

1 STATE OF CONNECTICUT
2 CONNECTICUT SITING COUNCIL

3
4 Docket No. 488

5 Homeland Towers, LLC and New Cingular
6 Wireless PCS, LLC d/b/a AT&T application for a
7 Certificate of Environmental Compatibility and
8 Public Need for the construction, maintenance, and
9 operation of a telecommunications facility located
10 at one of two sites: Kent Tax Assessor ID #M10,
11 Block 22, Lot 38 Bald Hill Road or 93 Richards
12 Road, Kent, Connecticut

13
14 VIA ZOOM AND TELECONFERENCE

15
16 Continued Public Hearing held on Thursday,
17 September 3, 2020, beginning at 4 p.m. via remote
18 access.

19
20 H e l d B e f o r e:

21 ROBERT SILVESTRI, Presiding Officer

22
23
24 Reporter: Lisa L. Warner, CSR #061

25

1 **A p p e a r a n c e s :**

2
3 **Council Members:**

4 **ROBERT HANNON**

5 **Designee for Commissioner Katie Dykes**
6 **Department of Energy and Environmental**
7 **Protection**

8 **LINDA GULIUZZA**

9 **Designee for Chairman Marissa Paslick Gillett**
10 **Public Utilities Regulatory Authority**

11 **JOHN MORISSETTE**

12 **MICHAEL HARDER**

13 **EDWARD EDELSON**

14
15 **Council Staff:**

16 **MELANIE BACHMAN, ESQ.**

17 **Executive Director and**
18 **Staff Attorney**

19
20 **ROBERT D. MERCIER**

21 **Siting Analyst**

22
23 **LISA FONTAINE**

24 **Fiscal Administrative Officer**

25

1 **A p p e a r a n c e s: (Cont'd.)**

2 **For Homeland Towers, LLC and New Cingular**
3 **Wireless PCS, LLC d/b/a AT&T:**

4 **CUDDY & FEDER, LLP**
5 **445 Hamilton Avenue, 14th Floor**
6 **White Plains, New York 10601**

7 **BY: LUCIA CHIOCCHIO, ESQ.**

8
9 **For Planned Development Alliance of Northwest**
10 **Connecticut, Inc., Spectacle Ridge**
11 **Association, Inc. and South Spectacle**
12 **Lakeside Residents:**

13 **LAW OFFICES OF KEITH R. AINSWORTH, ESQ.**
14 **51 Elm Street, Suite 201**
15 **New Haven, Connecticut 06510-2049**

16 **BY: KEITH R. AINSWORTH, ESQ.**

17
18 **For Bald Hill Road Neighbors:**

19 **GUION, STEVENS & RYBAK, LLP**
20 **93 West Street**
21 **P.O. Box 338**
22 **Litchfield, Connecticut 06759**

23 **BY: ANTHONY F. DiPENTIMA, ESQ.**
24 **MICHAEL D. RYBAK, JR., ESQ.**

1 **A p p e a r a n c e s: (Cont'd.)**

2
3 **For the Town of Kent:**

4 **CRAMER & ANDERSON, LLP**
5 **30 Main Street, Suite 204**
6 **Danbury, Connecticut 06810**

7 **BY: DANIEL E. CASAGRANDE, ESQ.**

8
9 **ROSEMARK LAW, LLC**
10 **100 Mill Plain Road, Third Floor**
11 **Danbury, Connecticut 06811**

12 **BY: DANIEL S. ROSEMARK, ESQ.**

13
14 **Meeting Host:**

15 **Aaron DeMarest, Pryme Tyme**

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19
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21 ****All participants were present via remote access.**

1 (The following public hearing is
2 continued from a closed session that was held from
3 2:00 p.m. until 3:24 p.m., pages 389 through 468.)

4 MR. SILVESTRI: Good afternoon, all.
5 This remote evidentiary hearing session is called
6 to order this Thursday, September 3, 2020, at 4
7 p.m. My name is Robert Silvestri, member and
8 presiding officer of the Connecticut Siting
9 Council.

10 As everyone is keenly aware, there is
11 currently a statewide effort to prevent the spread
12 of the Coronavirus. This is why the Council is
13 holding this remote hearing, and we ask for your
14 patience.

15 If you haven't done so already, I ask
16 that everyone please mute their computer audio
17 and/or telephone now.

18 A copy of the prepared agenda is
19 available on the Council's Docket No. 488 web
20 page, along with the record of this matter, the
21 public hearing notice, instructions for public
22 access to this remote public hearing, and the
23 Council's Citizens Guide to Siting Council
24 Procedures.

25 I'll now ask the other members of the

1 Council to acknowledge that they are present when
2 introduced for the benefit of those who are only
3 on audio, starting with Mr. Morissette.

4 MR. MORISSETTE: Good afternoon.

5 Present.

6 MR. SILVESTRI: Thank you. Mr. Harder.

7 MR. HARDER: Present.

8 MR. SILVESTRI: Thank you. Mr. Hannon.

9 MR. HANNON: I'm back to the future and
10 here.

11 MR. SILVESTRI: Thank you, Mr. Hannon.

12 Ms. Guliuzza.

13 MS. GULIUZZA: Present.

14 MR. SILVESTRI: Thank you. Mr.

15 Edelson.

16 MR. EDELSON: Present.

17 MR. SILVESTRI: Thank you. Mr. Lynch.

18 (No response.)

19 MR. SILVESTRI: Mr. Lynch might still
20 be having problems from before.

21 Executive Director Melanie Bachman.

22 MS. BACHMAN: Present. Thank you.

23 MR. SILVESTRI: Thank you. Staff

24 Analyst Robert Mercier.

25 MR. MERCIER: Present.

1 MR. SILVESTRI: Thank you. And Fiscal
2 Administrative Officer Lisa Fontaine.

3 MS. FONTAINE: Present.

4 MR. SILVESTRI: Thank you. This
5 evidentiary session is a continuation of the
6 remote public hearings held on July 23, 2020 and
7 August 11, 2020. It is held pursuant to the
8 provisions of Title 16 of the Connecticut General
9 Statutes and of the Uniform Administrative
10 Procedure Act upon an application from Homeland
11 Towers, LLC and New Cingular Wireless PCS, LLC
12 doing business as AT&T for a Certificate of
13 Environmental Compatibility and Public Need for
14 the construction, maintenance and operation of a
15 telecommunications facility located at one of two
16 sites: Lot 38 Bald Hill Road or 93 Richards Road
17 in Kent, Connecticut.

18 A verbatim transcript will be made of
19 this hearing and deposited with the Kent Town
20 Clerk's office for the convenience of the public.

21 Before the Council is the following
22 motion: On August 31, 2020, the applicants
23 submitted a motion to strike the testimony of
24 Robert Todd Powell and Paul Elconin submitted by
25 intervenor Planned Development Alliance of

1 Northwest Connecticut, and the testimony of
2 Marleen Donnenfeld submitted by intervenor South
3 Spectacle Lakeside Residents. Attorney Bachman
4 may wish to comment.

5 MS. BACHMAN: Thank you, Mr. Silvestri.
6 Also on August 31st, Planned Development Alliance,
7 et al, submitted an objection to the motion to
8 strike. And based on the fact that PDA and the
9 grouped intervenors will be appearing after the
10 town at a continued evidentiary session, possibly
11 today, there will be an opportunity for them to
12 verify the exhibits and to be cross-examined on
13 the Late-Filed exhibits upon which Marleen
14 Donnenfeld's prefile testimony is based. So our
15 recommendation is that the motion to strike be
16 denied.

17 MR. SILVESTRI: Thank you, Attorney
18 Bachman.

19 Is there a motion by a Council member?

20 MR. HANNON: I'll move to deny the
21 motion.

22 MR. SILVESTRI: That's Mr. Hannon. Is
23 there a second?

24 MR. HARDER: Mike Harder. Second.

25 MS. GULIUZZA: Linda Guliuzza. I'll

1 second.

2 MR. SILVESTRI: I believe I had Mr.
3 Harder first. So I have a motion by Mr. Hannon to
4 deny and a second by Mr. Harder. I will now ask
5 Council members one by one if there is any
6 discussion, starting with Mr. Morissette.

7 MR. MORISSETTE: Thank you. I have no
8 discussion.

9 MR. SILVESTRI: Thank you. Mr. Harder.

10 MR. HARDER: No comments.

11 MR. SILVESTRI: Thank you. Mr. Hannon.

12 MR. HANNON: I do have a question. If
13 these people are not available either later today
14 or at a continued meeting, what happens then?

15 MR. SILVESTRI: I can answer that, if
16 not available later today, we will continue on, I
17 believe, September 22nd, if I'm not mistaken.

18 I'll ask Attorney Bachman what happens
19 after that.

20 MS. BACHMAN: Certainly we can revisit
21 the issue, Mr. Hannon, at the conclusion of the
22 evidentiary sessions, most likely to be on
23 September 22nd. But for right now, it appears we
24 may not even get to that case today, but hopefully
25 we can try; and if not, there will always be the

1 next date. Thanks.

2 MR. SILVESTRI: Thank you, Attorney
3 Bachman.

4 MR. HANNON: Thank you for the
5 explanation.

6 MR. SILVESTRI: Anything else, Mr.
7 Hannon?

8 MR. HANNON: No. Thank you.

9 MR. SILVESTRI: Thank you. Ms.
10 Guliuzza, any discussion?

11 MS. GULIUZZA: No discussion. Thank
12 you.

13 MR. SILVESTRI: Thank you. And Mr.
14 Edelson, any discussion?

15 MR. EDELSON: No discussion.

16 MR. SILVESTRI: Thank you. And I'll
17 ask Mr. Lynch, if he did join us, if there's any
18 discussion. Mr. Lynch?

19 (No response.)

20 MR. SILVESTRI: Okay. With no further
21 discussion, I will call for a vote again by asking
22 our Council members one by one, starting with
23 Mr. Morissette.

24 MR. MORISSETTE: Approve the motion to
25 deny.

1 MR. SILVESTRI: Thank you. Mr. Harder.

2 MR. HARDER: Approve the motion to
3 deny.

4 MR. SILVESTRI: Thank you. Mr. Hannon.

5 MR. HANNON: Approve the motion to
6 deny.

7 MR. SILVESTRI: Thank you, Mr. Hannon.

8 Ms. Guliuzza.

9 MS. GULIUZZA: Approve the motion to
10 deny.

11 MR. SILVESTRI: Thank you. Mr.
12 Edelson.

13 MR. EDELSON: I'm going to abstain on
14 this.

15 MR. SILVESTRI: Thank you, Mr. Edelson.
16 And Mr. Lynch --

17 (No response.)

18 MR. SILVESTRI: -- is still not with
19 us. My vote would also be to deny. So we have
20 one abstention and the rest are motions to deny.
21 The motion is denied which means, Attorney
22 Ainsworth, because that motion was denied, there's
23 really no need to proceed with your objection that
24 was filed on August 31, 2020.

25 MR. AINSWORTH: Understood.

1 MR. SILVESTRI: Thank you. I'd like to
2 proceed with the appearance by the Town of Kent.
3 Will the party present its witness panels for the
4 purpose of taking the oath, and Attorney Bachman
5 in turn will administer the oath.

6 MR. CASAGRANDE: Yes. Mr. Silvestri,
7 this is Dan Casagrande. I'd like to present First
8 Selectman Jean Speck and Mr. Matthew Winter, the
9 chairman of the zoning commission. Unfortunately,
10 Connie Manes, who was also supposed to be on the
11 panel this afternoon, she had unexpected surgery
12 this morning and is still under the effects of the
13 anesthesia and therefore is not able to testify
14 today. So I would ask the Council's indulgence to
15 allow her to testify at the continued hearing on
16 the 22nd.

17 MR. SILVESTRI: And we wish her well on
18 top of that.

19 MR. CASAGRANDE: Thank you.

20 MR. SILVESTRI: I don't think that
21 would be an issue, Attorney Casagrande.

22 MR. CASAGRANDE: Thank you, sir.

23 MR. SILVESTRI: Attorney Bachman, could
24 you administer the oath?
25

1 J E A N C O N L O N S P E C K ,

2 M A T T H E W W I N T E R ,

3 called as witnesses, being first duly sworn
4 (remotely) by Ms. Bachman, were examined and
5 testified on their oaths as follows:

6 MS. BACHMAN: Thank you.

7 MR. SILVESTRI: Thank you, Attorney
8 Bachman.

9 Attorney Casagrande, could you please
10 begin by verifying all the exhibits by the
11 appropriate sworn witnesses, please?

12 MR. CASAGRANDE: Yes. Mr. Chair, I
13 just want to make sure that First Selectman Speck
14 also was sworn in. I wasn't clear on that.

15 THE WITNESS (Speck): I apologize. I
16 was on mute. I do.

17 MR. SILVESTRI: There you go. Thank
18 you. Please continue.

19 DIRECT EXAMINATION

20 MR. CASAGRANDE: I'd like to present
21 Ms. Speck and Mr. Winter. Both have filed
22 prefiled testimony with exhibits that you have on
23 file. And I would like to just proceed to ask
24 them separately the following questions: Did you
25 each prepare prefiled testimony and exhibits which

1 have been filed with the Council? First Selectman
2 Speck.

3 THE WITNESS (Speck): Yes.

4 MR. CASAGRANDE: Mr. Winter.

5 THE WITNESS (Winter): Yes.

6 MR. CASAGRANDE: Did you assist in the
7 preparation of that testimony and those exhibits?

8 THE WITNESS (Speck): Yes.

9 MR. CASAGRANDE: Mr. Winter.

10 THE WITNESS (Winter): Yes.

11 MR. CASAGRANDE: And do you have any
12 corrections or clarifications that you'd like to
13 make to that testimony or to those exhibits?

14 THE WITNESS (Speck): No.

15 THE WITNESS (Winter): No.

16 MR. CASAGRANDE: Is the information
17 contained in your testimony true and accurate to
18 the best of your knowledge?

19 THE WITNESS (Speck): Yes.

20 THE WITNESS (Winter): Yes.

21 MR. CASAGRANDE: And do you adopt that
22 testimony and exhibits as your testimony in this
23 proceeding?

24 THE WITNESS (Speck): Yes.

25 THE WITNESS (Winter): Yes.

1 MR. CASAGRANDE: Thank you.

2 MR. SILVESTRI: Attorney Casagrande, so
3 we're leaving out at this point an exhibit for
4 identification which is under B-4, which is the
5 Town of Kent prefile testimony of Connie Manes,
6 chair, Conservation Commission, dated July 16,
7 2020, correct?

8 MR. CASAGRANDE: Yes, sir. Thank you.

9 MR. SILVESTRI: Very good. Thank you.
10 And we also have an administrative notice under
11 Roman numeral V-A, you have Items 1 through 7 that
12 are included on the hearing program. Is that also
13 correct?

14 MR. CASAGRANDE: Yes. I would ask
15 Attorney Rosemark to address those items with your
16 permission.

17 MR. ROSEMARK: Yes.

18 MR. SILVESTRI: Please, yes.

19 MR. ROSEMARK: We're asking for
20 administrative notice on those filings that we
21 submitted in.

22 MR. SILVESTRI: Very good. Thank you.
23 Does any party or intervenor object to the
24 admission of the town's administrative notice and
25 the Exhibits Number B-1, 2 and 3? And I'll ask

1 Attorney Chiocchio.

2 MS. CHIOCCHIO: No objection.

3 MR. SILVESTRI: Thank you. Attorney
4 Ainsworth?

5 MR. AINSWORTH: No objection, sir.

6 MR. SILVESTRI: Thank you. And
7 Attorneys DiPentima and Rybak?

8 MR. DiPENTIMA: No objection, Mr.
9 Chairman.

10 MR. RYBAK: No objection.

11 MR. SILVESTRI: Thank you.

12 MR. RYBAK: I have one administrative
13 inquiry that's unrelated, if I might. I don't
14 know if you'd like to wait or go now.

15 MR. SILVESTRI: If it's not pertaining
16 to this, if you're having no objections, I'd like
17 to continue and basically say the exhibits are
18 admitted.

19 MR. RYBAK: Okay.

20 MR. SILVESTRI: Very good. Thank you.

21 (Town of Kent's Administrative Notice
22 Items V-A-1 through V-A-7: Received in evidence.)

23 (Town of Kent's Exhibits V-B-1 through
24 V-B-3: Received in evidence - described in
25 index.)

1 MR. SILVESTRI: I'd like to begin
2 cross-examination of the town starting with the
3 Council and Mr. Mercier.

4 CROSS-EXAMINATION

5 MR. MERCIER: Thank you. The
6 application drawings show communication service
7 antennas for basically emergency services and the
8 town highway department located at the top of the
9 tower and on a lower area of the tower, about 100
10 feet or so, basically for both towers. I'm trying
11 to determine if the town does have an interest in
12 locating new equipment onto either tower, if these
13 were approved.

14 THE WITNESS (Speck): We hadn't
15 requested any equipment be on the tower.

16 MR. MERCIER: Okay. So there's no
17 actual plan to install any equipment on either of
18 these two towers in the near future or foreseeable
19 future for that matter?

20 THE WITNESS (Speck): Not at this time.
21 I'd have to, you know, loop back around with our
22 DPW, but there's no plans at this time as far as I
23 know.

24 MR. MERCIER: Okay. What's the extent
25 of emergency communication services out in the

1 eastern part of town, you know, this area around
2 the towers, Route 341 around Spectacle Lake out to
3 Warren, is there sufficient emergency service out
4 there?

5 THE WITNESS (Speck): I'm not a radio,
6 you know, an emergency telecommunications expert.
7 I know that there are, you know, there are
8 deficits in the Kent Hollow area, there are
9 deficits out, further out 341, but I would defer
10 to, you know, an expert on that.

11 MR. MERCIER: Okay. I have to find it,
12 but I believe there's a letter from the volunteer
13 fire department. I forgot the gentleman's name
14 who wrote into AT&T and said they would like to
15 have improved service out in the eastern part of
16 town. So I would assume that -- first of all, are
17 you aware there's deficient service based on this
18 letter that's in the application?

19 THE WITNESS (Speck): Sure, that would
20 be accurate.

21 MR. MERCIER: Okay. So for emergency
22 services coverage will be improved for AT&T
23 customers for emergency services in that they can
24 call 911 or call other emergency responders to
25 communicate with each other in an emergency since

1 there's no coverage right now; is that correct?

2 THE WITNESS (Speck): Yes.

3 MR. MERCIER: Thank you. The other
4 question I had has to do with when the technical
5 report was filed with the town, I believe in
6 October 2019, that kicked off a municipal
7 consultation process. Since that filing of the
8 technical report up to now really, has the town
9 gone out and solicited any landowners or done a
10 site search to try to determine if there's other
11 properties that are available that could support a
12 telecommunications tower?

13 THE WITNESS (Speck): We did some
14 research. There were maybe two or three
15 landowners that we spoke to, and they were not
16 interested. The geography, you know, obviously is
17 really quite difficult out that end of town.

18 MR. MERCIER: Okay. Were any
19 discussions held with the owners of the KenMont or
20 KenWood camps? I'm not sure if they're the same
21 entity or they're separate, but with the camp
22 property was there any discussions held?

23 THE WITNESS (Speck): No.

24 MR. MERCIER: Okay. Thank you.

25 THE WITNESS (Speck): Uh-huh. I'm

1 sorry, not to my knowledge. So that October time
2 frame was prior to me taking office. I just
3 wanted to clarify that.

4 MR. MERCIER: Okay. So there's been no
5 recent -- there's no committee that was formed, or
6 anything of that nature, it might have been maybe
7 more informal contacts, it's possible that
8 occurred?

9 THE WITNESS (Speck): Yeah.

10 MR. MERCIER: Okay. Now, besides the
11 center of town down on Route 7 by the Housatonic
12 River, is the town itself satisfied with cellular
13 coverage in other parts of town, particularly the
14 eastern part of town?

15 THE WITNESS (Speck): Particularly the
16 eastern part of town, no. Also North Kent there's
17 a deficit there out -- once you get out of town,
18 there are plenty of deficits. There's more
19 deficits than there's coverage. And part of that
20 is geography, part of that is, you know, the rural
21 nature. There's a lot of different reasons why
22 there is, you know, the lack of coverage. Out
23 towards the New York State line there are deficits
24 as well.

25 MR. MERCIER: Okay. I think that's it.

1 Thank you very much. I have no other questions.

2 MR. SILVESTRI: Thank you, Mr. Mercier.
3 I'd like to continue cross-examination by Mr.
4 Morissette.

5 MR. MORISSETTE: Thank you, Mr.
6 Silvestri. First Selectman Speck, given the
7 recent storm events, were there any situations in
8 the town that caused you some concern going
9 forward with regards to the lack of cell
10 communication?

11 THE WITNESS (Speck): Yes. Yeah, there
12 are plenty. We had, you know, AT&T there was a
13 significant failure that caused there to be no
14 cell service in the northern part of town, which
15 there were, you know, our deputy emergency
16 management director lives up there, a number of
17 fire department folks live up there, I live up
18 there. So that was a pretty serious deficit where
19 we had sort of expected the opposite to happen.

20 And Verizon was able to -- we were able
21 to, for some of us, pick that back up at the tower
22 in town, but there were lots of communications
23 issues in town for many, many days. And, you
24 know, it was a complex challenge and struggle
25 between Frontier and Charter and the AT&T failure.

1 It was kind of frustrating.

2 MR. MORISSETTE: Thank you. Given the
3 recent events and also in reviewing your prefile
4 testimony, it appeared that you support and prefer
5 the small cells application in town versus a cell
6 tower. Did the recent events change your mind
7 with that regard, or is that still the case?

8 THE WITNESS (Speck): No, that's still
9 the case. I think, you know, living here for 23,
10 I think it's 23 years now, the geography, the
11 balancing of the technology with the aesthetics is
12 pretty important, and the storm and the resulting
13 outages doesn't really change my thinking on that.

14 MR. MORISSETTE: Okay. Thank you. If
15 one of the cell towers was to be approved, do you
16 have a specific preference as to which one you
17 would prefer over the other?

18 THE WITNESS (Speck): I don't have a
19 preference.

20 MR. MORISSETTE: Okay. Thank you.

21 Mr. Winters, I have the same questions
22 for you given recent events. Your prefile
23 testimony was silent on whether you preferred one
24 small cell over a cell tower. Do you have any
25 preference?

1 THE WITNESS (Winter): The Planning and
2 Zoning Commission has no preference over a cell
3 tower or small cell. Planning and Zoning really
4 is concerned with land use. And to answer the --
5 well, I'll let you ask the second question.

6 MR. MORISSETTE: Okay. Well, the
7 second question is if one of the sites was to be
8 approved, which would you prefer, or which would
9 the group prefer?

10 THE WITNESS (Winter): The Planning and
11 Zoning Commission has no preference. From a land
12 use perspective, both of the sites do not meet our
13 current zoning regulations, so we have no
14 preference.

15 MR. MORISSETTE: Okay. Very good.
16 Thank you. I have no further questions, Mr.
17 Silvestri.

18 MR. SILVESTRI: Thank you, Mr.
19 Morissette. I'd like to continue
20 cross-examination with Mr. Harder.

21 MR. HARDER: Yes. Thank you, Mr.
22 Silvestri. A couple questions, I guess, for
23 Ms. Speck. You said that the town was not
24 interested or had no plans in locating any
25 telecommunication systems on either one of these

1 towers should they be located in town; is that
2 correct?

3 THE WITNESS (Speck): Correct.

4 MR. HARDER: You also said that both
5 during the recent storm and, I guess, generally
6 speaking in the past, there were and there are
7 many gaps in coverage in town, various parts of
8 town?

9 THE WITNESS (Speck): Yes.

10 MR. HARDER: And does that include
11 problems, telecommunication problems specifically
12 with respect to town emergency services or any
13 town services for that matter?

14 THE WITNESS (Speck): Can you repeat
15 the question? You faded out a little bit.

16 MR. HARDER: Sure. You indicated that
17 you know of many coverage gaps in town, various
18 parts of town, and there were many problems that
19 were experienced in the recent storm. And my
20 question is, do those problems, you know,
21 storm-related problems recently, but also just
22 generally coverage problems that exist in other
23 parts of town, did those apply specifically to
24 town-related telecommunication needs?

25 THE WITNESS (Speck): As far as I know,

1 our town system where our public works folks use
2 their radio system, there are not as many issues
3 as there are with the emergency
4 telecommunications, but again, I'm a layperson
5 when it comes to the specifics.

6 MR. HARDER: I guess what I'm trying to
7 find out is, if there are problems, especially
8 with town services under your jurisdiction, and
9 one of these towers were to be located, you know,
10 why wouldn't the town be interested in utilizing
11 one of those towers, or the one tower that would
12 be located to help deal with some of those
13 problems?

14 THE WITNESS (Speck): I think you're
15 right, I do, that if there was a tower there would
16 we want to put equipment on it, yes, we would, in
17 order to improve for fire, EMS, and if there were
18 an issue with DPW, which I don't know if there is,
19 but yeah, we would. I apologize, I wasn't quite
20 understanding what your question was.

21 MR. HARDER: Okay. All right. That's
22 all the questions I have. Thank you.

23 MR. SILVESTRI: Thank you, Mr. Harder.
24 I'd like to continue cross-examination with Mr.
25 Hannon.

1 MR. HANNON: I do have a few questions.
2 This is probably more directed towards the
3 selectman. In general, does the town see problems
4 with illegal dumping?

5 THE WITNESS (Speck): Illegal dumping
6 of like household waste?

7 MR. HANNON: Whatever. I mean, just
8 any type of, you know, like I've seen situations
9 where somebody is taking a truckload of tires,
10 they dump them off on the side of the road, things
11 of that nature. I'm just wondering if the town
12 has any problems with that.

13 THE WITNESS (Speck): Not that I'm
14 aware of or that I have seen, and we get a lot of
15 phone calls about a lot of stuff here in the
16 selectman's office.

17 MR. HANNON: I was just curious. I did
18 have a couple of questions, I think, for Connie
19 Manes, but in going back and looking at some of
20 the information, I believe that Mr. Winter can
21 answer this because it really is more directed to
22 planning and zoning than it is to Ms. Manes who is
23 chair of the Conservation Commission. And I
24 understand that the town has established some
25 requirements for cell towers; is that correct?

1 THE WITNESS (Winter): That is correct.

2 MR. HANNON: Under what state statutory
3 authority?

4 THE WITNESS (Winter): Well, it's under
5 the general statutory authority that we have with
6 planning and zoning. We understand that we cannot
7 regulate cell towers, but our Plan of Conservation
8 and Development, it has some text about preserving
9 the nature of town, preserving the way the horizon
10 line looks, preserving the rural nature and rural
11 view lines. And that Plan of Conservation and
12 Development is, in essence, it's a town character
13 document, and the Planning and Zoning Commission
14 uses that document to inform its zoning
15 regulations.

16 So in keeping with the Plan of
17 Conservation and Development, we established some
18 guidelines, and that's really what they are, for
19 cell towers because, as I said, we understand we
20 can't regulate them. So we came up with, the
21 Planning and Zoning Commission established some
22 guidelines in the regulations that were ratified
23 by the town which talk about trying not to have
24 cell towers in the horizon line district, trying
25 not to have them where they're visible, where

1 they'll impact the natural beauty of the town

2 MR. HANNON: So these are really goals
3 that the town is trying to establish with the
4 development of cell towers or small cells, things
5 of that nature, correct, and that's really more of
6 what it's in line for?

7 THE WITNESS (Winter): That's correct,
8 it's somewhat in keeping with the balance of
9 our -- with the balance of the Plan of
10 Conservation and Development and the balance of
11 our regulations where the use of land is for the
12 benefit of all. We understand that the Plan of
13 Conservation and Development does talk about cell
14 towers and promoting cell towers as much as we can
15 but within some guidelines for where they should
16 go and how they should look and height and
17 location.

18 MR. HANNON: Thank you. And I don't
19 know if you can answer this question: Do you have
20 any idea as to sort of the percentage of the
21 population in town that now is only using cell
22 phones versus landlines? Because from what I've
23 been reading and what I've been hearing, that
24 seems to be a higher percentage of where people
25 are going, and more people are dropping the

1 landlines, so that's putting even more pressure on
2 all of the cell companies to meet their increasing
3 demand. So I'm just curious if you know about
4 what the breakdown is in town. You may not.

5 THE WITNESS (Winter): I don't. I
6 can't answer that question. I will tell you
7 though that the people who are making the
8 decisions, I suspect -- well, can I conjecture?
9 Do you want me to answer with my per -- my opinion
10 is that the people who are switching over from
11 landlines to cell phones are the people who
12 have -- (AUDIO INTERRUPTION)

13 THE COURT REPORTER: Excuse me, this is
14 the court reporter. I'm having a difficult time
15 hearing the witness.

16 THE WITNESS (Winter): I apologize.
17 Should I do something differently than I'm doing
18 now?

19 MR. SILVESTRI: I'm not sure where the
20 feedback was actually coming from. Sometimes
21 there's a delay in what a person says getting to
22 somebody's computer or phone, and then that echo
23 kind of comes back through. So it's probably a
24 good idea for people just to mute except those
25 that are questioning at this point and then

1 unmute, you know, as necessary. That's probably
2 where the interference is coming from.

3 So, I don't know, Mr. Hannon, if you
4 need to repeat that question and then get the
5 answer again.

6 MR. HANNON: I mean, he was just
7 providing sort of a general answer, not specific,
8 but a general answer of what he thought was going
9 on with people with cell phones. So if you want
10 to just rehash your answer, that would be great.
11 That's more for the recorder.

12 THE WITNESS (Winter): That's fine. So
13 my answer is that I have no specific knowledge or
14 information regarding how many people are
15 switching over from landlines to cell phones. I
16 suspect that the people who do switch over are
17 those who have cell service.

18 MR. HANNON: I have no further
19 questions. Thank you.

20 MR. SILVESTRI: Thank you, Mr. Hannon.
21 I'd like to continue cross-examination with Ms.
22 Guliuzza, please.

23 MS. GULIUZZA: I have no questions.
24 Thank you, Mr. Silvestri.

25 MR. SILVESTRI: Thank you, Ms.

1 Guliuzza. Continuing on with Mr. Edelson, please.

2 MR. EDELSON: Just out of curiosity
3 first for Commissioner Winter, are you using a
4 cell phone right now for communicating? Mr.
5 Winter?

6 THE WITNESS (Winter): No, I'm on my
7 computer. I'm at home using my computer audio.

8 MR. EDELSON: Okay. Because I'm seeing
9 a message saying you have low bandwidth, so I
10 don't know if that's related to your connection.

11 My first question to you, Commissioner,
12 is, are you aware of any complaints regarding land
13 use at what we're calling Site A or Site B in the
14 last couple of years?

15 THE WITNESS (Winter): I seem to
16 remember an issue coming before the Planning and
17 Zoning Commission at Site B with regard to a
18 development that they had made to that property,
19 but nothing that I'm aware of that's current.

20 MR. EDELSON: In my experience, people,
21 neighbors, can complain about other neighbors with
22 regard to what we call illegal dumping where
23 they're putting things that really should go,
24 let's say, to the town transfer station or
25 disposal place, but they are putting it on their

1 property, in a sense, illegally using their land
2 as a disposal site. You haven't heard anything
3 like that about Site A or B?

4 THE WITNESS (Winter): No, sir.

5 MR. EDELSON: That doesn't sound
6 familiar. Okay. Thank you.

7 First Selectman Conlon, obviously at
8 the heart of a lot of our conversation back and
9 forth at the last hearing was about small cell
10 technology and whether or not it is applicable
11 here in Kent and to the specific area where
12 there's an understanding that there is poor
13 coverage. And when asked about this, it was
14 pointed out as an example of another town or
15 municipality that has done this is Chilmark on
16 Martha's Vineyard.

17 And I'm wondering two things: First,
18 in addition to Mr. Maxson, have you been in touch
19 with anybody else who has helped you understand or
20 come to the conclusion that small cell technology
21 would be applicable in this part of Kent?

22 MR. CASAGRANDE: Mr. Silvestri, may I
23 just interject for a quick objection? I think the
24 question assumes that the First Selectman has been
25 in direct contact with Mr. Maxson, and I'm not

1 sure there's a foundation for that.

2 MR. SILVESTRI: I hear what you're
3 saying, Attorney Casagrande. I think Mr. Edelson
4 might be just looking for an opinion as to what
5 our First Selectperson thinks about small cells,
6 and perhaps we could guide that question in that
7 direction.

8 MR. CASAGRANDE: That's fine. Thank
9 you.

10 MR. SILVESTRI: Thank you.

11 THE WITNESS (Speck): So was the
12 question a general question about small cells?

13 MR. SILVESTRI: Not to put words in Mr.
14 Edelson's mouth, but I would kind of guide the
15 question to either get your experience, if you
16 will, if you have any, with small cells or your,
17 how shall we say, opinion on small cells versus a
18 straight tower. Mr. Edelson?

19 MR. EDELSON: I'm back. I don't know
20 what happened, but it's good to be back, as they
21 say.

22 MR. SILVESTRI: I don't know if you
23 heard my rephrase of your question.

24 MR. EDELSON: I did not. I was trying
25 to rephrase it, but I'll be glad to hear your

1 rephrasing first.

2 MR. SILVESTRI: What I was trying to
3 get across, and again, not to put words in your
4 mouth, is if our First Selectperson either, one,
5 has any experience with small cells, or an opinion
6 on small cells versus towers.

7 MR. EDELSON: Again, I think her
8 testimony or her written testimony was pretty
9 clear that she was very comfortable that small
10 cell technology was viable as an alternative or as
11 a practical solution and that should be looked at.
12 Did I understand what you had written correctly?

13 THE WITNESS (Speck): Yes, that would
14 be accurate.

15 MR. EDELSON: Okay. And I think what I
16 should have asked first, and I made an assumption,
17 you came to that understanding by having some
18 information. Was that similar to the information
19 that we received at the first hearing from Mr.
20 Maxson?

21 THE WITNESS (Speck): I'd have to go
22 back and sort of rethink on what Mr. Maxson
23 provided, but he did also provide the Board of
24 Selectmen with information at a Board of Selectmen
25 meeting, and that was, you know, used to frame my

1 opinion, I guess you could use that word.

2 MR. EDELSON: Sure.

3 THE WITNESS (Speck): You know, just
4 research that I've done on the topic because it's
5 been a very primary topic in the last six, eight
6 months for me in this new position.

7 MR. EDELSON: Sure. So I assumed that.
8 But now that we've clarified that, have there been
9 other people who have helped to inform your
10 opinion about that, other consultants, other
11 experts in the field of small cell technology?

12 THE WITNESS (Speck): Our legal team
13 has been, you know, providing advice and
14 information to us as we've been going through the
15 process.

16 MR. EDELSON: So then the next question
17 I had was, what we heard at the last meeting when
18 we asked about a similar municipality, similar in
19 terms of topography or situation to this part of
20 Kent, we were told about a town or an area of
21 Martha's Vineyard known as Chilmark. My question
22 is, have you spoken to your counterpart in
23 Chilmark about what their experience with small
24 cell technology has been there?

25 THE WITNESS (Speck): I have not.

1 MR. EDELSON: And what we also found
2 out about Chilmark is it is operated by AT&T. And
3 so the question that would come to my mind would
4 be for you to ask AT&T, if you're using this in
5 Martha's Vineyard, why wouldn't you want to
6 consider this for Kent. Is that a question you
7 had the opportunity to ask?

8 THE WITNESS (Speck): Not yet, but I'm
9 asking it now. It's a really good question.

10 MR. EDELSON: Okay. But at this point
11 there's no answer to that question, okay.

12 I apologize to everyone about my
13 leaving the meeting in an inopportune time, but
14 I'll turn it back to the Chairman.

15 MR. SILVESTRI: Thank you, Mr. Edelson.

16 I'm not sure if Mr. Lynch had
17 reconnected with us, so I'll reach out to Mr.
18 Lynch to see if he has any questions for
19 cross-examination. Mr. Lynch, are you with us?

20 (No response.)

21 MR. EDELSON: Mr. Chairman, could I
22 just ask one question? Can you hear me okay?

23 MR. SILVESTRI: Yeah, who's that
24 though?

25 MR. EDELSON: This is Ed Edelson. Just

1 administratively, how long are you planning on
2 this hearing today going?

3 MR. SILVESTRI: It's a guess. Not
4 knowing where we're going to stop or who's going
5 to be available, I'm probably looking somewhere in
6 the area of 6 p.m., 6:30 p.m.

7 MR. EDELSON: Okay. I'm going to
8 probably have to leave at about 5:20 or so. I
9 just wanted to let that be known. Thank you.

10 MR. SILVESTRI: Thank you for giving us
11 a head's up.

12 Not hearing from Mr. Lynch, First
13 Selectperson Speck, a couple general questions for
14 you. First, I'm curious, did Kent actually get
15 hit by a tornado?

16 THE WITNESS (Speck): We did. We had
17 an EF-0 tornado touch down for about a half a mile
18 right at the, practically at the New York border,
19 about halfway between here and Bull's Bridge, come
20 across Route 7, and popped back up, and there is
21 sort of evidence that it was the same cell that
22 dropped back down further down by the shore.

23 MR. SILVESTRI: I sympathize. In 2018
24 we got hit with an F-1. And with this past storm,
25 the F-1 just brushed by us, but it caused a lot of

1 power outages, a lot of communication problems,
2 which I'm sure you had experienced also with both
3 of these storms that came through in the beginning
4 of August and then just recently; is that correct?

5 THE WITNESS (Speck): Yeah, we barely
6 took a breath from the tropical storm and then we
7 had this other one come in very quickly. And
8 fortunately it didn't, you know, the tornado
9 itself didn't cause any, you know, that sort of
10 classic tornado damage, but it did, we had a lot
11 of trees down. We have a lot of very large trees.
12 On my property alone, I have two maples that were
13 planted when my home was built 200 and, I don't
14 even know, how many years ago. So those are the
15 ones that sort of make the hair stand up on the
16 back of your neck when these storms come through
17 here.

18 MR. SILVESTRI: Understood. And like I
19 say, I've been there, unfortunately, too. But
20 with both the tropical storm remnants and the
21 recent storm a couple days ago, that caused power
22 outages in Kent, as well as communication
23 problems, correct?

24 THE WITNESS (Speck): Yes.

25 MR. SILVESTRI: And with the

1 communication aspect of it, was there any move by
2 the town or anybody outside the town, if you will,
3 to try to come in with temporary towers or any
4 auxiliary means of communication?

5 THE WITNESS (Speck): I do have to say
6 in the aftermath of Tropical Storm Isaias, Verizon
7 did come in on behalf of the fire department,
8 because they have an ongoing relationship with
9 them, and brought to the fire department, and the
10 fire department then offered a number of them to
11 folks in the Town Hall, some hot spots and other
12 technology that they were connecting to their
13 tower here in town which was a big help to a lot
14 of people. Unfortunately, it still wasn't quite
15 far enough from North Kent to get a signal, so
16 when myself and the emergency management director,
17 the deputy, went home at night, we had nothing.
18 So it was a little, you know, edge of your seat.

19 There was a point, I want to say, I'd
20 have to check, I want to say Saturday that our
21 fire department communications officer and our
22 emergency management team were working on getting
23 an AT&T, I forget what they call it, a mobile, I
24 think it's either an MCV or some sort of mobile
25 tower into North Kent, but they had, AT&T had just

1 solved their problem with the failure, I think it
2 was Saturday night. So the two things were sort
3 of going to cross paths, so we didn't need it.
4 But yeah, so we did get a little bit of help which
5 was great.

6 MR. SILVESTRI: Thank you. When you
7 mentioned the first part that you had some type of
8 auxiliary equipment that was able to connect, was
9 that like hand-held devices or something put in
10 place near a building?

11 THE WITNESS (Speck): So we had, the
12 Town Hall had lost our internet, and the fire
13 department, the firehouse, they were on sort of a
14 Backstop internet access which wasn't working as
15 well as it needed to. So Verizon, somebody
16 actually drove them from Rhode Island, two
17 Cradlepoints. So it's like a -- provides Wi-Fi in
18 a building. And we were able to put one up in the
19 Town Hall which got us back up and running. The
20 firehouse put one up.

21 They also provided a dozen or two dozen
22 personal hot spots that would connect to the
23 Verizon cell in town that's in town on the tower.
24 And those were deployed to a number of fire
25 department members and a number of Town Hall

1 employees. And then they also shipped us ten
2 phones. We didn't end up using them, but they did
3 ship them, and they were here by Saturday morning,
4 I think. So they were --

5 MR. SILVESTRI: Very good.

6 THE WITNESS (Speck): Yeah, they did a
7 -- I'm an AT&T customer, but Verizon did a really
8 great job in this storm just standing up some
9 quick first response solutions for us.

10 MR. SILVESTRI: No, thank you for your
11 response. I don't have any other questions
12 myself, but sometimes when Council members hear
13 questions and answers, they might have a follow-up
14 question to pose. So I'd just like to go back to
15 our staff and Council members to see if they have
16 any other follow-up questions.

17 Mr. Mercier, do you have any follow-up?

18 MR. MERCIER: No. No, thank you.

19 MR. SILVESTRI: Thank you, Mr. Mercier.
20 Mr. Morissette, any follow-up?

21 MR. MORISSETTE: I have no follow-up.
22 Thank you.

23 MR. SILVESTRI: Thank you. Mr. Harder.

24 MR. HARDER: Nothing further. Thank
25 you.

1 MR. SILVESTRI: Thank you also. Mr.
2 Hannon.

3 MR. HANNON: No follow-up. Thank you.

4 MR. SILVESTRI: Thank you. Ms.
5 Guliuzza.

6 MS. GULIUZZA: No, thank you.

7 MR. SILVESTRI: Thank you. And Mr.
8 Edelson.

9 MR. EDELSON: Not at this time.

10 MR. SILVESTRI: Thank you. And I'll
11 just ask Mr. Lynch just in case he did connect.
12 Mr. Lynch, if you're there, any questions?

13 (No response.)

14 MR. SILVESTRI: Very good. Okay. I'd
15 like to continue now with cross-examination of the
16 town by the applicants.

17 Attorney Chiocchio, are you ready to
18 go?

19 MS. CHIOCCHIO: Thank you, Presiding
20 Officer. Just a question for First Selectman
21 Speck.

22 MR. SILVESTRI: Attorney Chiocchio, I'm
23 having a problem hearing you. Could you get
24 closer to your microphone?

25 MS. CHIOCCHIO: Absolutely. Is this

1 better?

2 MR. SILVESTRI: Better, yeah. Thank
3 you.

4 MS. CHIOCCHIO: I have a question for
5 First Selectwoman Speck, with respect to your
6 testimony. On page 3 of your testimony you talk
7 about two prior Council decisions where you say,
8 "The small cell alternative was outweighed by the
9 unknown quantity of small cells necessary to meet
10 the applicants' broader coverage objectives," and
11 you quote, you reference Docket 467 and 473.

12 In Docket 473, the only reference to
13 small cells is one of the findings of fact that
14 indicates that additional small cell facilities
15 are being evaluated to provide additional capacity
16 relief to sectors approaching capacity limits.

17 And my question is, is this the basis
18 for your statement regarding that prior decision?

19 THE WITNESS (Speck): I'm just
20 rereading that paragraph. Yeah, I would have to
21 go back and look at the docket for my own
22 reference.

23 MS. CHIOCCHIO: Okay. Thank you. No
24 other questions. Thank you.

25 MR. SILVESTRI: Thank you, Attorney

1 Chiocchio.

2 I'd like to continue cross-examination
3 of the town by PDA, SRA and Lakeside by Attorney
4 Ainsworth.

5 MR. AINSWORTH: PDA and the grouped
6 intervenors have no questions at this time.

7 MR. SILVESTRI: Thank you, Attorney
8 Ainsworth.

9 And continuing on with
10 cross-examination of the town by the Bald Hill
11 Road Neighbors with Attorney DiPentima and
12 Attorney Rybak.

13 MR. RYBAK: I do have a few questions,
14 Mr. Chairman.

15 This is for First Selectman Speck. Is
16 it true that you explain in your testimony that
17 you looked at systems, I guess, these were small
18 cell systems in Brookfield and Easton; is that
19 something you did?

20 THE WITNESS (Speck): Yes. Part of the
21 research and sort of going down that rabbit hole
22 of small cell systems was reading some prior
23 Siting Council decisions where in the Easton and
24 Brookfield cases it did include small cell
25 systems. And part of what was noted in the

1 rejection was that in the case of the Easton
2 decision that it was hard to quantify the number
3 of small cells given the large footprint. And in
4 the Brookfield one, the area was too densely
5 spaced or densely populated than appropriate.

6 But in Kent it's actually the converse.
7 The number of small cells for that target coverage
8 area would be finite, from what we've looked at,
9 and the homes, obviously, in our rural area are
10 much more sparsely spaced.

11 MR. RYBAK: Thank you. Could you
12 please talk a little bit about the residents and
13 businesses that are along the Route 341 corridor?
14 I guess KenMont camp is over there, but what else
15 is over there?

16 THE WITNESS (Speck): It's very rural
17 residential other than the camp, and I think there
18 might be sort of, you know, a single shingle
19 contractor or two. I don't know of -- you know,
20 there's no other businesses, per se, in that area.
21 It's all largely home -- it's all homes,
22 privately-owned homes.

23 MR. RYBAK: Does the Town of Kent have
24 any small cells in it currently?

25 THE WITNESS (Speck): We have one that

1 was, I want to say, last year it was installed
2 over by the Kent School on 341 as it heads to New
3 York State. And actually it was there for a few
4 months before I even realized there was one there.
5 Somebody pointed it out to me because it was just
6 unremarkable as you drive on the road.

7 MR. RYBAK: So my question then as a
8 follow-up is how in your perception has this
9 installation of a small cell been received in the
10 town, has there been complaints, to your
11 knowledge, or that sort of thing?

12 THE WITNESS (Speck): It's been
13 completely unremarkable. I would guess if I asked
14 ten people if they knew there was a small cell
15 there, they would say "What?" We haven't had any
16 complaints or any remark about it in the office.

17 MR. RYBAK: Now, do you know of a
18 December 2019 public meeting that was held for the
19 proposed cell towers in this matter?

20 THE WITNESS (Speck): Oh, yes, very
21 much so.

22 MR. RYBAK: And what was your sense of
23 that meeting, what was the tone of it?

24 THE WITNESS (Speck): It was -- when
25 was that? I think it was four weeks or five weeks

1 after I took office. And there were over 100
2 people there. And for our tiny little Town of
3 Kent, that's a lot of people, a lot of very
4 spirited voices in opposition to it. There were a
5 couple who were in support of improved
6 communications along the 341 corridor there, but
7 definitely the lion's share of folks were very
8 much opposed. And it was quite an experience to
9 live through, that two-and-a-half hour hearing.

10 MR. RYBAK: And has your Board of
11 Selectmen received any alternative proposals for
12 emergency service specific towers, say, from local
13 residents who would like to help create such a
14 thing, say, on another property somewhere else
15 that's outside of this application?

16 THE WITNESS (Speck): We received a
17 letter a couple of weeks ago that we were -- that
18 I was cc'd on that was sent to the fire department
19 from a local resident in the neighborhood.

20 MR. RYBAK: And was that resident
21 offering some kind of emergency services mini
22 tower or short tower type of facility, is that
23 what he was offering?

24 THE WITNESS (Speck): Yeah, it was
25 funding for something like that, small, but

1 specific to helping the fire department in their
2 emergency telecommunications.

3 MR. RYBAK: And does that strike you
4 that it would be a helpful thing if that were to
5 take place, hypothetically?

6 THE WITNESS (Speck): Hypothetically,
7 yes, I would think so, yeah. I don't -- I'm not
8 privy to the details. I read the letter. And
9 because we were just cc'd, I didn't, you know, do
10 anything, you know, any follow-up with that.

11 MR. RYBAK: Okay. Thank you for your
12 answers. I have a couple questions for Mr. Winter
13 who's on the Planning and Zoning Commission.

14 Your prefile testimony states that a
15 tower on Site A or Site B would not meet the
16 town's zoning regulations; is that right?

17 THE WITNESS (Winter): Yes, sir.

18 MR. RYBAK: Can you explain the
19 deficiencies in these two sites? And I'm looking
20 specifically for things like lot size and
21 setbacks, gross areas, that kind of thing.

22 THE WITNESS (Winter) Sure. The reasons
23 that the cell tower doesn't fit in each of those
24 locations are spelled out in the letter that we
25 sent to Attorney Chiocchio -- I hope I said that

1 right -- on December 12th. And I'll start with
2 Site A, that's the Bald Hill Road site. And the
3 regulations require a minimum lot size of 3 acres,
4 and that lot is less than -- it's just less than 2
5 acres. You could call it 2, if you wanted to give
6 them the extra one one-hundredth of an acre.

7 The tower there should be located,
8 based on its size and our calculations, 185 feet
9 from all property lines. And I believe -- I have
10 to go to the application -- and it looks like Site
11 A we're talking about is only 63 feet away from
12 the nearest lot line, so it doesn't fit within the
13 setbacks.

14 The unmanned equipment and/or storage
15 buildings, from our calculations, the total gross
16 square floor area of the proposed equipment shed
17 storage buildings is 1,200, and our regulations
18 have a maximum of 750 square feet.

19 MR. RYBAK: And so neither site would
20 meet it then, I guess, is your testimony?

21 THE WITNESS (Winter): That's correct.
22 I'm sorry for pausing. I was switching pages on
23 my --

24 MR. RYBAK: All right. Go ahead.
25 That's fine.

1 THE WITNESS (Winter): So the last, the
2 final objection that we had was that the
3 regulations prefer a location that has the least
4 long-range visual effect, and this site is in the
5 Horizon Line Conservation District. The Horizon
6 Line Conservation District is set to protect the
7 viewshed from the town system of roads and from
8 other areas where Site A would congregate.

9 Now, I'll move on to Site B. Our first
10 objection there is that this is also in the
11 Horizon Line Conservation District and that this
12 will be seen from several roads, and it will be
13 seen from portions of the Appalachian Trail, Lake
14 Waramaug, portions of Spectacle Lake, and all of
15 South Spectacle Lake.

16 So also another objection is that our
17 regulations indicate that this cell tower for its
18 height would have to be 210 feet from any property
19 line to meet the setbacks, and it looks like from
20 the application that this tower would be 84 feet
21 from the nearest lot line. So again, that doesn't
22 meet the setbacks in the regulations either.

23 We have an objection to the equipment
24 and/or storage buildings. The total gross square
25 floor area of the proposed sheds are 960 square

1 feet, plus a future municipal equipment area of
2 100 square feet. I don't know what that future
3 is, but either way the 960 exceeds our 750 square
4 foot limit.

5 We didn't see a proposed planting plan
6 or screening. In fact, I think that can be easily
7 remedied. And the area of disturbance shown on
8 the plans, it seems to encroach on the adjoining
9 property. Those are the objections from our
10 regulations.

11 MR. RYBAK: So you mentioned something
12 about the Horizon Line Conservation Overlay
13 District. What is that, and what's the importance
14 of it?

15 THE WITNESS (Winter): Okay. So from
16 our regulations, Section 5710, the purpose and
17 intent are that specific goals of the district
18 include the preservation of scenic views and
19 vistas that are critically important to the rural
20 landscape and the character of the Town of Kent.

21 MR. RYBAK: Thank you. Now, have you
22 taken a look at the narrative section of the
23 application discussing the 2012 Plan of
24 Conservation and Development? I believe that's
25 page 33 of the application. Have you seen that?

1 THE WITNESS (Winter): Yes, sir.

2 MR. RYBAK: And what is your reaction
3 to that, first? And I guess the second portion of
4 that question, which is related, is what is the
5 Plan of Conservation and Development of the Town
6 of Kent, how does that relate to it?

7 THE WITNESS (Winter): The Plan of
8 Conservation and Development is a framework
9 within -- it's a framework for ensuring that the
10 town can continue to accommodate growth while
11 retaining the qualities that attract residents and
12 businesses and visitors to Kent. So again, it's a
13 framework. It describes the nature of the Town of
14 Kent, as defined by the residents of the town.
15 It's really -- it's a -- part of it is a town
16 character study. It talks about what our town is,
17 what we'd like our town to be. And then the Plan
18 of Conservation and Development informs the
19 Planning and Zoning Commission when we revise the
20 regulations from time to time. So everything
21 should tie back to that plan.

22 MR. RYBAK: Okay. And does the plan
23 talk about telecommunications services and
24 facilities and cell towers, that sort of thing?

25 THE WITNESS (Winter): It does. It

1 does. And with your permission, I'll read
2 directly from the Plan of Conservation and
3 Development. It says that --

4 MR. RYBAK: Briefly, if you could, yes,
5 just in the sake of time, just briefly the key
6 bits of it you think.

7 THE WITNESS (Winter): Okay, yeah. The
8 Plan of Conservation and Development says that
9 adequate access to telecommunications is
10 important, and broadband infrastructure is
11 necessary for business, and we should support
12 enhancement of these services wherever possible.

13 We go on to say that the town should
14 carefully evaluate proposals locating and siting
15 telecommunications towers and other major
16 facilities to prevent or mitigate environmental or
17 scenic impacts. So yes --

18 MR. RYBAK: That helps, yes. I guess
19 the question at the moment then is, given what
20 you've seen of the application and the towers that
21 are being proposed at Site A and Site B, do these
22 towers meet the goals in your Plan of Conservation
23 and Development?

24 THE WITNESS (Winter): They do not.

25 MR. RYBAK: Why is that?

1 THE WITNESS (Winter): Well, I think if
2 we really focus on the horizon line district, both
3 of the sites are within that horizon line
4 district, and both of those sites with towers at
5 the size and the location, they would cause some
6 scenic impacts to the town. They would cause some
7 scenic impacts. And the town really relies on the
8 scenery, in part, as one of our resources.

9 MR. RYBAK: And is it fair to say that
10 the one small cell installation that does exist in
11 the Town of Kent has a much more consistent -- is
12 much more consistent than the proposed
13 towers would be --

14 THE WITNESS (Winter): I don't know a
15 lot about the small cell technology, but simply
16 based on that single small cell tower, for lack of
17 a better word, that device, it certainly would
18 impact, visually impact less than an 180 foot
19 tower.

20 MR. RYBAK: Thank you, Mr. Chairman. I
21 have nothing further.

22 THE WITNESS (Winter): And I'm sorry, I
23 used 180 anecdotally. I don't know the height of
24 those -- offhand the height of those towers. That
25 was simply a number I threw out.

1 MR. SILVESTRI: Understood, Mr. Winter.
2 Thank you.

3 Thank you, Attorney Rybak. While I
4 actually have both of you on my agenda, I do have
5 next the appearance by the Bald Hill Road
6 Neighbors. Are your witnesses available?

7 MR. RYBAK: We have both Bruce Hunter
8 and Peter Fitzpatrick here.

9 MR. ROSEMARK: Presiding Officer
10 Silvestri?

11 MR. SILVESTRI: Who is talking now?

12 MR. ROSEMARK: Daniel Rosemark.

13 MR. SILVESTRI: Where are you, sir?

14 MR. ROSEMARK: I'm right here.

15 MR. SILVESTRI: Yes, go ahead.

16 MR. ROSEMARK: Hi, how are you? May I
17 redirect the witness?

18 MR. SILVESTRI: No, sir. We don't have
19 redirect, but thank you.

20 Going back to Attorney Rybak, Attorney
21 DiPentima.

22 MR. RYBAK: Bruce Hunter and Peter
23 Fitzpatrick are here and are available.

24 MR. SILVESTRI: And those are the two
25 that we had on the hearing program; is that

1 correct?

2 MR. DiPENTIMA: That is correct,
3 Mr. Chairman.

4 MR. SILVESTRI: Excellent. Thank you.
5 Okay. So would the grouped party and CEPA
6 intervenor present their witness panel for the
7 purpose of taking the oath, and Attorney Bachman
8 will then administer the oath.

9 R. B R U C E H U N T E R ,

10 P E T E R F I T Z P A T R I C K ,

11 called as witnesses, being first duly sworn
12 (remotely) by Ms. Bachman, were examined and
13 testified on their oaths as follows:

14 MS. BACHMAN: Thank you.

15 MR. SILVESTRI: Thank you, all. Could
16 you please begin by verifying all the exhibits by
17 the appropriate sworn witnesses?

18 MR. RYBAK: We have the testimony of
19 Bruce Hunter and we have the testimony of Peter
20 Fitzpatrick which were previously submitted to the
21 Council, and that includes the exhibits attached
22 thereto.

23 MR. DiPENTIMA: And they have been
24 admitted as full exhibits and the full testimony.

25 MR. SILVESTRI: Okay. Under my program

1 I have Roman numeral IV, Item B, exhibits for
2 identification numbers 1, 2, 3, 4, 5 and 6, which
3 is the prefile testimony for Peter Fitzpatrick; R.
4 Bruce Hunter; the response to applicants'
5 interrogatories; the response to Council
6 interrogatories; request to add a party and CEPA
7 intervenor; and a request for party intervenor and
8 CEPA intervenor status, correct?

9 MR. DiPENTIMA: That is correct,
10 Mr. Chairman.

11 MR. SILVESTRI: And would you verify
12 the appropriate exhibits by those witnesses?

13 DIRECT EXAMINATION

14 MR. RYBAK: Gentlemen, are those the
15 exhibits and testimony, and do they remain your
16 testimony under penalty of perjury so help you
17 God?

18 THE WITNESS (Hunter): I do.

19 THE WITNESS (Fitzpatrick): I do.

20 MR. SILVESTRI: Thank you. Does any
21 party or intervenor object to the admission of
22 Bald Hill Road Neighbors exhibits? Attorney
23 Chiocchio.

24 MS. CHIOCCHIO: No objection.

25 MR. SILVESTRI: Thank you. Attorney

1 Ainsworth.

2 MR. AINSWORTH: No objection, sir.

3 MR. SILVESTRI: Thank you also.

4 Attorney Casagrande and Attorney Rosemark.

5 MR. ROSEMARK: No objection.

6 MR. SILVESTRI: Thank you. Those
7 exhibits are admitted.

8 (BHRN Exhibits IV-B-1 through IV-B-6:
9 Received in evidence - described in index.)

10 MR. SILVESTRI: And now I'd like to
11 begin with cross-examination of the Bald Hill Road
12 Neighbors by the Council, starting with Mr.
13 Mercier.

14 MR. MERCIER: I have no questions.
15 Thank you.

16 MR. SILVESTRI: Thank you, Mr. Mercier.
17 Mr. Morissette.

18 MR. MORISSETTE: I have no questions.
19 Thank you.

20 MR. SILVESTRI: Thank you. Mr. Harder.

21 MR. HARDER: No questions.

22 MR. SILVESTRI: Thank you. Mr. Hannon.

23 MR. HANNON: I have no questions.

24 Thank you.

25 MR. SILVESTRI: Thank you. Ms.

1 Guliuzza.

2 MS. GULIUZZA: No questions. Thank
3 you.

4 MR. SILVESTRI: Thank you. Mr.
5 Edelson.

6 MR. EDELSON: No questions.

7 MR. SILVESTRI: Thank you. Mr. Lynch?
8 (No response.)

9 MR. SILVESTRI: Is still not with us.
10 And I don't have any questions either for the Bald
11 Hill Road Neighbors Association.

12 So I'd like to move on with continued
13 cross-examination of the Bald Hill Road Neighbors
14 by the applicants and Attorney Chiocchio.

15 MS. CHIOCCHIO: Thank you. No
16 questions.

17 MR. SILVESTRI: Thank you. Continuing
18 with cross-examination of the Bald Hill Road
19 Neighbors by PDA, SRA and Lakeside with Attorney
20 Ainsworth, please.

21 MR. AINSWORTH: We have no questions,
22 sir. Thank you.

23 MR. SILVESTRI: Thank you. And
24 continuing with cross-examination of the Bald Hill
25 Road Neighbors by the Town of Kent and Attorney

1 Casagrande and Attorney Rosemark, please.

2 CROSS-EXAMINATION

3 MR. CASAGRANDE: Yes. Thank you, Mr.
4 Silvestri.

5 I guess I'd like to direct my first set
6 of questions to Mr. Hunter. Generally, sir, can
7 harms to environmental factors, as you've
8 identified in your report, can they be expressed
9 through valuation of a property in terms of how
10 much a willing buyer would be willing to pay for a
11 property that is impacted by such environmental
12 factors?

13 THE WITNESS (Hunter): Yes.

14 MR. CASAGRANDE: And is preservation of
15 pristine ridge lines, is that in your experience
16 an environmental factor that enters into buyer's
17 considerations in rural areas like this?

18 THE WITNESS (Hunter): Absolutely.

19 MR. CASAGRANDE: Now, you did what's
20 called a neighborhood impact study, correct?

21 THE WITNESS (Hunter): Yes.

22 MR. CASAGRANDE: Briefly tell us what
23 you did and the analysis that you went through.

24 THE WITNESS (Hunter): Well, not to
25 overly repeat what is already in the record, but I

1 inspected the direct neighborhood, I looked at
2 what the proposed plans were, and read materials
3 that are available in regards to the impact of
4 similar projects. I also looked at past studies
5 that I had completed having to do with proximity
6 to cell towers and to other tower complexes, and
7 then looked at the impact of also there is a fall
8 zone that goes onto Mr. Fitzpatrick's property.
9 And that's a separate analysis, and it gives us a
10 direct impact or essentially a taking that's being
11 done by one party against another.

12 MR. CASAGRANDE: Okay. I want to get
13 to the fall zone analysis in a bit. But you
14 indicate in your report that you did two types of
15 studies, correct, you looked at or you reviewed
16 two types of studies, one were some peer reviewed
17 studies that you found that were performed by the
18 American Appraisal Institute?

19 THE WITNESS (Hunter): Yes, they were
20 actually published through the Appraisal
21 Institute, yes.

22 MR. CASAGRANDE: Right. And those
23 studies were published in the Appraisal Journal,
24 right?

25 THE WITNESS (Hunter): Yes.

1 MR. CASAGRANDE: And that is a fairly
2 prestigious real estate valuation publication; is
3 it not?

4 THE WITNESS (Hunter): It is.

5 MR. CASAGRANDE: And these studies were
6 both peer reviewed before publication as far as
7 you understand?

8 THE WITNESS (Hunter): Yes.

9 MR. CASAGRANDE: And is the Appraisal
10 Journal, articles in the Appraisal Journal, are
11 they considered reliable and authoritative in
12 valuation of real property?

13 THE WITNESS (Hunter): Absolutely, they
14 are.

15 MR. CASAGRANDE: You also said that you
16 had done what's called several matched pair
17 analyses, correct?

18 THE WITNESS (Hunter): Yes.

19 MR. CASAGRANDE: Briefly what's a
20 matched pair analysis?

21 THE WITNESS (Hunter): Well, it's where
22 you go and find -- and it's basic appraisal
23 techniques when you're looking at value impacts
24 and you're testing as to whether or not an impact
25 may occur and whether or not an impact might not

1 occur from what is considered to be a detrimental
2 condition. In this case, we're testing to see
3 whether or not the imposition of a cell tower into
4 a neighborhood would be or create a detrimental
5 condition.

6 Associated with a cell tower is also
7 its base, you know, the compound that goes around
8 it. And so we did a matched pair study in
9 Farmington, and we did a matched pair study where
10 there was on Christian Lane in Washington,
11 Connecticut, Litchfield County, where they put an
12 electric substation into a neighborhood. And so
13 we were able to match pair sales through the
14 impact on land, and there was also a house that
15 was right next door, and that showed a significant
16 impact on property values, up to 34 percent, I
17 believe, offhand, as to the impact on value of the
18 neighboring house. And the base of that
19 substation looks very similar to the base that
20 they're talking about that would be seen directly
21 from the neighbor who will testify, and within a
22 very short distance, in fact, his kitchen would
23 look directly at it. It's a great analogous
24 situation.

25 Part of the research, I must say, that

1 if you get beyond a certain circumference or a
2 certain distance, radius, from the subject or any
3 proposed tower, the impact does go down to zero,
4 and that's really what was talked about in the
5 published literature. But when you have something
6 that is imposed into this neighborhood, it's too
7 close. If you're in Site A, it's what I was asked
8 to study, it impacts every property around it
9 because they're all within 600 feet. And all of
10 the literature and, in fact, our studies verified
11 that within 600 feet there's a demonstrable
12 impact.

13 MR. CASAGRANDE: And in addition to
14 your own matched pair analyses that you did in
15 Farmington and the other town you mentioned, you
16 also report on other matched pair analyses. I
17 think one was in Florida, correct?

18 THE WITNESS (Hunter): Yes, that's the
19 one where they were measuring when you have impact
20 being close, and then the further out you go, and
21 then I think it was beyond 600 and some odd feet,
22 the impact goes down to zero.

23 MR. CASAGRANDE: And there was also, I
24 believe, was it Australia or New Zealand that was
25 the other study that you referenced in your

1 report?

2 THE WITNESS (Hunter): I believe it was
3 New Zealand.

4 MR. CASAGRANDE: Okay. And again, is a
5 matched pair analysis, is that an accepted and
6 reliable methodology for attempting to identify at
7 least approximately the impact of environmental
8 factors on property values?

9 THE WITNESS (Hunter): Absolutely. And
10 it goes to what the definition of an environment
11 is. And I just wanted to put in something as to
12 what the definition -- and I'm holding up the book
13 which is entitled The Dictionary of Real Estate
14 Appraisal published by the Appraisal Institute.
15 And it talks about what the definition for
16 appraisers, and I think it's very appropriate, the
17 definition of "environment" is, The social,
18 physical, political and economic characteristics
19 of the area surrounding a property which can
20 affect its value. So that's directly applicable
21 to what it is that we're measuring.

22 And again, going back to your original
23 question, it manifests, all these factors,
24 environmental factors and the impact of, manifest
25 themselves through value and the impact on value

1 or the lack of impact on value. In this case when
2 you're so close to, you impose this into a
3 neighborhood like this, it's absolutely
4 demonstrable that there will be an impact,
5 significant impact on everybody directly
6 surrounding this.

7 MR. CASAGRANDE: And you've already
8 indicated, and I don't want to belabor the report,
9 but your conclusion, based on your studies and the
10 feasibility studies, the matched pair analyses and
11 the Appraisal Journal studies, is that locating a
12 property within 600 feet of a cell tower is going
13 to likely cause a demonstrable negative impact on
14 property values, correct?

15 THE WITNESS (Hunter): Yes.

16 MR. CASAGRANDE: And that's for the
17 reasons stated in your report, correct?

18 THE WITNESS (Hunter): Yes, and what I
19 just described to you as well.

20 MR. CASAGRANDE: Right. And you
21 quantified that with respect to the Fitzpatrick
22 property, I think, the total negative impact
23 you've testified to was over \$90,000?

24 THE WITNESS (Hunter): Let me just
25 refresh my memory here. I don't have this all --

1 I'm referring to the report. It's on page 15. I
2 need my glasses so it's --

3 MR. CASAGRANDE: That's okay. We don't
4 need to belabor the point. It's in the report.

5 THE WITNESS (Hunter): Yes, yes.

6 MR. CASAGRANDE: Okay. How consistent
7 did you find the proposed tower to be with the
8 surrounding neighborhood that you studied here?

9 THE WITNESS (Hunter): It's totally
10 inconsistent. You're imposing an industrial type
11 use in regards to the base. You're having a
12 towering cell tower that's way above the treeline.
13 It's like 100 feet above the treeline. And this
14 is really a rural residential quiet neighborhood
15 that has nothing like it. People move -- and the
16 reason why people move to these neighborhoods is
17 because it's pristine and the perception is such
18 that, you know, if you were to impose this on this
19 neighborhood, it's really going to impact it.
20 It's not what it is that they're looking at. And
21 the problem is, is that when they see this, there
22 are so many other alternatives that are typically
23 out there that they'll look elsewhere. And that
24 is reflected in the impact on marketability and
25 market value.

1 MR. CASAGRANDE: Thank you. Very
2 briefly, you also referenced in pages 16 to 18 of
3 your report what you referred to as a fall zone
4 easement on the Fitzpatrick property. Do you
5 recall that?

6 THE WITNESS (Hunter): Yes.

7 MR. CASAGRANDE: Just briefly describe
8 for the Council what's a fall zone and why you
9 concluded that putting the tower in that location
10 would result in what is essentially an easement on
11 the Fitzpatrick property?

12 THE WITNESS (Hunter): Yes. Well, from
13 the base of the tower to the top of the tower, as
14 proposed, is 154 feet. Even though some of these
15 cell towers are reportedly designed to have a
16 break point so that it may not, you know, fall
17 outside of the property line, there are instances
18 that are on record that I'm aware of that it broke
19 or fell off of its base. So therefore, as the
20 applicant cannot guarantee that the fall zone, in
21 other words, the fall zone is really -- and I'm
22 demonstrating by holding my elbow for those of you
23 who are listening only -- it can fall directly
24 over in a radius that would go onto neighboring
25 properties because of where it's located.

1 And I worked with -- there's an
2 architect in the building that I'm in, and we
3 looked at -- and one of the exhibits brought
4 forth, I think it's Exhibit SP-1 which is in the
5 applicants' application, what we did is we -- and
6 it shows where the radius, it's a semi-circle
7 going from the base and how far it goes onto the
8 property of Mr. Fitzpatrick. And what we did is
9 we measured -- and, you know, they used a mapping
10 program, an architectural program to determine
11 that the so-called fall zone impacts about 16,730
12 square feet or about 3.84 acres of an overall 2.5
13 acre parcel.

14 Well, the problem with that is, is that
15 there is no known easement that we're aware of on
16 record where an easement was granted by
17 Mr. Fitzpatrick or his predecessor to allow for
18 such an easement. So therefore, in my opinion, I
19 believe it raises a constitutional issue as to
20 whether or not the Siting Council even has the
21 authority to be able to give the rights from
22 Mr. Fitzpatrick to AT&T, or whomever it is that
23 ultimately will end up using the cell tower.
24 That's something that's -- it's essentially you're
25 taking rights from one party and giving it to

1 another. And there should be just compensation,
2 which is a constitutional term, and whether or not
3 you even have the right to be able to impose those
4 things on other people, it's disturbing, quite
5 frankly.

6 MR. CASAGRANDE: And putting aside the
7 legal issue of whether it would constitute a
8 taking, do you have an opinion as you set forth in
9 your report on whether the existence of or the
10 possibility that this tower will not fall at a
11 break point but will fall at its current height,
12 154 feet, onto the Fitzpatrick property, does that
13 lead you to conclude that there's an effect of
14 that on the value of the property?

15 THE WITNESS (Hunter): Yes.

16 MS. CHIOCCHIO: Objection. The witness
17 is not a structural engineer. He does not design
18 these tower facilities. And we have all the
19 information that's in his report, so we're just
20 rehashing what's in his report as well.

21 MR. SILVESTRI: Yeah, I'll sustain the
22 objection and ask Attorney Casagrande to keep
23 going, please.

24 MR. CASAGRANDE: Yes, thank you. A
25 couple more questions, Mr. Hunter. You're aware

1 that the applicant has submitted a potential
2 reduced tower height of, I believe, 134 feet as
3 opposed to the 154 feet. Can you briefly just
4 tell the Council the impact, if any, of the
5 reduction in the height of the tower by 20 feet on
6 your evaluation conclusions?

7 THE WITNESS (Hunter): Well, first of
8 all, again, if we're talking about bifurcating the
9 impact on value, that the impact on value of the
10 neighborhood would remain the same, it's my
11 opinion that that would continue out to that 600
12 foot radius.

13 In regards to direct impact on
14 Fitzpatrick, instead of being an impact of
15 approximately \$14,400, instead it would be \$9,675.

16 MR. CASAGRANDE: Thank you. I have no
17 further questions for Mr. Hunter. I do have a few
18 questions for Mr. Fitzpatrick.

19 THE WITNESS (Fitzpatrick): Hello.

20 MR. CASAGRANDE: Yes, hi. Good
21 afternoon, sir. You acquired 15 Bald Hill Road
22 for purchase in a foreclosure sale?

23 THE WITNESS (Fitzpatrick): Correct.

24 MR. CASAGRANDE: And when you acquired
25 the property, how important was it to you that the

1 property was in a rural forested area?

2 THE WITNESS (Fitzpatrick): Very
3 important. It was one of the criteria I had when
4 looking for a new home to downsize to.

5 MR. CASAGRANDE: And how important to
6 you was it that the home was not going to be
7 abutting or close to an industrial or commercial
8 type facility?

9 THE WITNESS (Fitzpatrick): Well, I
10 would not have purchased the property had I been
11 aware of that.

12 MR. CASAGRANDE: If the proposed tower
13 were to be built on Site A next to your property,
14 would you build on the property in the area that's
15 been called the drop zone of the tower?

16 THE WITNESS (Fitzpatrick): No, not
17 only would I not build, I would probably never
18 move into the home as well. Just, you know, I'm a
19 contractor. I understand engineering, and I know
20 it works beautifully, but I've also seen it fail,
21 and I could not put my family in harm's way with
22 the, you know, outside chance that the tower did
23 not fall at the hinge point as they are supposedly
24 designed.

25 MR. CASAGRANDE: Has anybody from AT&T

1 or Homeland ever approached you to ask you to
2 consider granting them an easement?

3 THE WITNESS (Fitzpatrick): They have
4 not.

5 MR. CASAGRANDE: Okay. I have nothing
6 further. Thank you.

7 THE WITNESS (Fitzpatrick): Thank you.

8 MR. SILVESTRI: Thank you, both. I'd
9 like to continue again with our agenda by the
10 appearance of the grouped intervenors and CEPA
11 intervenors, the Planned Development Alliance of
12 Northwest Connecticut. Attorney Ainsworth, are
13 you all set with your people?

14 MR. AINSWORTH: Yes, we are.

15 MR. ROSEMARK: Presiding Officer
16 Silvestri?

17 MR. SILVESTRI: Yeah, hello.

18 MR. ROSEMARK: Hi. May I just ask,
19 could we, on behalf of the Town of Kent, can we
20 excuse our witnesses?

21 MR. SILVESTRI: I believe you can.

22 MR. ROSEMARK: Thank you.

23 MR. RYBAK: Could I ask the same of
24 ours? Are our witnesses done for the day?

25 MR. SILVESTRI: Yeah, the way I want to

1 go through here, based on a time factor, depending
2 on how many questions we might have from the
3 Siting Council, which would go first in asking
4 questions of our grouped intervenors, we may stop
5 right after that and then we'll resume after
6 September 22, we'd come back with the applicant,
7 the parties and the intervenors for questions. So
8 the short answer is, yes, I believe you could
9 excuse your people.

10 MR. DiPENTIMA: Will their appearance
11 be required on the 21st, Mr. Chairman? Mr. Hunter
12 is going to be out of state and not be available
13 for any further inquiry, and I don't know what
14 Mr. Fitzpatrick's situation is. He is a
15 contractor, and this is the third time that he has
16 been here.

17 MR. SILVESTRI: Understood. Looking at
18 the Bald Hill Road Neighbors, I don't believe that
19 we have the need for them to come back. We do
20 need to see Connie Manes when we come back on the
21 22nd, finish up whatever we might have from the
22 grouped intervenors that we can't get to today,
23 and then going back to the appearance by the
24 applicant. That's what I would be looking at for
25 an agenda for the 22nd.

1 MR. DiPENTIMA: Thank you,
2 Mr. Chairman.

3 MR. SILVESTRI: Mr. Ainsworth, my
4 apologies for the interruptions, but it's good to
5 know where we're going forward.

6 MR. AINSWORTH: No problem.

7 MR. SILVESTRI: So the initial question
8 I had for you, do you have your witnesses with you
9 today?

10 MR. AINSWORTH: Yes, Presiding Officer.
11 I have Todd Powell, David Maxson from Isotrope,
12 Matt Sippel from the Spectacle Ridge Association,
13 and Marleen Donnenfeld from the Lakeside group,
14 South Spectacle Lakeside Residents. And of
15 course, Connie Manes is a co-witness with the
16 town, and we have already heard about why she's
17 not present. So those four witnesses are present.

18 MR. SILVESTRI: And I believe everybody
19 from the past time that we were here was sworn in.
20 Attorney Bachman, is that correct?

21 MS. BACHMAN: That's correct, Mr.
22 Silvestri. Thank you.

23 MR. SILVESTRI: Very good. Thank you.
24 Just touching base.

25 So Attorney Ainsworth, could you please

1 begin by identifying the new exhibit that you have
2 filed in this matter and verifying that by the
3 appropriate sworn witnesses?

4 MR. AINSWORTH: I will do that.

5 R O B E R T P O W E L L ,

6 D A V I D P. M A X S O N ,

7 M A T T H E W S I P P E L ,

8 M A R L E E N D O N N E N F E L D ,

9 having been previously duly sworn (remotely),
10 continued to testify on their oaths as
11 follows:

12 DIRECT EXAMINATION

13 MR. AINSWORTH: And reminding my
14 witnesses that you are still under oath, at the
15 request of my office and the Connecticut Siting
16 Council requesting additional information
17 regarding -- a clarification regarding the balloon
18 flight and one other matter, did you assist each
19 other and my office in preparing the materials
20 that are listed in the hearing program as Exhibit
21 B-III-9 and the sub-exhibits are lettered a
22 combined Exhibit A, B, C, D, E, F and G. And I'll
23 ask you, Mr. Powell, did you assist in that?

24 THE WITNESS (Powell): Yes.

25 MR. AINSWORTH: And Mr. Maxson.

1 THE WITNESS (Maxson): David Maxson.

2 Yes.

3 MR. AINSWORTH: And is this material
4 true and accurate to the best of your knowledge
5 and belief as you are present here today?

6 Mr. Powell.

7 THE WITNESS (Powell): Yes.

8 MR. AINSWORTH: Mr. Maxson.

9 THE WITNESS (Maxson): Yes.

10 MR. AINSWORTH: And do you have any
11 corrections, deletions or additions to anything in
12 B-III-9, those submissions that you assisted in
13 preparing? Mr. Powell.

14 THE WITNESS (Powell): No.

15 MR. AINSWORTH: And Mr. Maxson.

16 THE WITNESS (Maxson): No.

17 MR. AINSWORTH: And do you adopt
18 B-III-9 and the sub-exhibits as your direct
19 testimony before the Council here today?

20 Mr. Powell.

21 THE WITNESS (Powell): Yes.

22 MR. AINSWORTH: And Mr. Maxson.

23 THE WITNESS (Maxson): Yes.

24 MR. AINSWORTH: I submit the witnesses
25 for the Council's cross-examination.

1 MR. SILVESTRI: Thank you, Attorney
2 Ainsworth. Does any party or intervenor object to
3 the admission of PDA, SRA and Lakeside's new
4 exhibits?

5 And Attorney Chiocchio, I know you had
6 an objection in the beginning that we denied. I
7 don't know if you have anything else to add before
8 I move on to the other attorneys.

9 MS. CHIOCCHIO: I do not. Thank you.

10 MR. SILVESTRI: Thank you so much.
11 Attorney DiPentima, Attorney Rybak, any
12 objections?

13 MR. DiPENTIMA: No objection.

14 MR. SILVESTRI: Thank you. And
15 Attorney Casagrande and Attorney Rosemark, any
16 objections?

17 MR. ROSEMARK: No objection.

18 MR. SILVESTRI: Thank you also. The
19 exhibits are indeed admitted.

20 (PDA Exhibits III-B-9, A through G:
21 Received in evidence - described in index.)

22 MR. SILVESTRI: We will now begin with
23 cross-examination of PDA, SRA and Lakeside by the
24 Council, and I'd like to start with Mr. Mercier,
25 please.

1 CROSS-EXAMINATION

2 MR. MERCIER: Thank you. I just have
3 one question. It has to do with the Late-File
4 exhibit. It's called A slash B on the web site.
5 It was essentially a map of the Richards Road
6 balloon fly. It had three icons on it. One of
7 them says "RR est HT balloon." I'm not sure what
8 that stands for. Can someone please clarify?

9 THE WITNESS (Maxson): Hello, this is
10 David Maxson grappling for my mute button and
11 trying to bring up that image at the same time.
12 Yes, we took the coordinates, or, no, actually, I
13 was -- yeah, I think it was the coordinates of the
14 Homeland Towers balloon test. So it's an
15 estimated location of the Homeland Towers balloon,
16 but it was based on some information I pulled out
17 of the record.

18 MR. MERCIER: Out of what part of the
19 record, though, the visual analysis or something,
20 because I believe it stated they used a crane at
21 the site.

22 THE WITNESS (Maxson): Fair enough.
23 Let's consider the term balloon to be a generic
24 term for balloon test slash crane test. The point
25 was just to get an estimation of its location on

1 the map for viewing.

2 MR. MERCIER: Okay. So you're not sure
3 if that's actually where they put the actual
4 crane? It looked like someone's driveway. So
5 that's my question.

6 THE WITNESS (Maxson): I'm personally
7 not sure. I obtained some coordinates from the
8 record. I can go back and find out where they
9 were, but I believe that was the location.

10 MR. MERCIER: Okay. Thank you very
11 much. I have no other questions.

12 MR. SILVESTRI: Thank you, Mr. Mercier.
13 I'd like to continue with Mr. Morissette, please.

14 MR. MORISSETTE: Thank you, Mr.
15 Silvestri. I have some questions relating to the
16 Late-File Exhibit, Exhibit G, so that would be for
17 Mr. Maxson. My first question relates to the
18 generators that were utilized or potentially could
19 be utilized at Chilmark. When you say that
20 generators were provided to be dispatched
21 throughout the town, is it specifically to back up
22 certain sites, or do the generators provide
23 resources for all the sites that are within the
24 area?

25 THE WITNESS (Maxson): I don't recall

1 Mr. Carroll telling me the number of generators,
2 but that they had in some storage location a
3 number of generators that were provided to them.
4 So whether it was for all sites or a subset of
5 them, I'm not certain.

6 MR. MORISSETTE: So technically you
7 would need a generator for each site if you wanted
8 to power the entire system; is that correct?

9 THE WITNESS (Maxson): Yes.

10 MR. MORISSETTE: So if they didn't have
11 enough generators for 100 percent of the sites,
12 they would have to select the sites that were
13 deemed more important than the others, I would
14 imagine?

15 THE WITNESS (Maxson): I would imagine
16 so as well, yes.

17 MR. MORISSETTE: Okay. Thank you.
18 Continuing on, I'd like to explore a little bit
19 about, and maybe Chilmark we can use as an
20 example, how did they get to the point where they
21 were going to install the small cells? So after,
22 I would presume, a cell tower was proposed and got
23 denied, there's a point where no cell towers are
24 available. Was there a period of time where
25 developers stepped in, did it take some time for

1 that to happen, or was it immediate, i.e., what
2 happens if we deny the two cell towers in Kent and
3 nobody comes to install small cells?

4 THE WITNESS (Maxson): You've raised
5 the classic chicken and egg problem. In other
6 hearings over the years, I've heard carriers say,
7 well, there is no distributed antenna system, so
8 we can't occupy. But when I speak to operators
9 and builders of distributed antenna systems who
10 provide neutral host systems, they basically wait
11 for a request from a carrier to come up with a
12 design for a particular area and to present it to
13 the carrier for consideration.

14 So it really is just a simple case of a
15 carrier deciding that it wants to consider this
16 approach and asking a neutral host provider to
17 develop a design, and then they can, if they agree
18 on it, they can test it, they can work it out,
19 they can adjust locations of nodes, they can add
20 or subtract nodes. And there's a whole design
21 process that we have not gone through here. We've
22 just done this notional design for this meeting.

23 MR. MORISSETTE: Okay. So if the
24 carrier doesn't ask, it doesn't happen?

25 THE WITNESS (Maxson): That's my

1 experience, yes.

2 MR. MORISSETTE: So we could be years
3 before a small cell system could be proposed and
4 then put in place?

5 THE WITNESS (Maxson): Indeed.

6 MR. MORISSETTE: Okay. My next
7 question is relating to the -- you state in your
8 analysis that -- let me see if I can find it --
9 about hills, the section of this that is labeled
10 "About Hills."

11 THE WITNESS (Maxson): Yes.

12 MR. MORISSETTE: "There is no
13 distinction that should be made about the
14 hilliness of Chilmark versus Kent." Can you
15 explain that a little bit further because I wasn't
16 quite there?

17 THE WITNESS (Maxson): Sure. Thank
18 you. I always want to make sure I'm not on mute.
19 Okay. The topic came up in some questioning at
20 the last meeting. And I guess, you know, there's
21 this case, and I've seen it often, that people in
22 towns ask if there is a town exactly like theirs
23 where there is a distributed antenna system or a
24 network of small cells. And it's often the case
25 that there are similarities but nothing is

1 identical.

2 So at the time I was asked that
3 question, the first one that popped into mind was
4 Chilmark. And yes, it doesn't have the rugged
5 terrain that is in Kent, but when you have
6 antennas that are only 30, 40 or 50 feet above the
7 ground on utility poles, they're not very high
8 above the surrounding terrain. So whether the
9 terrain is as rugged as in Kent or less rugged but
10 still kind of hilly in Chilmark and Aquinnah, you
11 need to distribute your antennas to perhaps the
12 high ground or the middle of a hollow to
13 illuminate the area around it as you lay out your
14 network.

15 So the fact that Chilmark is not, shall
16 we say, lightly mountainous, you know, the
17 foothills of the Berkshires, so to speak, but it
18 is hilly, we're still seeing that if you look at
19 that map that was in the Martha's Vineyard Times,
20 there's one place where there are two nodes that
21 are perhaps a quarter mile apart, and that's
22 because they're positioning those two nodes with
23 respect to the terrain, whereas there's another
24 location where the nodes are a mile apart. So
25 they are using the terrain strategically for

1 antennas that are 40, 50 feet above ground.

2 MR. MORISSETTE: Very good. So it
3 really depends on the detailed design at the time
4 where you're locating the cells and finding the
5 locations to maximize the signals between the
6 cells?

7 THE WITNESS (Maxson): Yes.

8 MR. MORISSETTE: Very good. Okay.
9 That's all the questions I have. Thank you very
10 much.

11 MR. SILVESTRI: Thank you, Mr.
12 Morisette. I'd like to continue
13 cross-examination with Mr. Harder, please.

14 MR. HARDER: I have no questions.
15 Thank you.

16 MR. SILVESTRI: Thank you, Mr. Harder.
17 I'd like to continue then with Mr. Hannon.

18 MR. HANNON: Thank you. I do have one
19 question. I just want to make sure I understood
20 this correctly. So, in order for a small cell
21 system to possibly go in, you're really saying the
22 carriers would need to ask to have a system
23 designed; is that correct?

24 THE WITNESS (Maxson): We were talking
25 specifically about distributed antenna systems,

1 which are usually neutral --

2 MR. HANNON: Yeah, the small cell.

3 THE WITNESS (Maxson): Small cells
4 include the small cells that use the technology
5 today that is not a distributed antenna system.
6 DAS is one type of small cell. So if I make --

7 MR. HANNON: Okay. The reason I'm
8 asking, though, is because typically when an
9 application comes in for a cell tower, you kind of
10 know what the numbers are. So, in order to go in
11 with the small cell type design, and it's a system
12 that basically has to be designed from the
13 beginning, how do you know what the costs are
14 associated with that particular site, and is it
15 worth the money that would have to be invested for
16 that particular site?

17 THE WITNESS (Maxson): Well, you're
18 getting into cost analysis that is not really my
19 primary focus. I think in terms of design, AT&T
20 can decide today that it wants to install those
21 cloud radio access nodes that are its own
22 antennas, its own nodes, and come up with its own
23 design and propose it, or it can hire a
24 distributed antenna system provider, a neutral
25 DAS, neutral host provider, to design one for

1 them. And then it gets into who's spending the
2 capital, who's taking the risk. So there's a lot
3 of variables in coming up with a design.

4 Chilmark, for example, you saw in my
5 report that Verizon built a number of -- or
6 American Tower provided a number of nodes to
7 Verizon, and then later on Verizon added to their
8 network to increase the coverage. So it's a
9 dynamic thing as well.

10 MR. HANNON: Because, again, I mean,
11 most businesses are in the business of making
12 money. So if you don't know what the costs are
13 going to be going a particular route with what
14 you're trying to develop, doesn't that create some
15 uncertainty as to whether or not somebody is
16 really going to follow that approach? So, I mean,
17 if you don't really know what the costs are
18 associated with the small cells, can't that be an
19 adverse impact to going that route and instead
20 they fall back on the sort of old standard, the
21 cell tower?

22 THE WITNESS (Maxson): Well, I guess
23 I'll a little uncomfortable with the premise that
24 they don't know the cost. They can, based on
25 their experience and deals that they've made and

1 the projects that they've built in the past, they
2 know what it's going to cost. And as far as
3 having a design that is a permanent solution in a
4 location, we have seen, in fact, half of my work
5 has been for the last 25 years this continuing
6 rollout of new facilities in places where five,
7 ten years ago they said, oh, this facility over
8 there will provide the coverage. So in terms of
9 costing it, they can come up with the numbers, and
10 then they can add to it a few years down the road
11 if they find out they want to improve service or
12 capacity or coverage. It's a continuing process.

13 MR. HANNON: I think most, if I
14 remember correctly, I think most of the small
15 cells the Siting Council has dealt with is really
16 going into a specific area to try and boost
17 coverage in a particular area which coincides with
18 the cell towers that they have, whether it's for
19 capacity -- I mean, I'm asking the question
20 because you're the one talking about having to
21 design the system, so I'm just trying to get some
22 information as to who's doing it, who's
23 responsible, is it in-house, is it out-of-house.
24 But thank you for your answers. I have no more
25 questions.

1 MR. SILVESTRI: Thank you, Mr. Hannon.
2 I want to deviate slightly from the list that I
3 normally go to for Council members. I'd like to
4 see if Mr. Edelson is still with us and if he has
5 any cross-examination questions.

6 (No response.)

7 MR. SILVESTRI: Mr. Edelson?

8 (No response.)

9 MR. SILVESTRI: I had a feeling I was
10 going to lose him. Ms. Guliuzza.

11 MS. GULIUZZA: No questions. Thank
12 you.

13 MR. SILVESTRI: Thank you. And out of
14 courtesy, I'll ask again for Mr. Lynch, if he's
15 with us. Mr. Lynch, are you with us; and if so,
16 any questions?

17 (No response.)

18 MR. SILVESTRI: Okay. Mr. Maxson, I
19 have a couple basic questions, kind of being one
20 of the old-school guys. Could you explain to me
21 what the cloud is?

22 THE WITNESS (Maxson): Thank you. I
23 think I'm also in that old school. And it's been
24 a buzz word for the last probably almost a decade
25 now. Companies of all kinds are putting their

1 systems and their applications and their business
2 operations on a server in some remote location, it
3 could be 1,000 miles away, that is not related to
4 the physical location of their facility. So, for
5 instance, today when those of us who have a
6 Microsoft subscription are saving a document to
7 Dropbox or Microsoft OneDrive or to Google Docs,
8 those are cloud services because they can be
9 accessed by our business compatriots or ourselves
10 from other locations.

11 So what's happening with the design of
12 4G and 5G networks is they have flattened out the
13 technology so you don't need to have this large
14 commercial refrigerator-sized base station cabinet
15 at the base of a tower. All you need is a private
16 data network connection through a commercial
17 provider of data network services between your
18 node on your pole and that central server,
19 wherever it's located, that is connected to all of
20 the base stations and all of the small cells.

21 MR. SILVESTRI: Bear with me as I ask
22 you a couple more questions so I can try to get
23 this squared away in my head. I can understand if
24 I'm on a computer, I have a file, I want to save
25 that file, I could save it to the cloud which, as

1 a side note, I don't do because I don't really
2 know where it goes so I'd rather save it to my
3 computer. But I can understand the file saving
4 aspect of it. But again, when you get into the
5 cellular aspect of it, what does the cloud do
6 there? That's where I'm confused.

7 THE WITNESS (Maxson): Right. Base
8 stations make certain decisions in terms of
9 switching, like phone calls and data and routing
10 things, when to hand off to another base station
11 because the other base station has a better
12 signal, so they're talking to one another and
13 making decisions. A lot of that decision-making
14 is moved back to a central server where the
15 central server says I need to be at this small
16 cell or I need to move this person to that tower
17 site, that macro site. So it's not just that
18 files are stored in the cloud, but actual systems
19 and operational programs are running, making those
20 decisions real time as to where all the calls
21 should be routed.

22 MR. SILVESTRI: Let me ask you two
23 follows-ups. Who quote/unquote owns the cloud?

24 THE WITNESS (Maxson): I don't know.
25 One of the big companies in this field is Amazon

1 AWS. They have a networking service. And also I
2 think companies like Akamai, which do a lot of
3 internet services and have servers in remote
4 locations that consume lots of power and show up
5 on satellite photographs in remote locations,
6 these are basically third-party networking
7 services that businesses subscribe to. And I
8 would not -- somebody has a mic open.

9 MR. SILVESTRI: We just muted him. Go
10 ahead.

11 THE WITNESS (Maxson): Okay. I would
12 not be surprised that companies with these large
13 networks like the wireless companies have that
14 they might actually have their own server farms in
15 locations where they can manage not just the
16 software and the communications, but they can
17 manage and own the hardware as well.

18 MR. SILVESTRI: Like I said, I'm old
19 school, so this is a lot of new stuff to me. I
20 appreciate your responses to my questions as well.

21 Again, as I always say, because
22 questions and answers sometimes spur other
23 questions, I'd like to just go back to our Siting
24 Council staff and members just to see if they have
25 any follow-ups. And I'd like to start with Mr.

1 Mercier, do you have any follow-up questions?

2 MR. MERCIER: No, thank you.

3 MR. SILVESTRI: Thank you, Mr. Mercier.

4 Mr. Morissette.

5 MR. MORISSETTE: No follow-up. Thank
6 you.

7 MR. SILVESTRI: Thank you. Mr. Harder.

8 MR. HARDER: No follow-up.

9 MR. SILVESTRI: Thank you. Mr. Hannon.

10 MR. HANNON: No follow-up. Thank you.

11 MR. SILVESTRI: Thank you. Ms.

12 Guliuzza, any follow-up?

13 MS. GULIUZZA: No, thank you.

14 MR. SILVESTRI: Thank you. And I know
15 I missed Mr. Edelson and Mr. Lynch. So we'll stop
16 right there.

17 Ladies and gentlemen, we're really
18 close to the 6 o'clock mark that I had mentioned
19 earlier. The Siting Council has no additional
20 questions at this point. And I don't want to have
21 to apologize to Attorney Rosemark, as I did the
22 last time we were together, by cutting him off
23 when he had 15 more minutes worth of questions
24 that he was going to ask. So I'd like to pause
25 here, knowing that we have a continuation coming

1 up on September 22nd. And if you'll bear with me,
2 I'll give you some closing comments as we go
3 through.

4 So the Council announces that it will
5 continue the evidentiary session of this public
6 hearing on Tuesday, September 22, 2020 at 2 p.m.
7 via Zoom remote conferencing. A copy of the
8 agenda for the continued remote evidentiary
9 hearing session will be available on the Council's
10 Docket No. 488 web page, along with the record of
11 this matter, the public hearing notice,
12 instructions for public access to the remote
13 evidentiary hearing session, and the Council's
14 Citizens Guide to Siting Council Procedures.

15 Please note that anyone who has not
16 become a party or intervenor but who desires to
17 make his or her views known to the Council, may
18 file written statements with the Council until the
19 record closes.

20 Copies of the transcript of this
21 hearing will be filed with the Kent Town Clerk's
22 offices.

23 I hereby declare this hearing
24 adjourned. I thank you, one and all, for your
25 participation, and have a great evening. Thank

1 you.

2 (Whereupon, the witnesses were excused
3 and the hearing adjourned at 5:56 p.m.)
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1 CERTIFICATE OF REMOTE HEARING

2
3 I hereby certify that the foregoing 95 pages
4 are a complete and accurate computer-aided
5 transcription of my original stenotype notes taken
6 of the CONTINUED PUBLIC HEARING HELD BY REMOTE
7 ACCESS IN RE: DOCKET NO. 488, HOMELAND TOWERS,
8 LLC AND NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T
9 APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL
10 COMPATIBILITY AND PUBLIC NEED FOR THE
11 CONSTRUCTION, MAINTENANCE, AND OPERATION OF A
12 TELECOMMUNICATIONS FACILITY LOCATED AT ONE OF TWO
13 SITES: KENT TAX ASSESSOR ID #M10, BLOCK 22, LOT 38
14 BALD HILL ROAD OR 93 RICHARDS ROAD, KENT,
15 CONNECTICUT, which was held before ROBERT
16 SILVESTRI, PRESIDING OFFICER, on September 3,
17 2020.

18
19
20 

21 -----
22 Lisa L. Warner, CSR 061
23 Court Reporter
24 BCT REPORTING SERVICE
25 55 WHITING STREET, SUITE 1A
PLAINVILLE, CONNECTICUT 06062

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TOWN OF KENT EXHIBITS
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EXHIBIT	DESCRIPTION	PAGE
V-B-1	Town of Kent request for party and CEPA intervenor status, dated April 24, 2020.	484
V-B-2	Town of Kent prefiled testimony of Jean Conlon Speck, first selectman, with attachments, dated July 16, 2020.	484
V-B-3	Town of Kent prefiled testimony of Matthew Winter, Chairman, Planning and Zoning Commission, dated July 16, 2020.	484

1 I n d e x: (Cont'd.)

2
3 BALD HILL ROAD NEIGHBORS EXHIBITS
(Received in evidence.)

4 EXHIBIT	DESCRIPTION	PAGE
5 IV-B-1	BHRN request for party/intervenor and CEPA intervenor status 6 dated, March 20, 2020.	526
7 IV-B-2	BHRN request to add a party and CEPA intervenor, dated April 2, 2020.	526
8 IV-B-3	BHRN responses to Council interrogatories, Set One, dated May 7, 2020.	526
9 IV-B-4	BHRN responses to applicants' interrogatories, dated May 8, 2020.	526
10 IV-B-5	BHRN prefiled testimony of Peter Fitzpatrick, with attachments, 11 dated July 16, 2020.	526
12 IV-B-6	BHRN prefiled testimony of R. Bruce Hunter, with attachments, 13 dated July 16, 2020.	526

14 PLANNED DEVELOPMENT ALLIANCE OF NORTHWEST
15 CONNECTICUT, INC.(PDA) EXHIBITS
(Received in evidence.)

16 EXHIBIT	DESCRIPTION	PAGE
17 III-B-9 (A-G)	PDA Late-Filed Exhibits, dated 18 August 27, 2020.	546

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