

STATE OF CONNECTICUT *CONNECTICUT SITING COUNCIL* Ten Franklin Square, New Britain, CT 06051 Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: <u>siting.council@ct.gov</u> Web Site: portal.ct.gov/csc

Hearing Program Docket No. 487 Thursday, July 9, 2020 2:00 p.m. Zoom Remote Public Hearing

- I. Opening by Council
  - A. Statement read by Presiding Officer.
  - B. Motions
  - C. Administrative Notice taken by Council

# **FEDERAL**

- 1. FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF ENGINEERING AND TECHNOLOGY, Questions and Answers About Biological Effects and Potential Hazards of Radiofrequency Electromagnetic Fields, OET Bulletin No. 56, August 1999, available at https://transition.fcc.gov/Bureaus/Engineering\_Technology/Documents/bulletins/oet56/oet56e4.p df
- 2. FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF ENGINEERING AND TECHNOLOGY, Evaluating Compliance with FCC-Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, OET Bulletin No. 65, August 1997, available at https://transition.fcc.gov/Bureaus/Engineering\_Technology/Documents/bulletins/oet65/oet65.pdf
- 3. FEDERAL COMMUNICATIONS COMMISSION, *Guidelines for Evaluating the Environmental Effects* of Radiofrequency Radiation Report and Order, August 1, 1996, available at <u>https://transition.fcc.gov/Bureaus/Engineering\_Technology/Orders/1996/fcc96326.pdf</u>
- Telecommunications Act of 1996, as amended, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C), *available at* <u>https://transition.fcc.gov/Reports/tcom1996.pdf</u>
- 5. FEDERAL COMMUNICATIONS COMMISSION, *Warning, Alert and Response Network Act*, Pub. L. No. 109-437, 120 Stat. 1936 (2006), (codified at 47 U.S.C. §332(d)(1)) (2006), *available at* <u>https://transition.fcc.gov/pshs/docs/emergency-information/cmas-warn-act.pdf</u>
- 6. Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 615-615b, as amended, *available at* <u>https://www.congress.gov/bill/106th-congress/house-bill/438/text/ih</u>.
- 7. Enhance 911 Act of 2004, as amended, 47 U.S.C. § 942, as amended, *available at* <u>https://www.gpo.gov/fdsys/pkg/PLAW-108publ494/pdf/PLAW-108publ494.pdf</u>

- Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 Wireless Facilities Deployment 2012, *available at* <u>https://www.gpo.gov/fdsys/pkg/PLAW-112publ96/pdf/PLAW-112publ96.pdf</u>
- Actions That May Have a Significant Environmental Effect, for Which Environmental Assessments (EAs) Must be Prepared, 47 C.F.R. § 1.1307, as amended, *available at*. <u>https://www.gpo.gov/fdsys/pkg/CFR-2013-title47-vol1/pdf/CFR-2013-title47-vol1-sec1-1307.pdf</u>
- 10. Radiofrequency Radiation Exposure Limits, 47 C.F.R. § 1.1310, as amended, *available at* <u>https://www.gpo.gov/fdsys/pkg/CFR-2002-title47-vol1/pdf/CFR-2002-title47-vol1-sec1-1310.pdf</u>
- 11. Presidential Proclamation No. 8460, 74 Fed. Reg. 234 (December 8, 2009), *available at* <u>http://www.presidency.ucsb.edu/ws/index.php?pid=86954</u>
- Presidential Order No. 13616, Accelerating Broadband Infrastructure Development, 77 Fed. Reg. 119 (June 14, 2012), *available at <u>http://www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-15183.pdf</u>*
- 13. Presidential Policy Directive No. 21, Critical Infrastructure Security and Resilience, February 12, 2013, available at <u>https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil</u>
- 14. DIVISION OF MIGRATORY BIRD MANAGEMENT, UNITED STATES FISH & WILDLIFE SERVICE, UNITED STATES DEPARTMENT OF THE INTERIOR, *Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance and Decommissioning*, last updated August 2016, *available at* <u>https://www.fws.gov/migratorybirds/pdf/management/usfwscommtowerguidance.pdf</u>
- 15. National Park Service, United States Department of the Interior, *National Register of Historic Places available at https://www.nps.gov/nr/research/index.htm*
- FEDERAL AVIATION ADMINISTRATION, Obstruction Marking and Lighting, Advisory Circular AC No. 70/7460-1L, December 4, 2015, available at https://www.faa.gov/documentLibrary/media/Advisory\_Circular/AC\_70\_7460-1L\_.pdf
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- 18. FEDERAL COMMUNICATIONS COMMISSION, *Opportunities to Reduce Bird Collisions with Communications Towers While Reducing Tower Lighting Costs*, January 6, 2017, *available at* <u>https://www.fws.gov/migratorybirds/pdf/management/fccopportunitiestoreducebirdcollisions.pdf</u>
- Stephen J. Blumberg, et al, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July – December 2017, Division of Health Interview Statistics, National Center for Health Statistics, U.S. Center of Disease Control, June 2018, available at https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201806.pdf

- 20. FEDERAL COMMUNICATIONS COMMISSION, Public Notice Wireless Telecommunications Bureau Offers Guidance on Interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, DA 12-2407, January 25, 2013, available at <u>https://apps.fcc.gov/edocs\_public/attachmatch/DA-12-2047A1.pdf</u>
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- 22. FEDERAL COMMUNICATIONS COMMISSION, *Text-to-911: Quick Facts & FAQs*, June 2013, *available at http://www.fcc.gov/guides/text-911-quick-facts-faqs*.
- 23. FEDERAL COMMUNICATIONS COMMISSION, *Wireless Infrastructure Report and Order*, FCC 14-153, October 21, 2014, *available at* <u>http://www.fcc.gov/document/wireless-infrastructure-report-and-order</u>
- 24. FEDERAL COMMUNICATIONS COMMISSION, *Second Report and Order*, FCC 18-30, March 30, 2018, *available at* <u>https://docs.fcc.gov/public/attachments/FCC-18-30A1.pdf</u>
- 25. FEDERAL COMMUNICATIONS COMMISSION, *Third Report and Order and Declaratory Ruling*, FCC 18-111, August 3, 2018, *available at* <u>https://docs.fcc.gov/public/attachments/FCC-18-111A1.pdf</u>
- 26. FEDERAL COMMUNICATIONS COMMISSION, *Third Report and Order*, FCC 18-133, September 27, 2018, *available at* <u>https://docs.fcc.gov/public/attachments/DOC-353962A1.pdf</u>
- 27. UNITED STATES DEPARTMENT OF AGRICULTURE, Soil Survey Manual, Handbook No. 18, March 2017, *available at* https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/soils/ref/?cid=nrcs142p2\_054262

# **STATE**

### **Connecticut Siting Council**

- STATE OF CONNECTICUT SITING COUNCIL, Statewide Plan for Wireless Telecommunications Coverage, Revised October 2018, available at <u>https://www.ct.gov/csc/lib/csc/publications/2018telcomplan\_final.pdf</u>
- 29. STATE OF CONNECTICUT SITING COUNCIL, *Telecommunications Facilities: An Illustrated Primer* on the Siting of Facilities Within Connecticut and Throughout the Nation, Version II, available at http://www.ct.gov/csc/lib/csc/csc\_tower\_3\_07.pdf
- 30. STATE OF CONNECTICUT SITING COUNCIL, *Statewide Telecommunications Coverage Database*, *available at* <u>http://www.ct.gov/csc/cwp/view.asp?a=895&Q=248312&cscNav=|</u>
- 31. DOCKET NO. 432 Feasibility study of back-up power requirements for telecommunications towers and antennas pursuant to Public Act 12-148, *available at* <u>http://www.ct.gov/csc/cwp/view.asp?a=962&Q=511254&PM=1</u>

Docket No. 487 Hearing Program July 9, 2020 Pg. 4

### Department of Energy and Environmental Protection

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- 33. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *The Connecticut Stormwater Quality Manual*, 2004 and appendices, *available at* <u>http://www.ct.gov/deep/cwp/view.asp?a=2721&q=325704&depNav\_GID=1654</u>
- 34. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, BUREAU OF WATER PROTECTION AND LAND REUSE, PLANNING AND STANDARDS DIVISION, *Water Quality Standards*, Effective October 10, 2013, *available at* <u>http://www.ct.gov/deep/lib/deep/regulations/22a/22a-426-1through9.pdf</u>
- 35. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Connecticut Air Quality Standards*, Effective April 15, 2014, Regulations of Connecticut State Agencies §§ 22a-174-24, et seq.
- 36. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Connecticut Noise Control Regulations*, Effective June 15, 1978, Regulations of Connecticut State Agencies §§22a-69-1, et seq.
- 37. STATE OF CONNECTICUT, DEPT. OF PUBLIC UTILITY CONTROL, Docket No. 08-06-19, DPUC Investigation into the Deployment of Distributed Antenna System (DAS) in the Public Rights of Way, September 29, 2010.
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- 40. PUBLIC UTILITIES REGULATORY AUTHORITY, Connecticut Public Utilities Cybersecurity Action Plan, April 6, 2016, available at http://www.ct.gov/pura/lib/pura/electric/cyber report April 6 2016.pdf
- 41. STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, BUREAU OF WATER MANAGEMENT, WETLANDS MANAGEMENT SECTION, *Guidelines: Upland Review Area Regulations, Connecticut's Inland Wetlands and Watercourses Act*, June 1997, *available at* http://www.ct.gov/deep/lib/deep/water inland/wetlands/upland review document june1997.pdf

## Department of Transportation

- 42. STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION, *ConnDOT Drainage Manual* 2000, last revised December 2003, *available at* <u>http://www.ct.gov/dot/cwp/view.asp?a=3200&q=260116</u>
- 43. STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION, Policy Statement for Telecommunications Installations Within the State Highway Right of Way, Policy No. E&H.O. – 53, August 7, 2006, available at <u>http://www.ct.gov/csc/lib/csc/row\_ps.pdf</u>

## **Other State Agencies**

- 44. STATE OF CONNECTICUT OFFICE OF POLICY AND MANAGEMENT, *Conservation and Development Policies Plan for Connecticut 2013-2018*, June 5, 2013, *available at* <u>http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/2013-2018\_cd\_plan.pdf</u>
- 45. STATE OF CONNECTICUT DEPARTMENT OF PUBLIC HEALTH, Environmental and Occupational Health Assessment, Radiation – Cell Phone Towers – Questions and Answers about Health, May 2015, available at http://www.ct.gov/dph/lib/dph/environmental health/eoha/pdf/051115 cell phone tower final.p df
- 46. STATE OF CONNECTICUT DEPARTMENT OF PUBLIC HEALTH, Cell Phones Questions and Answers about Safety, May 2015, available at <u>http://www.ct.gov/dph/lib/dph/environmental\_health/eoha/toxicology\_risk\_assessment/050815\_c</u> <u>ell\_phones\_final.pdf</u>
- 47. STATE OF CONNECTICUT, STATE VEGETATION MANAGEMENT TASK FORCE, *Final Report Issued* to the Connecticut Department of Energy and Environmental Protection, August 28, 2012, available at <a href="http://www.ct.gov/deep/lib/deep/forestry/vmtf/final\_report/svmtf\_final\_report.pdf">http://www.ct.gov/deep/lib/deep/forestry/vmtf/final\_report.pdf</a>
- 48. Final Report of the Two Storm Panel, January 9, 2012, *available at* <u>http://www.governor.ct.gov/malloy/lib/malloy/two\_storm\_panel\_final\_report.pdf</u>
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- 52. STATE OF CONNECTICUT, EXECUTIVE ORDER NO. 7B, Protection of Public Health and Safety During COVID-19 Pandemic and Response – Further Suspension or Modification of Statutes, March 14, 2020, available at <u>https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7B.pdf</u>
- 53. Manor Development Corp. v. Conservation Comm. of Simsbury, 180 Conn. 692, 701 (1980).
- 54. Grimes v. Conservation Comm. of Litchfield, 243 Conn. 266, 278 (1997).

## **TECHNICAL**

- 55. INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz, IEEE Std. C95.1-2005, November 1, 2009, available at <u>https://standards.ieee.org/findstds/standard/C95.1-2005.html</u>
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- 57. TELECOMMUNICATIONS INDUSTRY ASSOCIATION, Structural Standards for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures, TIA-222-H, effective January 1, 2018, available at https://global.ihs.com/search\_res.cfm?RID=TIA&INPUT\_DOC\_NUMBER=TIA-222%20
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# **ENVIRONMENTAL**

- 61. RICHARD M. DEGRAAF & DEBORAH D. RUDIS, *New England Wildlife: Habitat, Natural History, and Distribution*, University of Massachusetts Press 1983, *available at* <u>http://www.treesearch.fs.fed.us/pubs/4148</u>
- 62. UNITED STATES ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT, Vernal Pool Best Management Practices, January 2015, available at https://www.nae.usace.army.mil/Portals/74/docs/regulatory/VernalPools/VPBMPsJan2015.pdf
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- 65. UNITED STATES ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT, The Highway Methodology Workbook Supplement, Wetland Functions and Values, September 1999, available at http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Forms/HighwaySupplement6Apr2015.

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- 66. UNITED STATES ARMY CORPS OF ENGINEERS, General Permits for the State of Connecticut & Lands Located Within the Boundaries of an Indian Reservation, Effective Date August 19, 2016, Expiration Date August 19, 2021, available at: <u>https://www.nae.usace.army.mil/portals/74/docs/regulatory/StateGeneralPermits/CT/Connecticut</u> <u>General\_Permits-August\_2016.pdf</u>
- 67. <u>STATE OF CONNECTICUT, DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION,</u> <u>INLAND FISHERIES DIVISION, Habitat Conservation and Enhancement Program, Stream Crossing</u> <u>Guidelines, February 26, 2008, available at</u> <u>https://www.ct.gov/deep/lib/deep/fishing/restoration/streamcrossingguidelines.pdf</u>

# **MAPS**

- 68. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Natural Diversity Database Map for the Town of New Canaan*, (last updated December 2019), *available at* <u>https://www.depdata.ct.gov/naturalresources/endangeredspecies/nddbpdfs.asp</u>
- 69. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, *Statewide Aquifer Protection Area Maps*, last updated August 26, 2019, *available at* <u>https://portal.ct.gov/DEEP/Aquifer-Protection-and-Groundwater/Aquifer-Protection/Aquifer-Protection-Area-Maps</u>
- 70. STATE OF CONNECTICUT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION, Northern long-eared bat areas of concern in Connecticut to assist with Federal Endangered Species Act Compliance, last updated February 1, 2016, available at http://www.ct.gov/deep/lib/deep/endangered\_species/images/nleb\_approved2\_16.pdf

- 71. UNIVERSITY OF CONNECTICUT, CONNECTICUT ENVIRONMENTAL CONDITIONS ONLINE, *Connecticut Critical Habitats and Open Space*, last updated November 28, 2012, *available at* <u>http://cteco.maps.arcgis.com/home/item.html?id=a1bf59798c5b45a98aeaeb97dafd60b9</u>
- 72. CONNECTICUT FOREST & PARK ASSOCIATION, CONNECTICUT WALK BOOK 20<sup>TH</sup> ED. 2017, *available at* <u>http://www.ctwoodlands.org/connecticut-walk-book-20th-edition</u>
- 73. NATIONAL AUDUBON SOCIETY, *Connecticut Important Bird Areas, available at* <u>http://netapp.audubon.org/iba/state/US-CT</u>
- 74. Mail-A-Map Street Map, (New Canaan), available at http://mailamap.com/street-maps
- 75. UNITED STATES GEOLOGICAL SURVEY, Connecticut Topographic Map Collection (Norwalk North Quadrangle -2018), *available at http://magic.lib.uconn.edu/topographic\_maps.html* 
  - D. State Agency comments
  - E. Municipal comments
    - 1. Town of New Canaan Planning and Zoning Commission Comments and attachment, dated July 1, 2020
    - 2. Town of New Canaan Comments and attachment, dated July 2, 2020
  - F. Telecommunications Carrier comments
    - 1. T-Mobile/Sprint comments, dated July 1, 2020

#### II. Appearance by Applicants

Applicants:

Homeland Towers, LLC & New Cingular Wireless PCS, LLC, d/b/a AT&T (ATTHT)

Representatives:

Lucia Chiocchio, Esq. Daniel Patrick, Esq. Cuddy & Feder, LLP

A. Administrative Notice.

1.

- B. Exhibits for Identification.
  - 1. Application for a Certificate of Environmental Compatibility and Public Need filed by Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T received February 7, 2020, and attachments and bulk file exhibits including:

Bulk file exhibits:

- a. New Canaan 2014 Plan of Conservation
- b. New Canaan Zoning Regulations, adopted June 14, 1932, amended August 16, 2019
- c. New Canaan Zoning Map, revised April 15, 2015

- d. New Canaan Inland Wetlands and Watercourses Regulations, adopted December 13, 2000, revised through January 1, 2013
- e. Technical Report
- f. Wireless Market Study of the Town of New Canaan, CT, prepared by Centerline Solutions, December 1, 2014
- 2. Applicants' Affidavit of Publication, dated March 10, 2020
- 3. Applicants' Responses to Council Interrogatories, Set One, dated March 27, 2020
- 4. Applicants' Responses to Wiley Interrogatories, Set One, dated April 24, 2020
- 5. Applicants' Supplemental Submission, dated May 27, 2020
- 6. Applicants' Responses to Council Interrogatories, Set Two, dated July 2, 2020
- 7. Applicants' Responses to Wiley Interrogatories, Set Two, dated July 2, 2020
- 8. Applicants' Affidavit of Sign Posting, dated July 1, 2020
- 9. Applicants' Errata Sheet, dated July 2, 2020
- 10. Protective Order related to unredacted lease agreement, signed February 27, 2020
- C. Swear Witnesses
  - 1. Raymond Vergati, Regional Manager, Homeland Towers LLC
  - 2. Manuel Vincente, President, Homeland Towers LLC
  - 3. Harry Carey, External Affairs, AT&T
  - 4. Robert Burns, P.E., Project Manager, All Points Technology Corp. P.C.
  - 5. Michael Libertine, LEP, Director of Siting and Permitting, All Points Technology Corp. P.C.
  - 6. Brian Gaudet, Project Manager, All Points Technology Corp. P.C.
  - 7. Martin Lavin, Radio Frequency Engineer, C<sup>2</sup> Systems on behalf of AT&T
  - 8. Dan Stebbins, AT&T FirstNet
- D. Full Exhibits Verification of exhibits by witnesses and admission by the Council.
- E. Cross Examination.
  - 1. Council
  - 2. Soundview Neighbors Group
  - 3. St. Luke's School/St. Luke's Foundation, Inc.
- III. Appearance by Party:

Representative:

Soundview Neighbors Group (SVN)

John W. Cannavino, Esq. Cummings & Lockwood LLC

A. Administrative Notice.

1.

- B. Exhibits for Identification.
  - 1. Hugh C. Wiley and Judith R. Wiley Request for Party Status, dated April 8, 2020
  - 2. Joseph E. Sweeney and Kathleen A. Sweeney Request for Intervenor Status, dated April 9, 2020

Docket No. 487 Hearing Program July 9, 2020 Pg. 10

- 3. Steven Sosnick and Miriam H. Sosnick Request for Intervenor Status, dated April 10, 2020
- 4. Pre-filed Testimony of Hugh C. Wiley, dated July 2, 2020
- 5. Pre-filed Testimony of Joseph E. Sweeney, dated July 2, 2020
- 6. Pre-filed Testimony of Steven Sosnick, dated July 2, 2020
- 7. Pre-filed Testimony of Garrett Camporine, dated July 2, 2020
- C. Swear Witnesses
  - 1. Hugh C. Wiley
  - 2. Joseph E. Sweeney
  - 3. Steven Sosnick
  - 4. Garrett Camporine
- D. Full Exhibits Verification of exhibits by witnesses and admission by the Council.
- E. Cross Examination.
  - 1. Council
  - 2. Applicants
  - 3. St. Luke's School/St. Luke's Foundation, Inc.
- IV. Appearance by Party:

St. Luke's School/St. Luke's Foundation, Inc. (STLU)

Representatives:

Julia Gabriele Christopher Rosow

- A. Administrative Notice
- B. Exhibits for Identification:
  - 1. St. Luke's School/St. Luke's Foundation, Inc. Request for Party Status, dated April 13, 2020
  - 2. Pre-filed Testimony of Christopher Rosow and Julia Gabriele, dated July 2, 2020
  - 3. Resumes of Christopher Rosow and Julia Gabriele, dated July 2, 2020
- C. Swear Witnesses
  - 1. Julia Gabriele, Associate Head of St. Luke's School and Chief Financial Officer
  - 2. Christopher Rosow, Member, St. Luke's Board of Trustees
- D. Full Exhibits Verification of exhibits by witnesses and admission by the Council.
- E. Cross Examination.
  - 1. Council
  - 2. Applicants
  - 3. Soundview Neighbors Group
- V. Continuation by Connecticut Siting Council.