

State of Connecticut Siting Council

DOCKET NO. 488 —

Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for Certificate of Environmental Compatibility and Public Need for construction, maintenance, and operation of a telecommunications facility located at one of two sites: Kent Assessor ID #M10, Block 22, Lot 28 “Bald Hill Road” or 93 Richards Road, Kent, Connecticut.

: November 25, 2020

PROPOSED REVISIONS TO SITING COUNCIL FINDINGS OF FACT OF THE BALD HILL ROAD NEIGHBORS

The Bald Hill Road Neighbors (“BHRN”) hereby proposed the following revisions and figures from the public record in this matter to the Connecticut Siting Council’s draft Findings of Fact, dated November 13, 2020.

20. Whereas Governor Lamont’s Executive Order 7 prohibited gatherings of 250 people or more for social and recreational purposes, it did not preclude a field review of Sites A and B by the Council, which was in the process of reviewing an Application for Certificate of Environmental Compatibility. However, the Council declined to perform an in-person site inspection.

21. The purpose of a site visit is an investigative tool to acquaint members of the reviewing commission with the subject property. Site A is composed of a 1.99-acre lot described by the applicant as a, “mature upland forest”. The site contains debris, including metal drums and other items scattered over the lot. In contrast, Site B is a 6.8-acre parcel comprised of a contractor’s yard on which there are power equipment, sheds, and construction materials, along with existing driveway accessing the Site. (Application, Tab A lines 1-6, Bald Hill Neighbors First Set of Interrogatories, Applicants’ responses to Siting Council’s first set of Interrogatories, Wetlands Inspection Field Form; Applicants’ Responses to Council’s Interrogatories Set II).

SITE A – Bald Hill Road (Applicants’ Supplemental Filing)



EXISTING

PHOTO
5

DESCRIPTION

PROPOSED ACCESS ROAD LOOKING NORTHWEST



SITE B – Richards Road (Applicants’ Supplemental Filing)



EXISTING

PHOTO
12

DESCRIPTION

DRIVEWAY LOOKING EAST



22. Site A contains scattered debris, including commercial/industrial-type metal barrels visible from neighboring properties and in publicly available aerial photographs. One such barrel is yellow in color and shows text reading, “Specialized Lubricants”. The Applicants did not disclose to the Council any contents of such barrels or supply Phase II testing to the Council. (Applicants 4, responses 32& 33; BHRN 4, response 3. (Photos from Bald Hill Road Neighbors First Set of Interrogatories, Applicants’ Response to the Siting Council First Set of Interrogatories, Testimony of Peter Fitzpatrick, at 2-3 Question 8, Applicants’ Response to Siting Council Interrogatories Set II).

Site A (Bald Hill Road Neighbors’ Responses to Applicants’ Interrogatories)



Site A (BHRN Interrogatories to Applicant Set 1)



Site A (Applicants' Supplemental Filing)



EXISTING

PHOTO

9

DESCRIPTION

LOOKING SOUTH



Site A (Applicants' Supplemental Filing)



EXISTING

PHOTO

14

DESCRIPTION

FROM SOUTHERN PROPERTY LINE LOOKING NORTHWEST



27. On July 23, 2020 the Council issued a Protective Order related to the Applicants' Phase I Environmental Site Assessment for proposed Site A, pursuant to CGS § 1-210(b), which governs Trade Secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, compilations, programs, devices, methods, techniques, processes, drawing, cost data, customer lists, film or television scripts or detailed production budgets. The Council determined that the barrels and other debris on Site A were proprietary in nature owned by the4 Applicants and not subject to public scrutiny.

29. On September 3, 2020, beginning at 2:00 p.m. the Council held a closed-door remote evidentiary hearing session via Zoom conferencing specifically limited to the Applicants' Phase I Environment Site Assessment for Site A that the Council deemed to be proprietary in nature.

42. The Litchfield County Dispatch (LCD) manages the Town's public safety network, LCD indicated that for Emergency Communications, which was a key focus of the Applicant's application to the Siting Council, that Site B offered larger coverage than Site A. This is consistent with the Council's finding of fact 68 and the coverage footprint for each Site. Testing at 700 MHz showed substantially greater coverage from Site B (Richards Road) than from Site A (Bald Hill Road).

Site (w/antennas at 150 feet agl)	Coverage Footprint (Sq. mi)	Primary Roads (mi)	Secondary Roads (mi)
Site A 700 MHz (\geq -93 dBm)	6.73	2.1	9.0
Site B 700 MHz(\geq -93 dBm)	15.5	5.6	26.9

(Applicants 1, Radio Frequency Analysis Reports, p. 6)

58. Due to the lack of wireless service in the eastern and central portions of Kent, the proposed site is intended to provide as much coverage as possible along Route 341 and adjacent roadways such as Richards Road, Bald Hill Road, Stone fences Lane, and Spectacle Road. The coverage Footprint from Site B with 15. Miles as opposed to 6.73 miles from Site A provides this coverage. (Applicants 1, Radio Frequency Analysis Reports, p. 6).

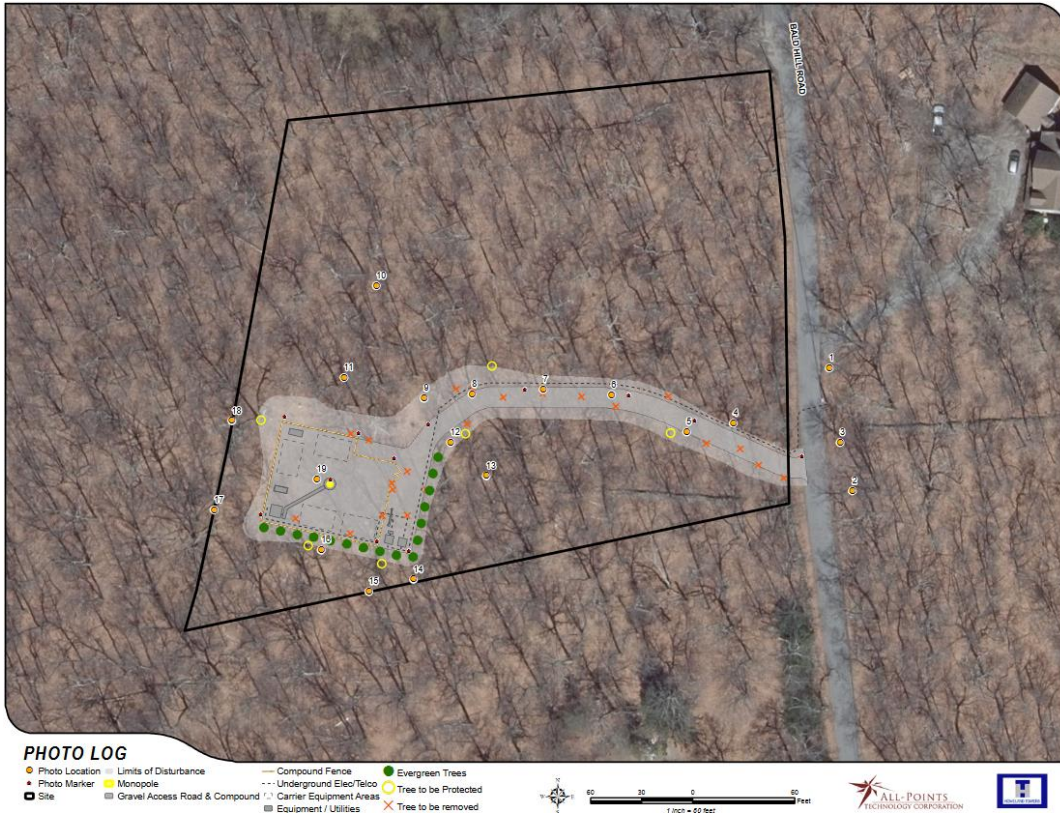
74. Site B would offer substantially more coverage than Site A at 135 feet. (Applicants 14, Attachment 2; Applicants 15a; Tr. 5, p. 665).

Site (w/antennas at 150 feet agl)	Coverage Footprint (Sq. mi)	Primary Roads (mi)	Secondary Roads (mi)
Site A 700 MHz (\geq -93 dBm)	6.73	2.1	9.0
Site B 700 MHz (\geq -93 dBm)	15.5	5.6	26.9

(Applicants 1, Radio Frequency Analysis Reports, p. 6)

100. The proposed facility at Site A would be located within a 60 ft by 90-foot lease area in the southwest portion of the site. The proposed tower is to be 135 or 154 feet in height, and the Applicants propose to build this tower within 60 feet from the Fitzpatrick line with a proposed support structure to be built within 25 feet of the Fitzpatrick property line. The proposed telecommunications facility includes an approx. 5,400 s.f. lease area and 3,950 s.f. compound area. (refer to Figure 11), (Applicants 1, Tab 3) (Proposed Findings of Facts BHRN p.5, Application Sec. 3. Tab A). The proposed facility on Site A would violate no fewer than four Kent Zoning Regulations and would be more non-conforming to such regulations than the proposed facility on Site B. Whereas the proposed facility is industrial in nature (Testimony of R. Bruce Hunter), it is more appropriate on the Site B existing contractor's yard than on the mature upland forest at Site A. (Post-Hearing Proposed Findings of Fact and Conclusions of Law of The Bald Hill Road Neighbors).

Site A Photo Log (Applicants' Supplemental Filing)



Testimony of Peter Fitzpatrick, Exhibit B

Testimony of Peter Fitzpatrick — Exhibit B — Fitzpatrick Property Photograph



Figure 1: Photograph from Fitzpatrick and Site A Property Line Facing Fitzpatrick House — Taken April 15, 2020

103. Access to the site would require a newly constructed 12-foot wide, 300-foot wide long gravel driveway through an undisturbed wooded lot. The total area of disturbance on site A is 15,500 s.f. requiring the removal of 22 trees. (Applicants 1, Tab 3). In contract, there is an existing driveway and contractor's yard already present on Site B as part of the landlord's business.

108. There are 16 single family residences within 1,000 of the Site A compound, with the nearest home located approximately 151 feet to the south of Site A. There are 9 homes on Bald Hill Road within 500 feet from the proposed compound. There are an additional 7 homes less than 1,000 ft from the proposed compound. (Applicants Tab A). Harms to environmental resources result in losses to neighboring properties on Bald Hill Road ranging from \$91,250 to \$20,000 per property, not including a forced easement on the neighboring Fitzpatrick property. (Testimony of R. Bruce Hunter and Peter Fitzpatrick).

116. Site B is a 6.80-acre parcel located within the rural residential zone with an existing commercial non-conforming contractor's business consisting of commercial out buildings, storage sheds, heavy equipment, commercial vehicles sand and gravel piles. (Applicants 1, Tab 5, Applicants Response to Interrogatories with photos).

Site B (Applicants' Supplemental Filing)



EXISTING

PHOTO

13

DESCRIPTION

DRIVEWAY LOOKING NORTHEAST TOWARDS PROPOSED COMPOUND



Site B Photolog (Applicants' Supplemental Filing)



PHOTO LOG

- Photo Location
- Photo Marker
- Site
- Limit of Disturbance
- Compound Fence
- Underground Elec/Telco
- Equipment / Utilities
- Carrier Equipment Areas
- Evergreen Trees
- ✕ Tree to be removed



126. There are only four single family residences within 1,000 feet of the Site B compound, with only one of those residences being within 500 feet of Site B.

142. The setback radius for the Site A tower extends onto the adjacent Fitzpatrick property to the west and south by 91 and 87 feet, respectively. The fall zone of the proposed tower would significantly (127-) encroach onto the Fitzpatrick property and will constrain about 16,730 SF or 0.384 acre without an easement allowing such encroachment (Applicants 1, Tab 3; Peter Fitzpatrick testimony, p. 5)

Respectfully Submitted,

The Bald Hill Neighbors.

By

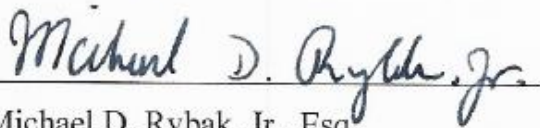


Anthony F. DiPentima, Esq.

November 25, 2020

Date

By



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CERTIFICATE OF SERVICE

I hereby certify that a true, original copy, of the foregoing was placed in the U.S. Mail on this 25th day of November 2020 and addressed to:

Ms. Melanie Bachman
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

I further certify that an electronic copy of the foregoing was sent to:

siting.council@ct.gov

And I certify that electronic copies of the foregoing were sent to:

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