forest edge habitat, avoid use of pesticides, and minimize siltation of water resources. DEEP-recommended protective measures for the eastern box turtle include exclusionary fencing, contractor education, daily sweeps of the construction zone, and removal of E&S controls once the site is stabilized. DEEP also recommended a site clearing restriction between May 1- August 31, which allows tree clearing from September 1 to April 30. (Applicants 1 Attachment 9)
281. The site is within the range of the northern long-eared bat (NLEB), a federally-listed threatened species and state-listed endangered species. There are no known NLEB hibernacula or known maternity roost trees within 0.25 miles and 150-feet, respectively, of the proposed site. The Applicants submitted information to the USFWS using its Information, Planning, and Conservation System (IPaC). USFWS submitted correspondence to Applicants based on the IPaC submission stating that any take of NLEB that may occur as a result of site construction is not prohibited under Endangered Species Act, Section 4(d) rule adopted for this species at 50 CFR §17.40(o). (Applicants 1, Attachment 9)



282. The site is within the range of the bog turtle, a federally-listed threatened species and state-listed endangered species. The bog turtle inhabits specific wetland habitat types comprised of wet meadows, pastures and fens in areas underlain with limestone. No such habitat exists on the host parcel and therefore no impacts to bog turtle populations are anticipated. (Applicants 1, Attachment 9)
283. Applicants would implement the USFWS conservation measures and DEEP NDDDB protection measures for the NLEB, little brown bat, red bat and eastern box turtle. (Applicants 1, Attachment 9; Applicants 7, response 11, response 12)
284. Applicants would develop a NDDDB species protection plan that would include, but not be limited to, contractor education, site inspections, isolation barriers, and tree clearing restrictions. (Applicants 1, Attachment 10; Applicants 5)
285. HT proposes to clear trees from November 1 to March 31, which is within DEEP's recommended time frame of September 1 to April 30. This tree clearing schedule would also be protective of NLEB that may occur in the site area. (Applicants 1, Attachment 9; Tr. 1, pp. 66-68)
286. The proposed facility is not located adjacent to an Important Bird Area (IBA), as designated by the National Audubon Society. The nearest IBA to the proposed site is the Ward Pound Ridge Reservation in Westchester County, New York, located approximately 3 miles north of the site. The proposed facility would not affect the IBA. (Applicants 1, Attachment 6)
287. Bird and bat studies recommend impacts from construction of telecommunications facilities be assessed under the National Environmental Policy Act (NEPA). (Buschmanns 5, Response 2; Tr. 5, pp. 107-109; Council Administrative Notice Item No. 33; Applicants Administrative Notice Item No. 2)
288. Applicants complied with NEPA requirements for telecommunications facilities. (Applicants 1, 18; Applicants 8, response 19)
289. The proposed facility would comply with the USFWS telecommunications tower guidelines for minimizing the potential for impact to bird species. (Applicants 1, Attachment 6)
290. HT's proposed tree clearing schedule from November 1 to March 31 would also be protective of neotropical birds that may use the site for nesting. (Tr. 1, pp. 66-68)

### ***Agriculture and Soils***

291. The host parcel does not contain prime farmland soils. (Applicants 4, response 30)
292. A majority of the site contains Charlton and Chatfield soils which are classified as highly erodible soils. (Tr. 4, pp. 12-13)
293. Disturbed areas would be revegetated with white clover, tall fescue and ryegrass. (Applicants 15)
294. HT would examine the possibility of re-vegetating the 2:1 slopes above the access drive with tree species if geologic conditions allow. (Tr. 4, pp. 16-17)

*Scenic, Historic and Recreational Values*

295. No resources listed on the State or National Register of Historic Places were identified within 0.5 mile of the proposed site. By letter dated May 19, 2022, SHPO determined the project would have no effect on historic or archeological resources. (Applicants 1, p. 15, 20; Applicants 4, response 25)
296. The Town's Plan of Conservation and Development (POCD) identifies scenic vistas of Laurel Reservoir from Ponus Ridge Road. The vistas are marked with directional arrows pointing in the direction of the reservoir (west) and not in the direction of the tower (east). There are no other listed scenic vistas identified in the POCD within one mile of the proposed tower site. The POCD does not identify any scenic roads. (Applicants 1a, p. 17)
297. The Town POCD contains a conceptual greenway route (New Canaan/Stamford Greenway) that would link open space areas in New Canaan. The conceptual greenway would generally follow the Rippowam River corridor upstream to Laurel Reservoir where the route becomes undefined. (Applicants 1a, pp. 18-19)
298. The proposed site is not located within a Town, state or regionally-designated scenic area. (Applicants 1a; Buschmanns Administrative Notice Item No. 3; Buschmanns Administrative Notice No. 4, p. 41)
299. There are no "blue-blazed" hiking trails maintained by the Connecticut Forest and Park Association within two-miles of the site. (Applicants 1, Attachment 8; Council Administrative Notice No. 82)
300. The Centennial Watershed State Forest (CWSF) is located to the west and northwest of the site in New Canaan and Stamford. This portion of the state forest consists of Class I watershed land surrounding Laurel Reservoir owned by Aquarion, and abutting Class II watershed land owned by the state. This portion of the CWSF is not accessible to the public. (Buschmanns Administrative Notice Nos. 25 & 38)
301. The Natural Resources Management Agreement establishing the CWSF provides for public use and recreation under appropriate circumstances, and as approved by DPH. (Buschmanns Administrative Notice Item Nos. 25 & 38)
302. Public use of water supply areas of the CWSF would be upon approval from DPH. For example, according to the DEEP forestry management plan for the Means Brook Watershed area (MBW) section of the CWSF in Monroe, DPH permitted a portion of the Paugussett hiking trail to cross the MBW. The total length of the trail within the 666-acre MBW is 1,740 feet. No other established hiking trails or public access is mentioned in the MBW management plan, including but not limited to, Trap Falls Reservoir and its contributing stream. (Buschmanns Administrative Notice Item No. 11)
303. The nearest point of the proposed site (access drive entrance) to the CWSF is approximately 46 feet, across Ponus Ridge Road to the west. This area is Class I watershed land and is not accessible to the public. (Applicants 1, Attachment 4; Applicants 12; Buschmanns Administrative Notice Item No. 38)

304. OPM has designated Conservation Areas throughout the state. OPM's Conservation Areas are designated based on the presence of one or more of nine conservation factors. The proposed site is located in a conservation area based on one of these factors- the presence of a drinking water supply watershed. This conservation area includes, but is not limited to, large portions of northern New Canaan and northern Stamford. Residential development occurs throughout the designated conservation area. The proposed site and adjacent areas are not designated as a local conservation priority area. (Buschmanns Administrative Notice Item No. 4, pp. 26-27, Interactive Map)
305. Pursuant to C.G.S. §16-50p(b), the Council shall examine whether the proposed facility would be located in an area of the state which the Council, in consultation with DEEP and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance and the latest facility design options intended to minimize aesthetic and environmental impacts. The Council may deny an application for a certificate if it determines that the proposed facility would substantially affect the scenic quality of its location or surrounding neighborhood and no public safety concerns require that the proposed facility be constructed in such a location. (C.G.S. §16-50p(b); Buschmanns Administrative Notice No. 7)
306. No comments were received from the Town, the City of Stamford, OPM or DEEP regarding any impacts to scenic quality or resources. (Record)

### *Visibility*

307. Property owners have no right to an unobstructed view from structures built on adjacent property except where there is an express statutory provision or there is a contract or restrictive covenant protecting the private right to a view or vista. (*Mayer v. Historic District Comm'n of Town of Groton*, 325 Conn. 765 (2017); C.G.S. §47-25 (2021))
308. There are no express statutory provisions, contracts or restrictive covenants granting any person a private right to a view or vista across the proposed telecommunications facility site. (Buschmanns Administrative Notice Item No. 27; NCN Administrative Notice Item No. 60(e))
309. The site and surrounding neighborhood are served by overhead electric distribution facilities. (Applicants 1, Attachment 4, Attachment 8; Applicants 8, response 15)
310. Applicants used a combination of predictive computer models, in-field analysis, and a review of various data sources to evaluate the visibility of the proposed facility. (Applicants 1, Attachment 8; Applicants 11, response 6; Tr. 1, pp. 72-73)
311. On April 21, 2021, Applicants conducted a balloon test and field reconnaissance at the proposed tower site to assist in the visibility evaluation. The balloon test consisted of flying a four-foot diameter helium filled balloon to a height of approximately 110-feet agl at the proposed site. An in-field reconnaissance was then performed from publicly accessible locations in the surrounding area to determine where the proposed tower would be visible. The in-field reconnaissance included photographs taken from various areas around the site. (Applicants 1, Attachment 8; Applicants 8, response 15; Applicants 11 response 4)
312. Information obtained during the field reconnaissance was incorporated into a viewshed map that depicts areas with year-round visibility within a two-mile radius (8,042 acres) of the site (Study Area) based on computer modeling and in-field observations from publicly-accessible locations and from a private parcel where the landowner invited field personnel onto their property. (Applicants 1, Attachment 8; Applicants 8; Response 15; Applicants 11 response 4; Tr. 1, p. 71)

313. Based on the final viewshed analysis (refer to Figure 14), the proposed tower would be visible year-round from approximately 198 acres (2.5% of the Study Area), of which 195 acres occur from Laurel Reservoir and its shoreline. (Applicants 1, Attachment 8)
314. The tower would be seasonally visible (leaf-off conditions) from approximately 80 acres (1.0%) of the Study Area. Leaf-off conditions for this area is generally November to early May. (Applicants 1, Attachment 8; Tr. 3, p. 30)
315. Approximately 13 residences within 0.5 miles of the proposed facility would have seasonal views of the facility. Four of those residences would also have year-round views: 59 Squires Lane, 359 Dan's Highway, 331 Dan's Highway, and the residence on the host parcel. (Applicants 4, response 26, response 27, response 28; Tr. 1, pp. 69, 89)
316. The abutting residential property to the north at 59 Squires Lane would have year-round views of the upper portion of the tower from areas of the property. There is a small, forested buffer that straddles the host parcel and 59 Squires Lane. The tower would be seasonally visible from most of this property. (Applicants 1, Attachment 4, Attachment 8; NCN 2, Attachment 3; Tr. 1, pp. 69-70)
317. The abutting residential property to the southeast at 359 Dan's Highway would have year-round views of most of the tower and parts of the compound fence that are not obscured by landscaping. Open areas on this property extend to the property boundary adjacent to the tower site. (Applicants 1, Attachment 4, Attachment 8; Applicants 8; Applicants 11; Tr. 1, pp. 70-72)
318. There would be a small strip of wooded vegetation on the host parcel between the compound area and the 359 Dan's Highway property boundary. Rotating the compound from an east-west direction to a northeast-southwest direction would increase the distance to the property line from 45 feet to 108 feet. (Applicants 1, Attachment 4, Attachment 8; Applicants 11; Tr. 1, pp. 70-72)
319. The residential property at 331 Dan's Highway would have year-round views of the uppermost portion of the tower from the western area of the property. Other areas of the property would have seasonal views. (NCN 3)
320. The tower would be seasonally visible from various roads within 0.75 mile of the site including, but not limited to Laurel Road in Stamford, on the west side of Laurel Reservoir and Dan's Highway, Ponus Ridge Road, and Lake Wind Road primarily south and southeast of the site. Some short sections of these roads would have year-round visibility of the upper portion of the tower. (Applicants 1, Attachment 8; Applicants 8; Applicants 11; NCN 3)
321. The proposed cell tower would be visible year-round from Laurel Reservoir and its shoreline. Seasonal visibility would extend into the forest immediately surrounding the reservoir (approximately 21 acres). These areas, part of Centennial Watershed State Forest, are entirely Class I watershed land and are not accessible to the public. (Applicants 1, Attachment 8; Applicants 4, response 29, Attachment 5; Applicants 12)
322. HT proposes to install a "monopine" tower to mitigate views of the tower. In its May 2016 response to the Town's RFP for the Design, Construction and Operation of Wireless Communications Infrastructure, HT indicated a stealth monopine or water tank design would be appropriate for a tower located near Laurel Reservoir. HT indicated it would work with the Town to develop a visually appealing tower design. (Applicants 1, p. 19, Attachment 4; NCN Administrative Notice Item No. 60uu)

323. The monopine would have a branching pattern that is intended to conceal the carrier antennas and the Town's dish antennas. The town's whip antenna would extend above the faux cone on top of the tower. (Applicants 1, Attachment 4; Tr. 1, pp. 63-64)
324. Carriers that co-locate on the tower would have to remove faux branches to install the antenna mount on the tower. The antenna mounts would be painted to match the tower. Where possible, branches in the area of the collar and antennas would be turned to increase antenna concealment. (Applicants 1, Attachment 4; Tr. 1, pp. 64-65)
325. Panel antennas installed on the tower would be wrapped in antenna socks to match the tower. (Applicants 1, Attachment 4)
326. Extra branches provided by the vendor would be retained in a corner of the compound for potential future replacement of any damaged branches. (Tr. 1, p. 66)
327. HT used the tower vendor Valmont for the monopine tower at the Docket 487 facility on Soundview Drive. That facility has a branch pattern of three branches per vertical foot. The branches at that facility began at 20 feet agl with 14-foot long branches at the bottom levels tapering to six to eight feet at the top. The antennas at the top level of the tower are concealed with antenna socks. (Applicants 7, response 5; Tr. 1, pp. 62-63; Tr. 3, pp. 32-33)
328. HT would consider using the same tower vendor for the proposed monopine facility. (Tr. 1, pp. 62-63)
329. Another stealth tower option, a flagpole type facility, has limited space at each level of the tower to fit antennas and associated equipment. Each carrier would require two to three tower levels for their equipment with a 10-foot separation between tower levels. AT&T's installation would increase the height of the tower by 20 to 30 feet. (Tr. 4, pp. 147-148)
330. HT proposes to install landscape plantings (8 to 10-foot tall green giant arborvitae) along the north and east sides of the equipment compound for screening. HT would examine the feasibility of installing natural evergreen species for landscape screening. (Applicants 1, Attachment 4; Tr. 3 pp. 71-72)
331. AT&T's equipment cabinet extends to a height of approximately 11 feet. (Applicants 1, Attachment 4; Tr. 3, pp. 31-33)
332. The Town requested a wood-style shelter to house carrier ground equipment. HT does not intend to install wood-style shelters. As proposed, each carrier would install equipment cabinets on concrete pads within the compound. HT proposes to screen the compound area with an eight-foot wood fence, landscape plantings and the retention of mature trees between the compound and the abutting residential properties. (Applicants 15; Tr. 4, pp. 42-44)
333. In the Docket 487 proceedings, per its regulations, the Town recommended wood-style shelters, shadowbox fence and robust landscaping. An eight-foot wood shadowbox fence and evergreen plantings are installed at the Docket 487 facility site. Ground radio equipment is within a cabinet installed on a concrete pad. (Council Administrative Notice Item No. 35; Applicants 11)

334. Pursuant to C.G.S. §16-50p(a)(3)(F), for a telecommunications proposed to be installed on land near a building containing a school, the facility will not be less than 250 feet from the building containing the school unless the location is acceptable to the chief elected official of the municipality or the Council finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which such school is located. (C.G.S. §16-50p(a)(3)(F) (2021))
335. No schools or commercial child day care facilities are located within 250 feet of the site. The nearest building containing a school or commercial day care is West Elementary School of New Canaan, located approximately 2.4 miles southeast of the proposed facility site. (Applicants 1, Attachment 8)

#### **Court-ordered Remand**

336. By its Decision and Order (D&O), dated December 8, 2022, the Council found that the effects associated with the construction, maintenance, and operation of a telecommunications facility, including effects on the natural environment, ecological balance, public health and safety, scenic, historic, and recreational values, agriculture, forests and parks, air and water purity, and fish, aquaculture and wildlife were not disproportionate, either alone or cumulatively with other effects, when compared to need, were not in conflict with the policies of the State concerning such effects, and were not sufficient reason to deny the application, and therefore directed a Certificate be issued to HT for the construction, maintenance and operation of a telecommunications facility in the Revised Configuration located at 1837 Ponus Ridge Road, New Canaan, Connecticut. (Council December 8, 2022 Final Decision)
337. On January 4, 2023, pursuant to CGS §4-183, Buschmanns filed an appeal of the Council's December 8, 2022 final decision in the New Britain Superior Court (Court). (*Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)
338. The Court held oral argument in the Buschmann appeal on January 12, 2024. (*Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)
339. On April 3, 2024, pursuant to Condition No. 9 of the Council's December 8, 2022 D&O, HT requested an extension of the deadline for construction. Under Condition No. 9, the time between the filing and resolution of any appeals is not counted in calculating the deadline for construction. (Council December 8, 2022 Final Decision; *Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)
340. On April 4, 2024, the Council responded to HT's extension request, indicating the deadline for construction of the telecommunications facility will be eighteen months after the date that the Buschmann appeal is resolved. (Council December 8, 2022 Final Decision; *Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)
341. On May 6, 2024, the Court issued a decision in the Buschmann appeal to remand the final decision on the application to the Council on the basis that the Council was not properly constituted under CGS §16-50j(b) when it acted on the application. (*Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)
342. On May 17, 2024, the Council issued a memorandum related to the Court-ordered Remand Regarding Council Membership under CGS §16-50j(b) to the service list and posted the memorandum on its website. It indicated the Council would place the matter on a future regular



meeting agenda for a new vote consistent with the Court-ordered remand and CGS §16-50j(b). (Record)

343. On May 20, 2024, Buschmanns filed a Motion for Clarification of the Court's May 6, 2024 Decision and Expedited Hearing (Court Motion). (*Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)

344. On June 18, 2024, Buschmanns' Court Motion was denied. (*Buschmann v. Conn. Siting Council*, HHB-CV23-6076746-S)

### ***Council Membership***

345. Under PUESA, the Council's membership consists of:

- (1) The Commissioner of Energy and Environmental Protection, or the Commissioner's designee;
- (2) the Chairperson of the Public Utilities Regulatory Authority, or the Chairperson's designee;
- (3) one designee of the speaker of the House and one designee of the president pro tempore of the Senate; and
- (4) five members of the public, to be appointed by the Governor, at least two of whom shall be experienced in the field of ecology, and not more than one of whom shall have affiliation, past or present, with any utility or governmental utility regulatory agency....

(C.G.S. §16-50j(b) (2023))

346. On October 21, 2019, John Morissette was appointed to the Council by the Governor as a public member in succession to Philip Ashton who passed away on January 27, 2017. In their professional careers, Mr. Ashton and Mr. Morissette were electrical engineers employed by Yankee Gas and Eversource Energy, respectively. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)

347. On March 15, 2021, Louanne Cooley was appointed to the Council by the Governor as a public member with experience in the field of ecology in succession to Michael Klemens, who resigned on May 15, 2019. Mrs. Cooley resigned from the Council as of January 1, 2023. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)

348. On October 28, 2021, Mark Quinlan was appointed to the Council by the Governor as a public member with experience in the field of ecology in succession to Michael Harder, who resigned on April 30, 2021. Mr. Quinlan resigned from the Council as of June 1, 2023. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)

349. On June 14, 2023, Robert Hannon was appointed to the Council by the Governor as a public member with experience in the field of ecology in succession to Louanne Cooley. Mr. Hannon passed away on December 15, 2023. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)

350. On December 6, 2023, Dr. Thomas Near was appointed to the Council by the Governor as a public member with experience in the field of ecology in succession to Mark Quinlan. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)

351. On January 4, 2024, Chance Carter was appointed to the Council by the Governor as a public member in succession to Ed Edelson, who resigned as of January 1, 2023. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)

352. On April 26, 2024, Khristine Hall was appointed to the Council by the Governor as a public member with experience in the field of ecology in succession to Robert Hannon. (CGS §4-1a, 4-9a and 16-50j (2023); Council Membership, updated to April 26, 2024)
353. On May 20, 2024, Council Member Chance Carter read the record of the proceeding. (Carter Per Diem Reimbursement Sheet for May 2024)
354. On June 24, Council Member Khristine Hall read the record of the proceeding. (Hall Per Diem Reimbursement Sheet for June 2024)

### ***Development and Management Plan***

355. A D&M Plan is a condition of a final decision. Once a final decision is issued pursuant to PUESA, construction of a facility can proceed in conformity with the terms, limitations and conditions in the Council's final decision. (*FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014); *Town of Killingly v. Conn. Siting Council*, 220 Conn. 516, 523 (1991))
356. The Council's Community Antenna Television and Telecommunications Facility D&M Plan Regulations apply to approved facilities for which the Council orders preparation of a D&M Plan as a condition of its final decision. (RCSA §16-50j-75 to 16-50j-77 (2023); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014))
357. Under its regulations, a D&M Plan is required at the Council's discretion and is prepared by the project developer in conjunction with Council staff specifying how construction will comply with the Council's final decision. (RCSA §16-50j-75 to 16-50j-77 (2023))
358. The D&M Plan condition must be met in order to commence construction. ((RCSA §16-50j-75 to 16-50j-77 (2023); *Town of Westport v. Conn. Siting Council*, 260 Conn. 266 (2002)).
359. On September 18, 2023, in compliance with Condition No. 1 of the Council's December 8, 2022 D&O, HT submitted plans and specifications for construction of a 110-foot monopine sufficient to accommodate the antennas of AT&T, Cellco, the Town and other entities both public and private. (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 D&M Plan approval)
360. The top of the monopine faux tree branches will reach a maximum height of 115 feet, antennas and antenna mounts will be painted brown to match the color of the monopine, panel antennas will have wraps/socks to match the faux branch/needle pattern, and whip antennas extending above the tower will be painted "Horizon Blue." (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 D&M Plan approval)
361. The total monopine faux tree branch count for the facility is 214 with an average of 3.06 branches per vertical foot. (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 D&M Plan approval)
362. Also on September 18, 2023, in compliance with Condition No. 2 of the Council's December 8, 2022 D&O, HT submitted the D&M Plan for the Revised Configuration. Consistent with RCSA §16-50j-75, the Council developed a schedule for the D&M Plan. The 60-day deadline to approve, modify or deny the D&M Plan was November 17, 2023. (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record)

363. Under RCSA §16-50j-75(d), if the Council does not act to approve, modify or disapprove the D&M Plan within 60 days after receipt of it, the D&M Plan shall be deemed approved. (RCSA §16-50j-75 to 16-50j-77 (2023))
364. Pursuant to Condition No. 2 of the Council's December 8, 2022 D&O and RCSA §16-50j-75(e), on September 18, 2023, HT submitted copies of the D&M Plan to the service list for comment. (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 D&M Plan approval)
365. On October 12, 2023, Buschmanns submitted comments on the D&M Plan related to the geotechnical report, site phasing, stormwater control, and site runoff. (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 D&M Plan approval)
366. In compliance with Condition No. 2 of the Council's December 8, 2022 D&O, the D&M Plan includes:
- a) Certified letters from AT&T and Cellco committing to collocate on the facility;
  - b) Final site plan(s) for development of the facility that employ the governing standard in the State of Connecticut for tower design in accordance with the currently adopted International Building Code and include specifications for the tower, tower foundation, antennas and equipment compound including, but not limited to, wood shadowbox fence design, ground equipment, access road, utility installation and emergency backup power;
  - c) Details of the monopine structure, including, but not limited to, manufacturer, branch pattern, and photographs of other monopine installations that used the selected design;
  - d) Post-construction stormwater control plan including, but not limited to, results of the geotechnical investigation, stormwater/drainage report, design details for a 25-year storm, and incorporation of a rain garden if geotechnical conditions allow;
  - e) Construction plans for site clearing, grading, water drainage and stormwater control, site stabilization measures during construction; and erosion and sedimentation (E&S) controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, with monitoring of the E&S controls by a civil engineer independent of the contractor. Selected E&S control measures shall account for site-specific geotechnical conditions;
  - f) Use of 100 percent natural fiber erosion control blankets to reduce the possibility for wildlife entanglement;
  - g) Site construction phasing plan that incorporates the results of the geotechnical investigation and accounts for species mitigation measures;
  - h) Use of clean fill and broken stone to protect water quality;
  - i) Landscaping Plan, including but not limited, evergreen plantings in the compound area that are tall enough to conceal the equipment cabinets, and native vegetation on disturbed slopes if geotechnical conditions allow;
  - j) Wetland Protection Plan with monitoring by a wetland scientist;
  - k) Invasive Species Control Plan;
  - l) Natural Diversity Database Species Protection Plan, including but not limited to, provisions for contractor education, site inspections, isolation barriers and tree clearing between November 1 and March 30;
  - m) Petroleum Materials Storage and Spill Prevention Plan including, but not limited to, servicing construction machinery outside of the Laurel Reservoir public water supply watershed, spill cleanup procedures, and detailed contact information for the spill response contractor;

- n) Acid rock drainage mitigation plan, if applicable, based on the results of the geotechnical investigation; and
- o) Construction schedule including hours and days of the week for construction activities.

(Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)

367. In compliance with Condition No. 2(a) of the Council's December 8, 2022 D&O, on August 28, 2023 and September 15, 2023, AT&T and Cellco, respectively, submitted certified letters to HT committing to collocate on the facility once HT completes construction. (Council December 8, 2022 Final Decision; Record)
368. In compliance with Condition No. 2(b) of the Council's December 8, 2022 D&O, HT submitted final site plans for development of the facility that employ the governing standard in the State of Connecticut for tower design in accordance with the currently adopted International Building Code and include specifications for the tower, tower foundation, antennas and equipment compound including, but not limited to, wood shadowbox fence design, ground equipment, access road, utility installation and emergency backup power. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
369. In compliance with Condition No. 2(c) of the Council's December 8, 2022 D&O, HT submitted details of the monopine structure, including, but not limited to, manufacturer, branch pattern, and photographs of other monopine installations that used the selected design. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
370. In compliance with Condition 2(d) of the Council's December 8, 2022 D&O and the Council's specific request, HT designed the stormwater management system to a 25-year storm event, in accordance with Town criteria, and considered improvements to promote on-site storage and infiltration of runoff, such as utilization of 14-inch crushed stone with 40% voids in the equipment compound. A rain garden could not be incorporated into the stormwater management design due to the presence of shallow bedrock. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
371. Based on the Geotechnical Investigation, the tower will be supported by a mat foundation installed to a minimum depth of 6 feet. A soil boring determined bedrock occurs from 12 feet to 22 feet at the tower location. The geotechnical investigation recommends mechanical removal of bedrock to achieve these design grades. Blasting is not anticipated, but if required, HT would conduct blasting in accordance with state and municipal regulations. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
372. The Geotechnical Investigation identified highly erodible and moisture sensitive soils at the site. Sheet N-2 of the D&M Plan recommends grubbing commence once ground conditions allow for disturbed soil stabilization methods to be deployed. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
373. In compliance with Condition 2(e) of the Council's December 8, 2022 D&O, HT incorporated all of the protective measures recommended by DPH related to water quality in its construction plans, including, but not limited to, a geotechnical investigation of the site, a stormwater management system designed to a 25-year storm event that accounts for geological conditions, establishment of E&S controls consistent with the *2002 E&S Guidelines*, a construction phasing plan that maintains a minimum 100-foot buffer from the limit of disturbance to the on-site wetland, provisions for acid rock mitigation, use of clean fill, replanting of steep slopes with native vegetation to the extent

possible, servicing of construction machinery outside of the Laurel Reservoir public water supply watershed, implementing a petroleum materials storage and spill prevention plan and on-site monitoring by a civil engineer and a wetland scientist. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)

374. In compliance with Condition No. 2(f) of the Council's December 8, 2022 D&O, HT will use 100 percent natural fiber erosion control blankets to reduce the possibility for wildlife entanglement. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
375. In compliance with Condition No. 2(g) of the Council's December 8, 2022 D&O, HT developed a construction phasing plan to minimize exposed surfaces and restore disturbed areas as soon as practicable. Main elements of the phasing plan include site clearing and grubbing to install E&S controls, completion of clearing/grubbing and seeding of disturbed areas that will not be worked on within 30 days, excavation and rough grading of the access drive and stormwater management system, construction of swales in progression towards the compound, excavation and grading of the compound and tower area, finalizing the access drive and swales, paving the lower access drive, completion of the tower and compound, installation of landscaping and final seeding of disturbed areas. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
376. In compliance with Condition No. 2(h) of the Council's December 8, 2022 D&O, HT will use clean fill and broken stone to protect water quality. Approximately 1,500 cubic yards of fill will be imported to the site. An additional 250 cubic yards of clean broken stone will be imported for the gravel access drive. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
377. In compliance with Condition No. 2(i) of the Council's December 8, 2022 D&O, the Landscaping Plan includes, but is not limited to, fourteen eastern hemlocks planted along the eastern corner of the compound. The hemlocks will be 8 to 10 feet tall at planting and will be installed 10 feet off center to allow for branch growth. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
378. In compliance with Condition No. 2(j) of the Council's December 8, 2022 D&O, the Wetland Protection Plan includes, but is not limited to, provisions for E&S controls, contractor education, herbicide and pesticide restrictions, petroleum storage and handling measures, elimination of ruts and depressions, inspections by an environmental monitor, and reporting. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
379. In compliance with Condition No. 2(k) of the Council's December 8, 2022 D&O, the Invasive Species Mitigation Plan includes, but is not limited to, measures to reduce importation of invasives into the site and the monitoring of restored areas of the site for a period of two years. Invasives that colonize 10 percent of the restored areas will be removed. Invasive species monitoring reports will be prepared and submitted to the Council. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
380. In compliance with Condition No. 2(l) of the Council's December 8, 2022 D&O, the Natural Diversity Database Species Protection Plan includes, but is not limited to, measures to reduce construction related impacts to three state-listed species that were recorded in the site area: little brown bat, red bat, and eastern box turtle. The plan, developed in accordance with DEEP's recommendations, includes contractor education, site inspections, isolation barriers, and tree

removal from October 2 to March 31. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)

381. The tree removal restriction is also protective of the northern long-eared bat and neotropical birds that could use the site for nesting. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
382. In compliance with Condition 2(m) of the Council's December 8, 2022 D&O, the Petroleum Materials Storage and Spill Plan specifies refueling of vehicles at a minimum of 100 feet from wetlands and the Laurel Reservoir, servicing construction machinery outside of the public supply watershed, absorbent pad protection during refueling, on-site spill kits, and spill response, cleanup, and reporting procedures to state agencies and Aquarion Water Company. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
383. In compliance with Condition 2(n) of the Council's December 8, 2022 D&O, based on the results of the Geotechnical Investigation, all excavated rock will be disposed of off-site. Therefore, an acid rock drainage plan is not applicable. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
384. In compliance with Condition 2(o) of the Council's December 8, 2022 D&O, construction hours will be from 8:00 a.m. to 5:00 p.m. Monday through Friday and occur over a 12-week period. (Record; Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
385. During a public meeting held on November 9, 2023, in compliance with RCSA §16-50j-75(d), the Council determined the D&M Plan is consistent with its December 8, 2022 D&O and approved the D&M Plan with recommendations to utilize mechanical removal if bedrock is encountered and install a 1,000-gallon propane tank for emergency backup generation and conditions, including, but not limited to, conduct tree clearing and grubbing operations in accordance with Site Plan N-2, note 5b and use of clean imported fill and broken stone to protect water quality. (Council December 8, 2022 Final Decision; RCSA §16-50j-75 to 16-50j-77 (2023); Council November 9, 2023 Meeting Minutes; Council November 9, 2023 D&M Plan approval)
386. Pursuant to RCSA §16-50j-77, requests for any changes to the D&M Plan shall be approved by Council staff and HT is responsible for compliance with reporting requirements, including, but not limited to, quarterly construction progress reports, notification of completion of construction, notification of commencement of operation and a final report. (RCSA §16-50j-75 to 16-50j-77 (2023); Record; Council November 9, 2023 D&M Plan approval)
387. Construction of the facility has not yet commenced. (Record)



**Figure 1 – Site Location – Topographic Map**



**Legend**

- Site
- - - Municipal Boundary
- State Boundary

**Map Notes:**  
Base Map Source: USGS 7.5 Minute Topographic  
Quadrangle Map, Pound Ridge, NY-CT (1971)  
Map Scale: 1:24,000  
Map Date: December 2021



**Site Location Map**

Proposed Wireless  
Telecommunications Facility  
CT050 - New Canaan Northwest  
1837 Ponus Ridge Road  
New Canaan, Connecticut



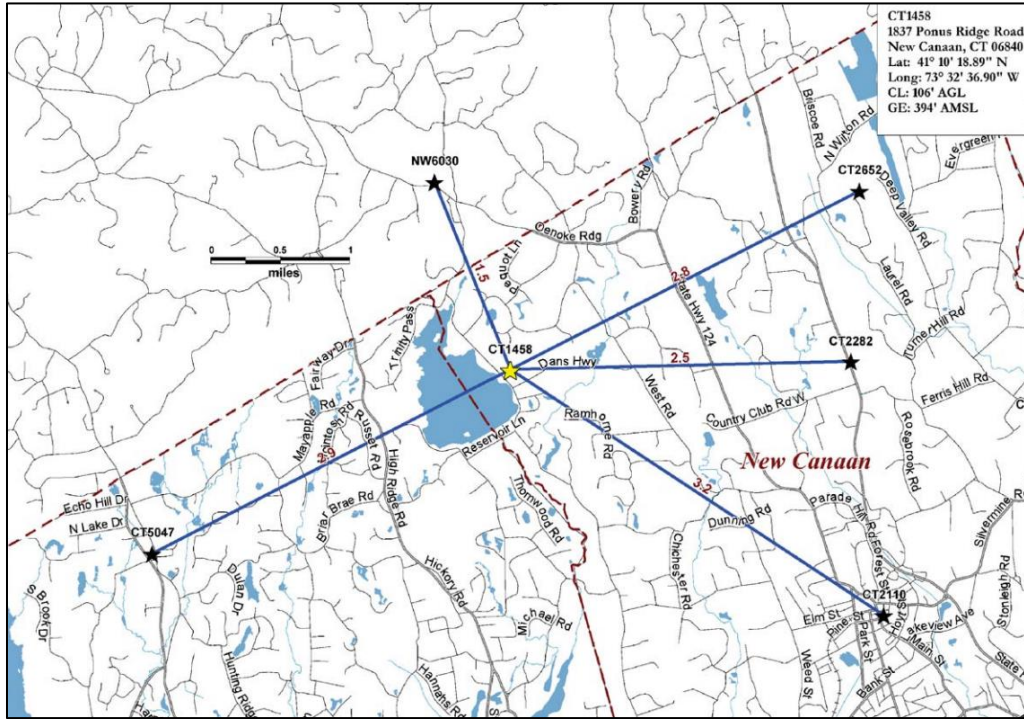


**Figure 2 – Site Location – Aerial Image**



(Applicants 1, Attachment 4)

**Figure 3 – AT&T Adjacent Sites**

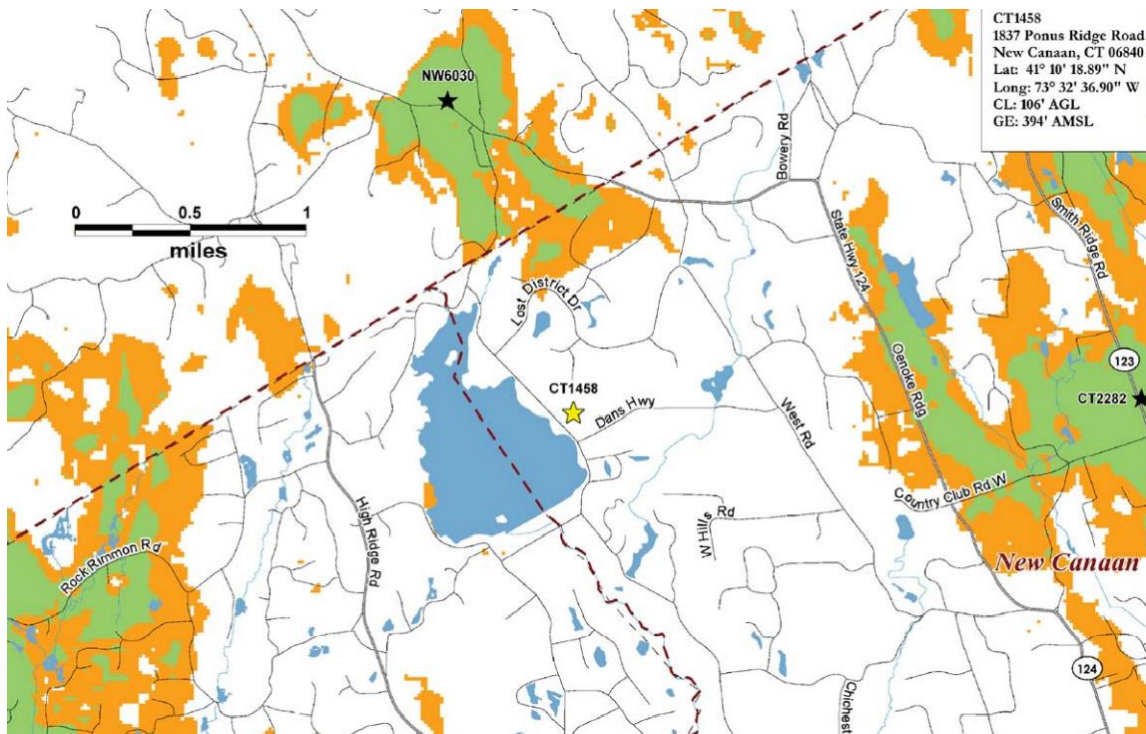


Site Name	Address	City/State	Latitude	Longitude	Antenna Height (ft AGL)	Ground Elevation	Distance (miles)
CT2282	95 Country Club Road	New Canaan	41.1729	-73.4963	89	495	2.5
CT2652	183 Soundview Lane	New Canaan	41.1907	-73.4952	81	502	2.8
NW6030	89 Westchester Ave	Pound Ridge	41.1916	-73.5540	85	394	1.5
CT5047	366 Old Long Ridge Road	Stamford	41.1528	-73.5931	148	423	2.9
CT2110	135 Main Street	New Canaan	41.1464	-73.4917	44	272	3.2

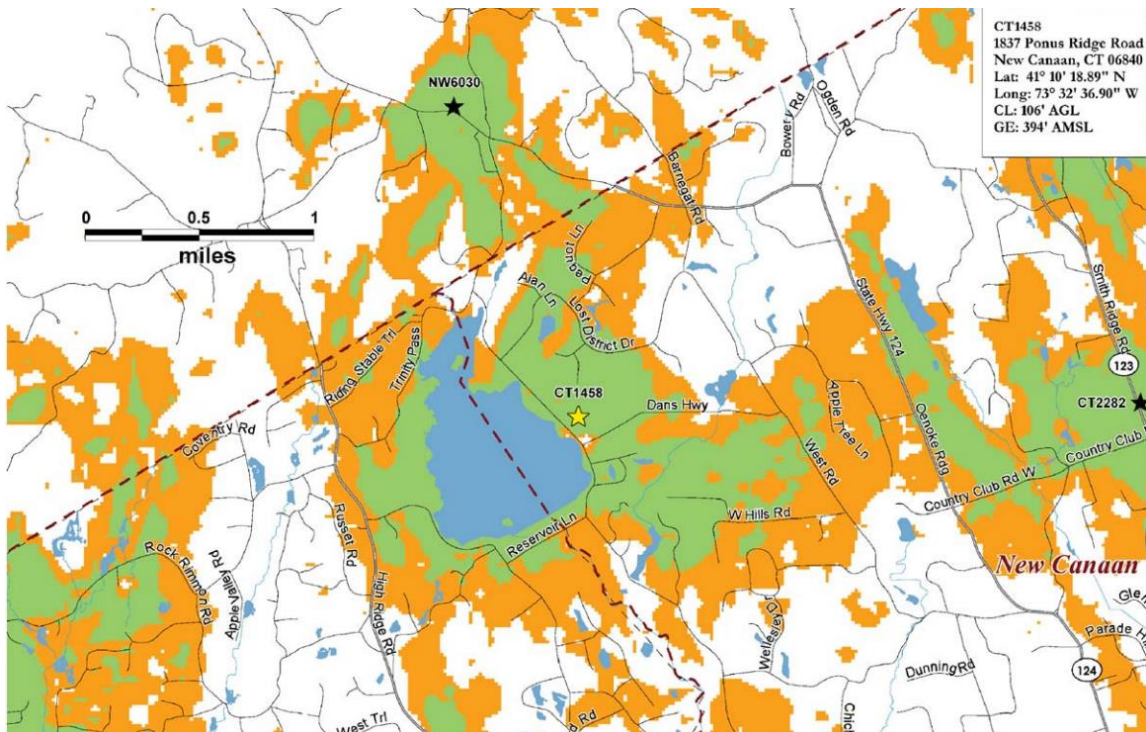
(Applicants 1, Attachment 1)



**Figure 4 – AT&T Existing 700 MHz Coverage**

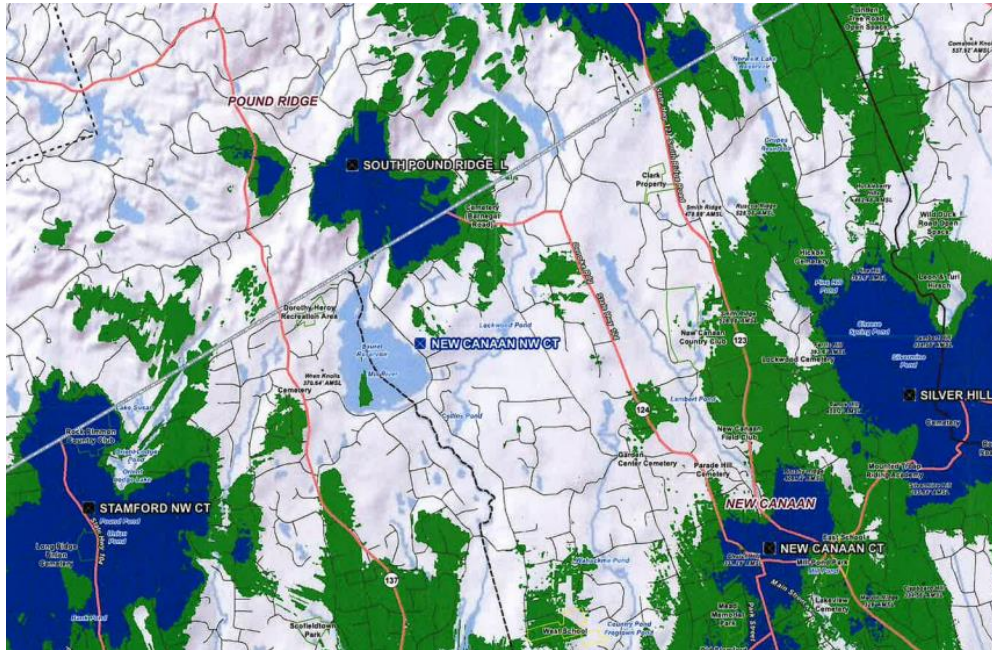


**Figure 5 – AT&T Existing and Proposed 700 MHz Coverage**

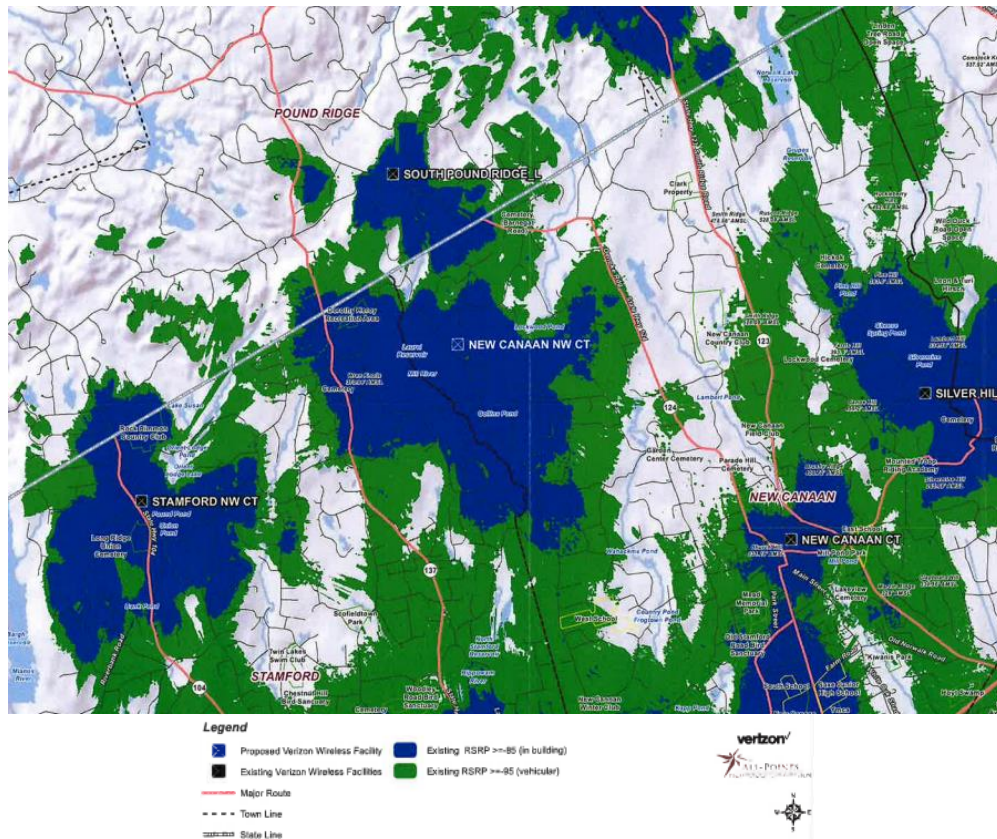




**Figure 6– Cellco Existing 700 MHz Coverage**

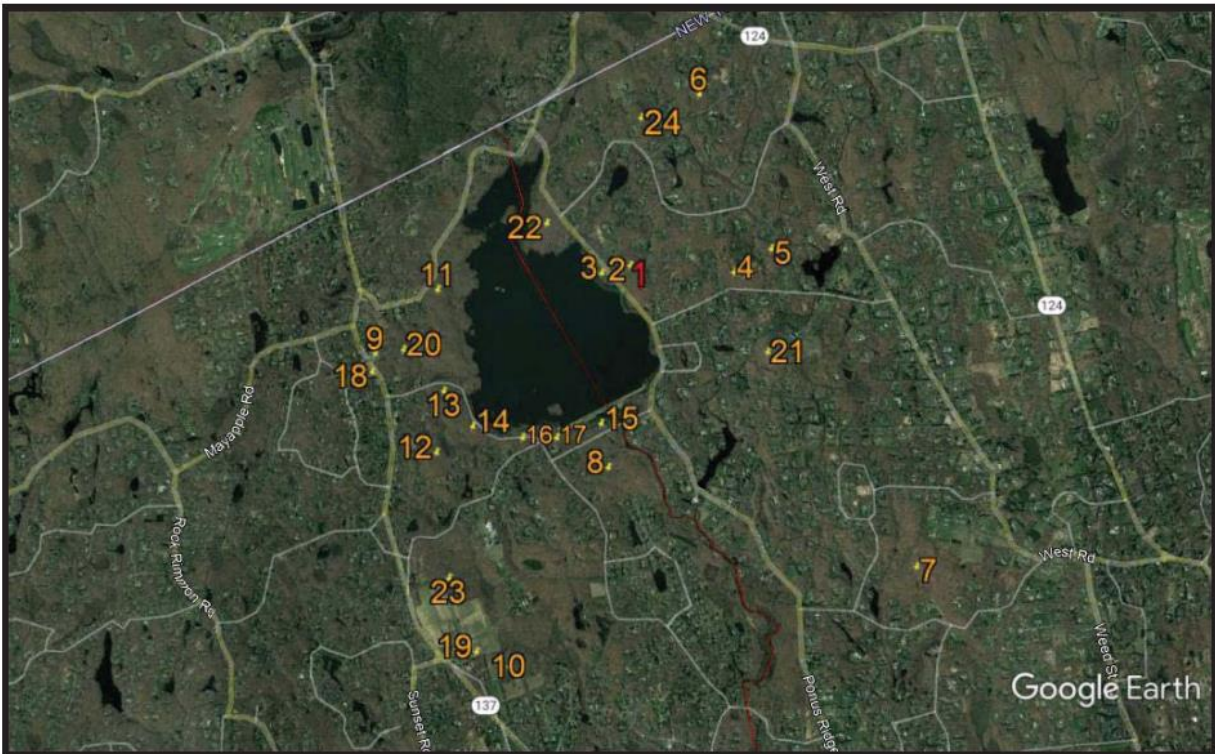


**Figure 7– Cellco Proposed 700 MHz Coverage**



**Figure 8 – Site Search Summary Map**

Aerial Image of properties investigated by Homeland Towers

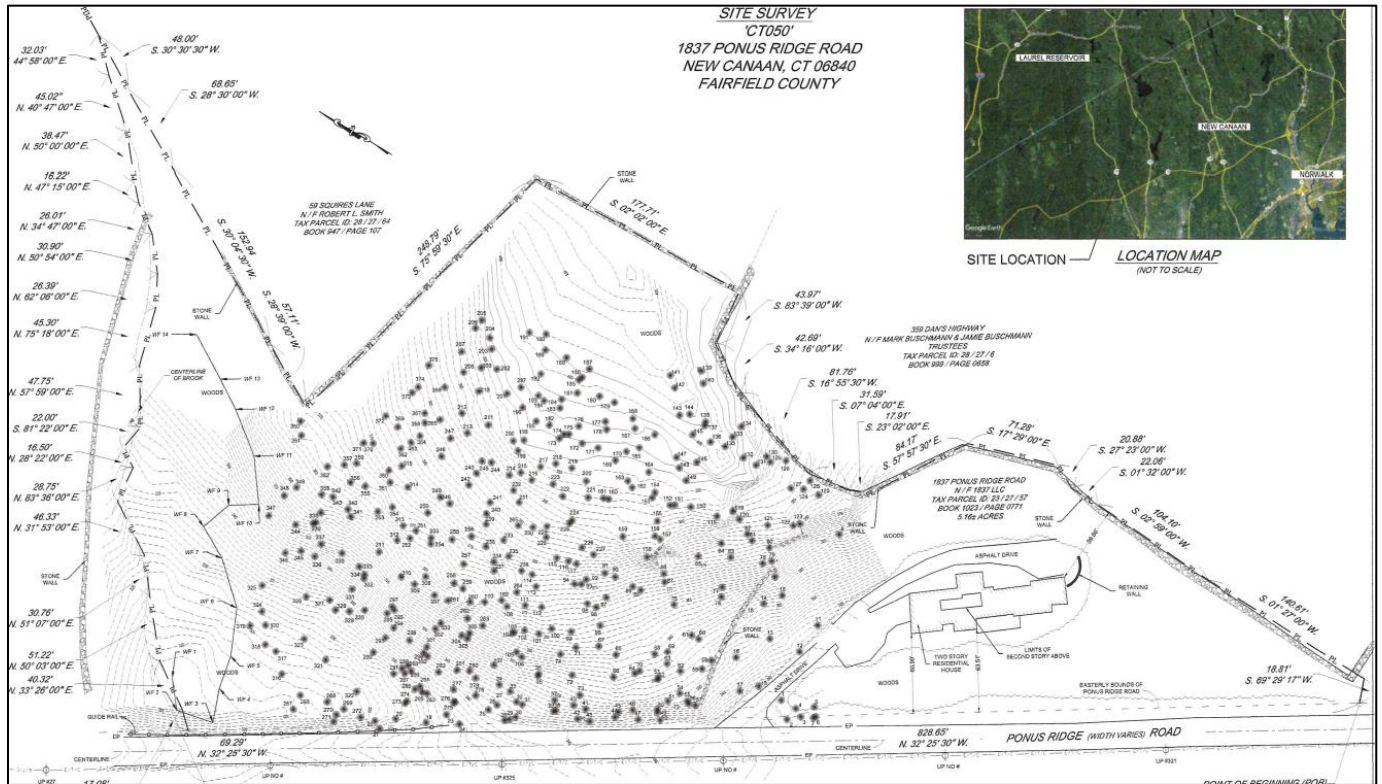


# 1 is the proposed site.

(Applicants 1, Attachment 2)

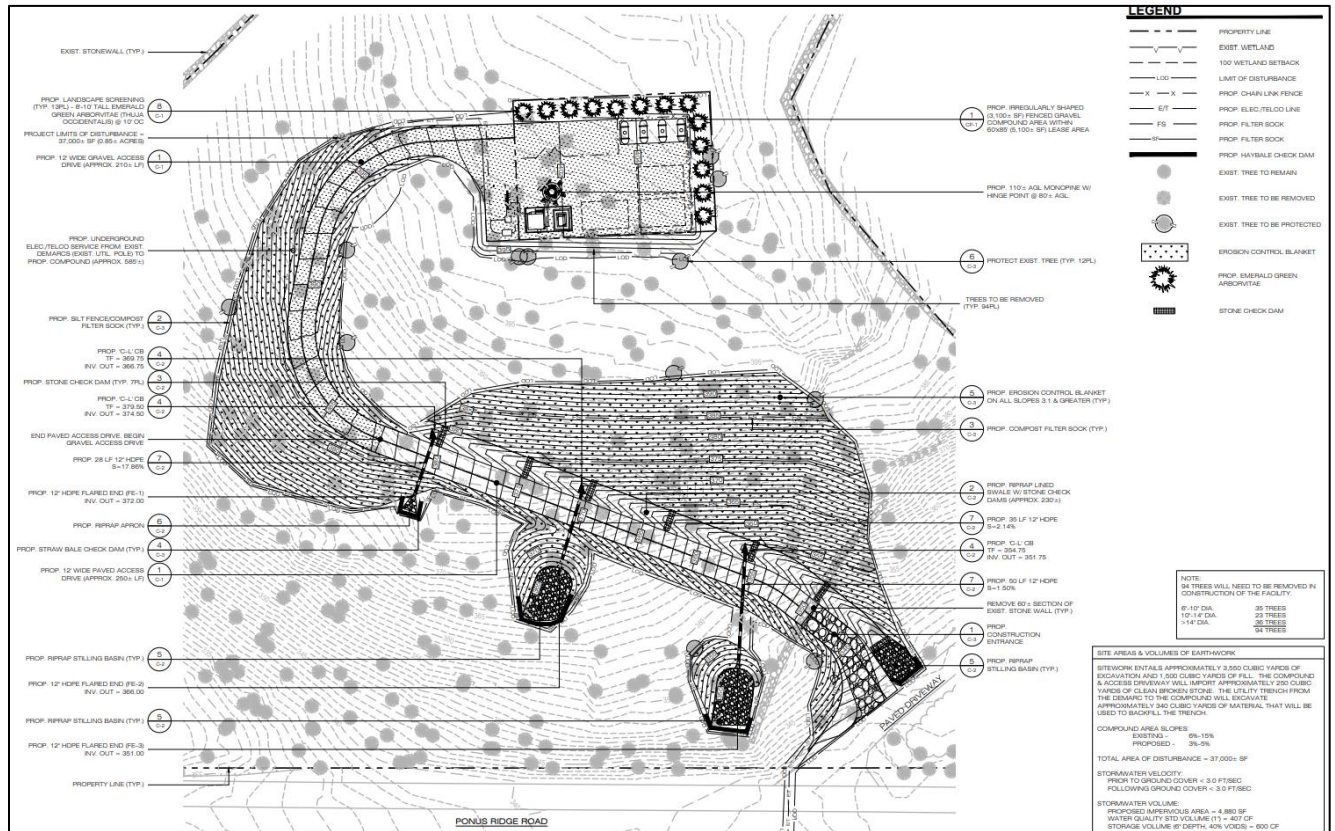


**Figure 9 – Site parcel topographic features**



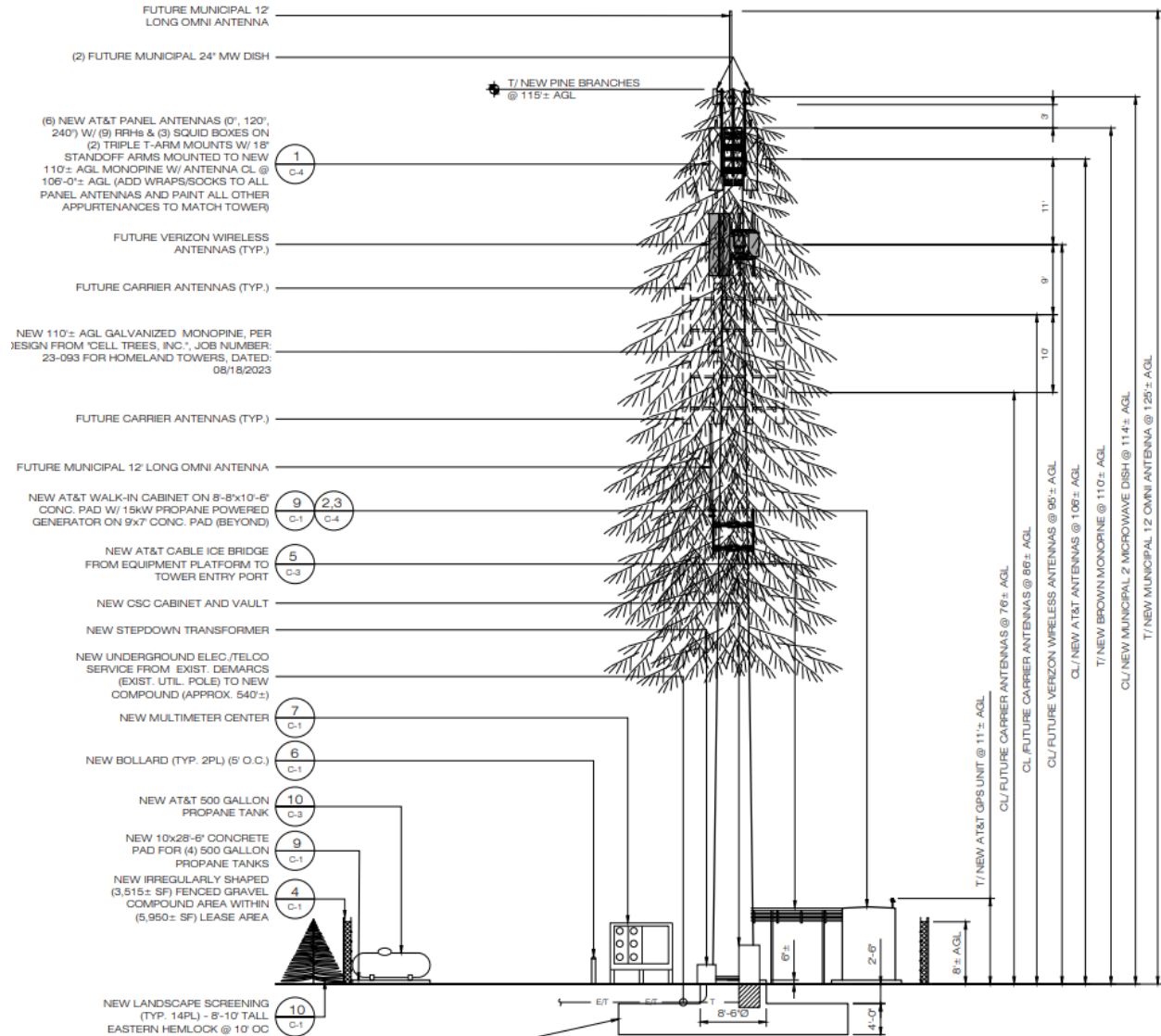
(Applicants 15)

**Figure 10 –Site Plan – Original Location**



(Applicants 10)

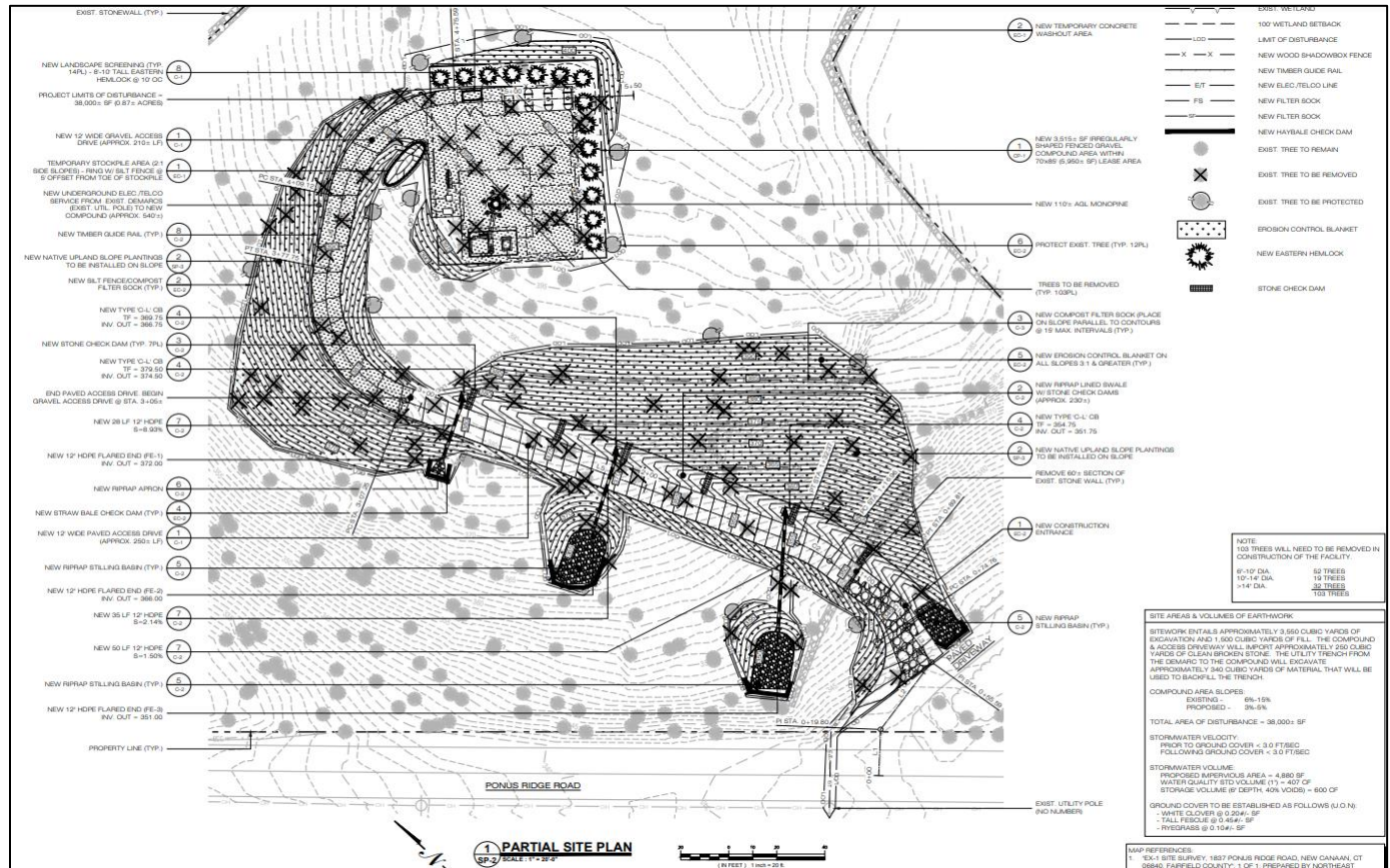
**Figure 11 – Tower Plan**



(Council November 9, 2023 D&M Plan approval; Record)



**Figure 12 - Site Plan Revised Configuration**



(Council November 9, 2023 D&M Plan approval; Record)

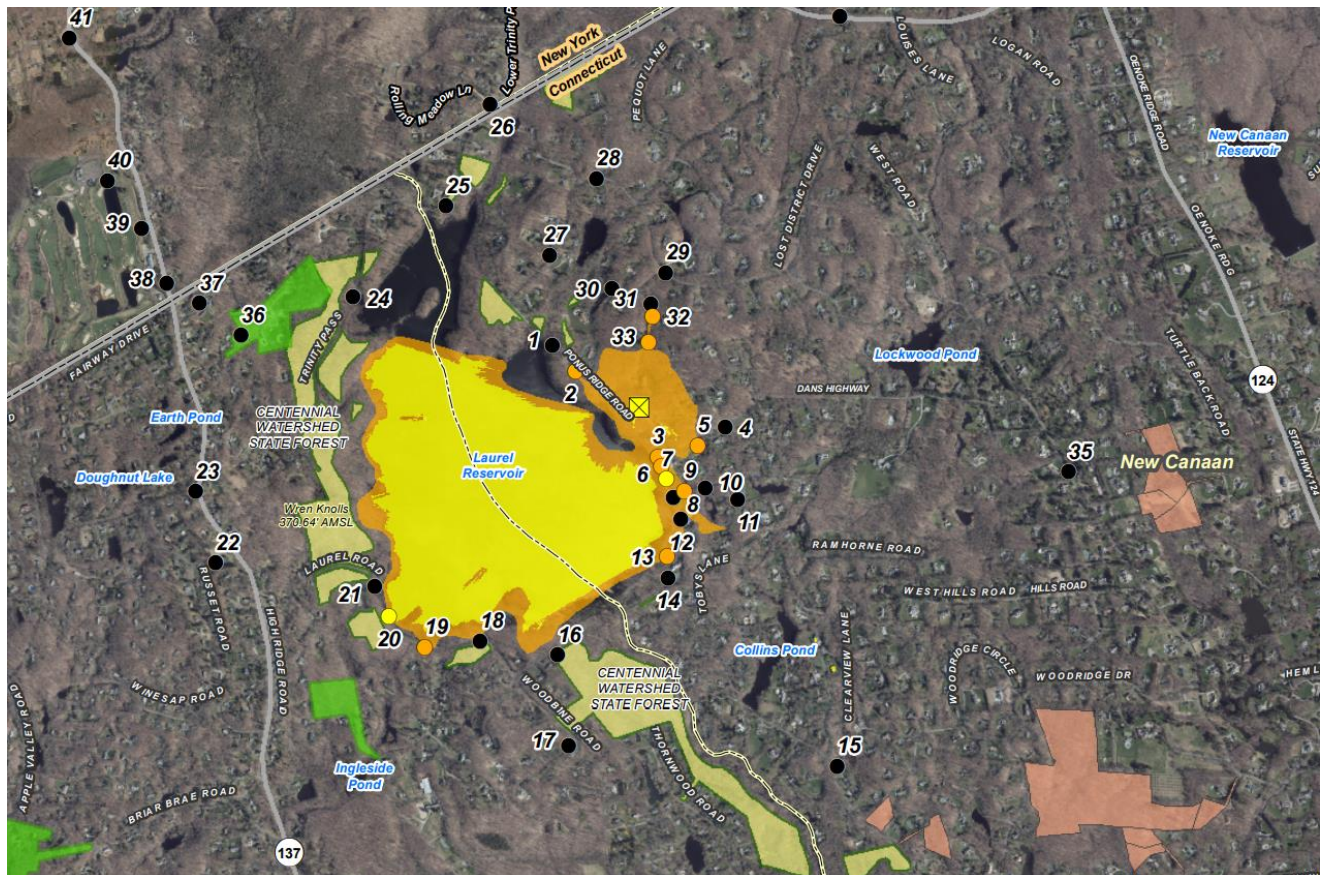
**Figure 13 – Wetland Location**



(Applicants 1, Attachment 6) \* original location shown in image



**Figure 14 – Proposed Site Visibility Analysis**



### Legend

- |   |   |
|---|---|
| Proposed Site   | Trail                                     |
| Study Area (2-Mile Radius)  | Scenic Highway                            |
| <b>Photo Locations (April 7, 2021)</b>  | DEEP Boat Launches                        |
| Visible   | Municipal and Private Open Space Property |
| Seasonal  | Centennial Watershed State Forest         |
| Not Visible   | <b>Protected Open Space Property</b>      |
| Predicted Year-Round Visibility (198 Acres; +/- 195 acres occurs over Laurel Reservoir) | Federal                                   |
| Areas of Potential Seasonal Visibility (80 Acres)                                       | Land Trust                                |
| State Boundary  | Municipal                                 |
| Municipal Boundary  | Private                                   |

(Note- Centennial Watershed State Forest includes Class I lands surrounding the Laurel Reservoir)

(Applicants 4, Attachment 5; Buschmanns Administrative Notice No. 38)



**Visibility Analysis Map Photolog**

**Table 1 – Photo Locations**

Photo	Location	Orientation	Distance to Site	Height of Facility Visible in Photograph	Visibility
1	Ponus Ridge Road	Southeast	± 0.26 Mile	N/A	Not Visible
2	Ponus Ridge Road	Southeast	± 0.17 Mile	30'-40'	Seasonal
3	Ponus Ridge Road	Northwest	± 0.12 Mile	50'-60'	Seasonal
4	Dan's Highway*	West	± 0.21 Mile	N/A	Not Visible
5	Dan's Highway	Northwest	± 0.16 Mile	40'-50'	Seasonal
6	Ponus Ridge Road*	Northwest	± 0.14 Mile	10'-20'	Seasonal
7	Ponus Ridge Road	Northwest	± 0.17 Mile	20'-30'	Year Round
8	Ponus Ridge Road	Northwest	± 0.22 Mile	N/A	Not Visible
9	Lake Wind Road	Northwest	± 0.22 Mile	30'-40'	Seasonal
10	Lake Wind Road	Northwest	± 0.24 Mile	N/A	Not Visible
11	Lake Wind Road	Northwest	± 0.31 Mile	N/A	Not Visible
12	Ponus Ridge Road	Northwest	± 0.28 Mile	N/A	Not Visible
13	Ponus Ridge Road	North	± 0.35 Mile	20'-30'	Seasonal
14	Ponus Ridge Road	North	± 0.40 Mile	N/A	Not Visible
15	Ponus Ridge Road	Northwest	± 0.96 Mile	N/A	Not Visible
16	Reservoir Lane – Stamford	Northeast	± 0.60 Mile	N/A	Not Visible
17	Fernwood Drive – Stamford	Northeast	± 0.81 Mile	N/A	Not Visible
18	Laurel Road – Stamford	Northeast	± 0.66 Mile	N/A	Not Visible
19	Laurel Road – Stamford	Northeast	± 0.75 Mile	10'-20'	Seasonal
20	Laurel Road – Stamford	Northeast	± 0.76 Mile	0'-10'	Year Round
21	Laurel Road – Stamford	Northeast	± 0.75 Mile	N/A	Not Visible
22	High Ridge Cemetery Association – Stamford	Northeast	± 1.06 Miles	N/A	Not Visible
23	Mayapple Road at High Ridge Road – Stamford	Northeast	± 1.06 Miles	N/A	Not Visible
24	Trinity Pass – Stamford	Southeast	± 0.73 Mile	N/A	Not Visible
25	Trinity Pass Road*	Southeast	± 0.67 Mile	N/A	Not Visible
26	Rolling Meadow Lane at Trinity Pass Road – Pound Ridge, NY	Southeast	± 0.81 Mile	N/A	Not Visible
27	Lost District Drive	Southeast	± 0.43 Mile	N/A	Not Visible
28	Lost District Drive	Southeast	± 0.56 Mile	N/A	Not Visible
29	Lost District Drive	Southwest	± 0.33 Mile	N/A	Not Visible
30	Lost District Drive	Southeast	± 0.30 Mile	N/A	Not Visible
31	Squires Lane	South	± 0.26 Mile	N/A	Not Visible
32	Squires Lane	South	± 0.23 Mile	40'-50'	Seasonal
33	Squires Lane	South	± 0.17 Mile	60'-70'	Seasonal
34	Oenoke Ridge	Southwest	± 1.05 Miles	N/A	Not Visible
35	West Road	West	± 1.03 Miles	N/A	Not Visible
36	Riding Stable Trail – Stamford	Southeast	± 0.96 Mile	N/A	Not Visible
37	Craig Court – Stamford	Southeast	± 1.07 Miles	N/A	Not Visible
38	High Ridge Road – Pound Ridge, NY	Southeast	± 1.15 Miles	N/A	Not Visible
39	Pound Ridge Golf Club – Pound Ridge, NY	Southeast	± 1.25 Miles	N/A	Not Visible
40	Pound Ridge Golf Club – Pound Ridge, NY	Southeast	± 1.37 Miles	N/A	Not Visible
41	Upper Shad Road at High Ridge Road – Pound Ridge, NY	Southeast	± 1.61 Miles	N/A	Not Visible