

August 11, 2014

VIA EMAIL & OVERNIGHT DELIVERY

Hon. Robin Stein, Chairman
and Members of the Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

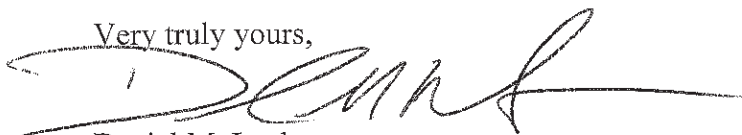
Re: Docket 451
Tower Facility on Town owned Property
1325 Cheshire Street, Cheshire, Connecticut

Dear Chairman Stein and Members of the Council:

On behalf of the Applicants in the captioned Docket we respectfully enclose an original and twenty copies of the Town of Cheshire consultation documentation which we understand was not included as Attachment 12 as indicated. Please note that these materials are also being forwarded to public officials as noted in the included Certification of Service to federal, state, regional, and municipal officials.

Thank you for your consideration in this matter. Should the Council or staff have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,



Daniel M. Laub

Enclosures

CERTIFICATION OF SERVICE

I hereby certify that on the 11th day of August 2014, copies of this Application for a Certificate of Environmental Compatibility and Public Need for the Construction, Maintenance and Operation of a Wireless telecommunications Facility in Cheshire were sent by certified mail, return receipt requested, to the following:

Dated: August 11, 2014



Cuddy & Feder LLP
 445 Hamilton Avenue, 14th Floor
 White Plains, N.Y. 10601
 Attorneys for:
 New Cingular Wireless PCS LLC ("AT&T")

State and Regional

The Honorable George Jepsen Attorney General Office of the Attorney General 55 Elm Street Hartford, CT 06106	Department of Economic and Community Development Catherine H. Smith 505 Hudson Street Hartford, CT 06106-7106
Department of Public Health Dr. Jewel Mullen, Commissioner 410 Capitol Avenue Hartford, CT 06134	Department of Transportation James P. Redeker, Commissioner 2800 Berlin Turnpike Newington, CT 06131-7546
Council on Environmental Quality Susan D. Merrow, Chair 79 Elm Street Hartford, CT 06106	Department of Agriculture Steven K. Reviczky, Commissioner 165 Capitol Avenue Hartford, CT 06106
Department of Energy & Environmental Protection Rob Klee, Commissioner 79 Elm Street Hartford, CT 06106	State House Representative-90 th District Mary G. Fritz L.O.B. Room 4013 Hartford, CT 06106

Office of Policy and Management Benjamin Barnes, Secretary 450 Capitol Avenue Hartford, CT 06106-1308	State Senator-District S13 Dante Bartolomeo Legislative Office Building Room 3200 Hartford, CT 06106
Department of Energy & Environmental Protection-Public Utilities Regulatory Authority Chairman Arthur House Ten Franklin Square New Britain, CT 06051	Council of Governments of the Central Naugatuck Valley Sam Gold, Executive Director 49 Leavenworth Street-Suite 303 Waterbury, CT 06702
Connecticut Department of Emergency Services and Public Protection Division of Emergency Management and Public Protection Dora B. Schiro, Commissioner 25 Sigourney Street, 6th Floor Hartford, CT 06106-5042	Department of Economic and Community Development Offices of Culture and Tourism Daniel T. Forrest, State Historic Preservation Officer One Constitution Plaza, 2 nd Floor Hartford, CT 06103

Federal

Federal Communications Commission 445 12 th Street SW Washington, D.C. 20554	Federal Aviation Administration 800 Independence Avenue, SW Washington, DC 20591
U.S. Congresswoman Elizabeth Esty Fifth District 114 West Main Street Old Post Office Plaza, LLC New Britain, CT 06051	U.S. Senator Richard Blumenthal 90 State House Square, 10th Floor Hartford, CT 06103
U.S. Senator Christopher Murphy One Constitution Plaza, 7 th Floor Hartford, CT 06103	

Town of Cheshire

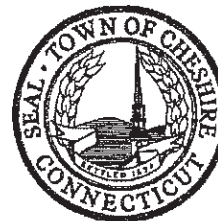
<p>Town Manager Michael A. Milone Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>	<p>Planning & Zoning Commission Earl Kurtz III, Chairman Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>
<p>Town Clerk Carolyn Soltis Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>	<p>Inland Wetlands Commission Robert deJongh, Chairman Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>
<p>William Voelker, AICP, Town Planner Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>	<p>Environment Commission William Sherman, Chairman Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>
<p>David Kehoss, Zoning Enforcement Officer/Inland Wetland Agent Cheshire Town Hall 84 South Main Street Cheshire, CT 06410</p>	

DOCKET No. 451

ATTACHMENT 12

TOWN OF CHESHIRE

Planning & Zoning Commission
84 South Main Street
Cheshire, Connecticut 06410
203-271-6670 • Fax 203-271-6688



May 23, 2014

Michael A. Milone
Town Manager
Town of Cheshire
84 South Main Street
Cheshire, CT 06410

Dear Mr. Milone:

At the special meeting of the Planning and Zoning Commission held on May 12, 2014, the following motion was approved:

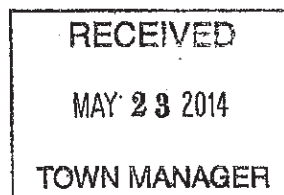
MOVED that the Planning and Zoning Commission finds that the construction of a radio transmission tower by Homeland Towers on the town-owned property at 1325 Cheshire Street, the site of the Town's Wastewater Treatment Plant, is not in conflict with the 2002 Cheshire Plan of Conservation and Development, and hereby makes a favorable referral in accordance with Section 8-24 of the Connecticut General Statutes.

Moved by Ms. Marinaro; seconded by Mr. Kardaras. VOTE the motion passed unanimously by those present.

Respectfully,

Lelah Campo, Secretary
CHESHIRE PLANNING AND ZONING COMMISSION

LC:jp



MOVED that the Planning and Zoning Commission hereby extends the existing Earth Removal, Filling and Regardng Permit application of Cheshire Route 10 LLC granted in conjunction with the approval of the Interchange Special Development Project known as the Outlets at Cheshire for a period of one year from the date of public notice of approval to July 25, 2015.

VOTE The motion passed unanimously by those present.

2. Letter from Michael A. Milone, Town Manager, dated 5/8/14 RE: 8-24 Review – Referral, Lease of Parcel at Waste Water Treatment Plant.

MOTION by Ms. Marinaro; seconded by Mr. Kardaras.

MOVED that the Planning and Zoning Commission finds that the construction of a radio transmission tower by Homeland Towers on the town-owned property at 1325 Cheshire Street, the site of the Town's Wastewater Treatment Plant, is not in conflict with the 2002 Cheshire Plan of Conservation and Development, and hereby makes a favorable referral in accordance with Section 8-24 of the Connecticut General Statutes.

Discussion

Mr. Voelker informed the Commission that the cell tower will be erected at the site of the treatment plant under a lease option, with no improvements by the Town. The Town Attorney has advised that the Commission should do an 8-24 approval. This is a 170 foot tower with space for Town emergency equipment. Mr. Voelker explained that The Connecticut Siting Council makes the ultimate decision on the cell tower, and the Commission has no authority on the tower's location or any other issues related to the tower.

A question was raised by Ms. Visconti about looking at the Plan of Conservation and Development (Plan) regarding this cell tower.

Mr. Voelker advised that there is no mention of cell towers in the Plan, and the subject referral is an 8-24 review. He also noted that the Plan is not a regulatory document and cannot, legally, regulate placement of towers, as this is a decision of the Siting Council.

A letter was read into the record by Mr. Voelker with regard to the cell tower. He stated that the Siting Council will hold a public hearing on the cell tower location to receive public input. Mr. Voelker explained that wireless companies have broad rights under federal regulations.

VOTE The motion passed unanimously by those present.

VII. UNFINISHED BUSINESS

June 12, 2014

Michael A. Milone, Town Manager
Town of Cheshire Town Hall
84 South Main Street
Cheshire, CT 06410

RE: Tower Facility on Town Owned Property
1325 Cheshire Street, Cheshire, Connecticut

Dear Mr. Milone:

We are counsel to Homeland Towers LLC ("Homeland Towers") and assisting it in the preparation of an application to the State of Connecticut Siting Council regarding the above referenced tower project. It is our understanding that discussions and negotiations by and among Homeland and Town representatives have taken place over the course of the last two years. Indeed, in furtherance of a lease agreement approved by the Town and executed by the parties, Homeland Towers plans to construct a new tower facility just north of the municipally owned water treatment facility located at 1325 Cheshire Street. The tower as you know will host Town public safety communications facilities and those of FCC licensed wireless carriers such as New Cingular Wireless PCS, LLC (AT&T). The purpose of our letter is to confirm next steps in the regulatory review process.

Siting Council Jurisdiction Over The Tower Project

In this instance, while the tower and its overall height are needed to serve a critical municipal public safety need, we understand the structure will be owned by Homeland Towers and also used for the provision of commercial mobile services. The use is thus a hybrid one and we understand the Town as part of its overall discussion with Homeland and the project planning, has confirmed that the tower facility on Town land will be subject to State Siting Council review as opposed to local zoning, environmental and other land use regulations. This conclusion is consistent with

Attorney General opinions provided to the Siting Council in other proceedings on the distinction between municipal towers and cellular towers.

Municipal Consultation

Typically after a lease is executed for a purely cellular tower facility proposed on a private parcel of land, the next step in the siting process would involve submission of a technical report to the municipality in which the facility is proposed as required by Section 16-50I of the Connecticut General Statutes. Nevertheless, in the case of municipally owned parcels where a cellular tower facility is proposed, the municipal lease review process generally provides for a thorough exchange of the same information which would be included in a technical report and be the subject of consultations with the municipality. As such, as a legal matter, it is our opinion that Section 16-50I's municipal consultation provision does not apply to cellular towers proposed on municipal land and that an application may be submitted to the Siting Council without the need for submission of a technical report and 90 day consultation period. We do nevertheless in matters such as this one typically seek confirmation from the Town's chief elected official that no further consultation is required prior to filing and application with the Siting Council. We would appreciate the Town's confirmation and correspondence in this regard authorizing Homeland Towers to file its application with the Siting Council in the coming weeks.

Preliminary Siting Council Application Materials

In this particular matter with the Town of Cheshire, we understand the design of the site has included a number of discussions regarding of the Town's communications needs, coordination of site design details, a referral to the Planning and Zoning Commission under Connecticut General Statute Section 8-24 and execution of a lease for the tower facility which Homeland will construct, operate and maintain. Enclosed are several of the reports we plan on filing with the Council, many of which the Town has already reviewed as part of its consideration of the project. Specifically, we are providing at this time a bound copy of the following information which will be incorporated into Homeland's application to the Siting Council, and which is much the same information we otherwise typically include in a technical report under Section 16-50I.

As noted from the enclosed materials, the proposed site is an approximately 59.0 acre parcel located at 1325 Cheshire Street owned by the Town of Cheshire. The site is currently the location of a municipal water pollution control plant and municipal recreation fields and associated access drives and parking along with some wooded areas. The proposed telecommunications facility includes a lease area located to the north of the water treatment plant.

The tower compound would consist of a 62' by 75' area to accommodate the ground based equipment of the Town and AT&T and provide for future shared use of the facility by other carriers. The tower compound would be enclosed by an 8' foot high chain link fence. Vehicle access to the facility would be provided from Cheshire Street, largely over an existing bituminous driveway for a distance of approximately 1,360' AGL to an existing gate north of the water treatment plant and then over a proposed gravel access drive approximately 140' to the equipment compound gate. Utilities will be provided from an existing utility pole on site approximately 385' from the proposed equipment compound.

The tower itself is a new self-supporting monopole 170' in height. The Town's whip antennas would occupy the highest point on the tower attached by stand-offs. AT&T would install up to twelve panel antennas and related equipment at a centerline height of 155' above grade level (AGL). The tower would be designed for future shared use of the structure by other FCC wireless carriers. Space is reserved at the base of the tower to host the necessary ground-based equipment for the operation of the Town antennas. An AT&T 11.5' x 16' equipment shelter would also be installed on a concrete pad within the tower compound together with provisions for a fixed back-up power generator.

Overall and at this time, no significant adverse impacts to the environment are anticipated in association with the proposed facility. Indeed, it is notable that:

- No significant water flow and/or water quality changes are anticipated as a result of the construction or operation of the proposed facility.

- One wetland was delineated within the study area consisting of a forested floodplain wetland associated with the nearby Quinnipiac River approximately 150 feet west from the proposed facility.
- No direct impact to wetlands or watercourses is anticipated; though the potential presence of a vernal pool is being investigated but potential impacts would be limited if any.
- Best Management Practices to control storm water and soil erosion during construction will be implemented.
- Under ordinary operating conditions, the equipment that would be used at the proposed facility would emit no air pollutants of any kind.
- Some grading will be required for the facility. The remaining land of the Town would remain unchanged by the construction and operation of the facility.
- The equipment to be in operation at the facility would not emit noise other than that provided by the operation of the installed heating, air-conditioning and ventilation system.
- In general, year-round views of the tower appear limited to the Host Property and its immediate vicinity (0.25 mile or less) as can be seen in photos 12, 8 and 14, for example while beyond this distance, year-round views become very sporadic and offer less of a profile of the Facility
- The site is under evaluation in accordance with the FCC's regulations implementing the National Environmental Policy Act of 1969 ("NEPA") and no significant impacts are anticipated. Evaluation is ongoing with the Connecticut State Historic Preservation Officer ("SHPO") but no nearby historic resources have been identified to date.
- The Connecticut Department of Energy and Environmental Protection ("CTDEEP") Natural Diversity Database ("NDDB") map for the proposed Site was reviewed and CTDEEP has been contacted regarding any potential presence of special concern species

Next Steps & Any Additional Town Information

At this time, we are seeking confirmation that Homeland Towers may file an application with the Siting Council at any time in accordance with its lease with the Town of Cheshire. Additionally, if there is any additional information you or other

**CUDDY&
FEDER^{LLP}**

Town agencies and representatives would like included in the application itself, we would appreciate your providing that to us at your earliest convenience. Once the application is in final form, a notice will be sent to abutting property owners and provided in the newspaper as required by state law. Thereafter, a full and complete copy of the application will be sent to you and town agencies including the Planning & Zoning Commission, Inland Wetlands Commission and others in accordance with state law requirements.

On behalf of Homeland Towers, we would like to thank the Town of Cheshire for its leadership on this project and we look forward to working with you on a facility that will serve both municipal public safety and AT&T's needs in serving the public.

Very truly yours,


Daniel M. Laub

Cc: Burt Cohen, Esq., Town Attorney
Manuel Vicente, Homeland Towers
Vincent Xavier, Homeland Towers
Earl Kurtz III, Chairman Planning & Zoning Commission
Robert deJongh, Chairman Inland Wetlands Commission

Laub, Daniel M.

From: Burt Cohen [BCOHEN@murthalaw.com]
Sent: Tuesday, July 01, 2014 3:59 PM
To: Vince Xavier
Cc: Milone, Michael; Laub, Daniel M.; Vergati, Christine M.
Subject: Re: Homeland Towers package CT005 Cheshire

Vince, you have the green light to proceed.

Burt

Sent from my iPhone

On Jul 1, 2014, at 11:27 AM, "Vince Xavier" <vlx@homelandtowers.us> wrote:

Burt,

Thank you for your reply. Just to confirm: the Town Manager was able to review our submission and there is no other consultation required by the town, correct? If you can confirm that we will proceed with filing. The Application is in draft form and approximately 80% complete and the final pieces should be in place the next week or so and a filing by the week of July 7th is likely. The attorneys will make sure to copy you in addition to the regular service list as noted.

Vincent Xavier

<image001.jpg>

Site Development Manager
22 Shelter Rock Ln., Building C, Danbury, CT 06810
Cell: 914-879-9172
vlx@homelandtowers.us

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Burt Cohen

Partner

BCOHEN@murthalaw.com



Murtha Cullina LLP | Attorneys at Law | www.murthalaw.com
Whitney Grove Square, 2 Whitney Avenue | New Haven | CT | 06510-1220
Direct: 203-772-7714
Fax: 860-240-5714

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From: Burt Cohen [<mailto:BCOHEN@murthalaw.com>]

Sent: Friday, June 20, 2014 10:15 AM

To: Vince Xavier

Cc: 'Milone, Michael'

Subject: Homeland Towers package

Vince,

Based on my review of the materials, the proposal is consistent with the lease and subsequent discussions. Homeland Towers is authorized to submit its application to the CT Siting Council consistent with the materials and the lease. Let us know if you need anything else from the Town as you go forward. Please also have your attorney send me a copy of the application at my New Haven office, along a copy to Mr. Milone and the other town officials as required by Siting Council rules.


Thank you and good luck.

Burt

Burt Cohen

Partner

BCOHEN@murthalaw.com

 Murtha Cullina LLP | Attorneys at Law | www.murthalaw.com
Whitney Grove Square, 2 Whitney Avenue | New Haven | CT | 06510-1220
Direct: 203-772-7714
Fax: 860-240-5714

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