

CONNECTICUT SITING COUNCIL

IN RE:
APPLICATION OF HOMELAND TOWERS, LLC
AND NEW CINGULAR WIRELESS PCS, LLC d/b/a
AT&T FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION,
MAINTENANCE, AND OPERATION OF A
TELECOMMUNICATIONS FACILITY AT 183
SOUNDVIEW LANE, TOWN OF NEW CANAAN,
CONNECTICUT
DOCKET NO. 487

MEMORANDUM IN OPPOSITION TO APPLICATION

The Soundview Neighbors, hereby submit this memorandum in opposition to the Application of Homeland Towers, LLC, in order to highlight the most salient points that were raised in the two hearings that occurred on July 9th and 28th, 2020.

The main points that the Soundview neighbors ask the Council to consider are:

1. Most importantly, the Soundview Neighbors urge the Council to visit the proposed site.. We submit that the Council should afford this proposal the same consideration that it generally gives other projects of this nature throughout the State of Connecticut. We understand that the Covid-19 crisis limited the Council's ability to conduct its normal visits in the typical timeframe. With the virus now under better control in our community, we respectfully ask that the Council members visit Soundview Lane – in an appropriately safe and physically distant manner, of course, so that the members can assess the likely adverse environmental impact on the neighborhood and St. Luke's School. This is particularly important following Tropical Storm Isaias, as the Council needs to assess whether the Tropical Storm caused any damage which has had an impact on screening and the visibility of the proposed tower.
2. The proposed tower offers meager incremental coverage. It is likely to improve service for as few as 369 people over .89 square miles in a town of roughly 20,000 residents with an area of approximately 21 square miles. Furthermore; the Applicant's engineers acknowledges little or no increase in capacity.
3. The proposed tower on Soundview Lane is not at all compliant with New Canaan's Planning and Zoning regulations. There are several aspects of the project, including but not limited to the siting on the property and the design of the tower, outbuildings and screening. At various points in the testimony, Homeland Towers and its team appeared unwilling to consider moving the facility or changing the project to satisfy the well-defined requirements of the town. Instead they acknowledged that the project was

- planned in accordance with the landlord's wishes, without regard for the Town's requirements or any input from surrounding neighbors, including St. Luke's School.
4. The neighbors did not simply oppose the proposed tower, they offered an alternative location on a nearby state highway (Route 123) that offers seamless handoffs to nearby towers, fills a coverage gap on that highway that the Soundview tower would otherwise leave, and provides service to a greater population on a site that is bounded largely by uninhabited woods. There was no evidence in the record to support Homeland's contention that the rental requested by the owner of the alternative location was "above market". Mr. Vergati testified that he did not even know what rental was being paid for other New Canaan towers, even though he claims he worked on the Country Club matter.
 5. The proposed tower violates Section 16-50p(3)(F) of the Connecticut General Statutes, as the facility would be less than two hundred fifty feet from a school. The Applicant argues that the statute only prohibits a facility from being less than two hundred fifty feet from a school building, but the statute uses the word "school" not "school building".

It is the Soundview Neighbors contention that the Council should deny the proposed Soundview Lane tower as it is currently proposed. It disrupts the character of an established, quiet residential street and an almost century old school for the sake of limited incremental cellular coverage in a sparsely inhabited area of New Canaan.

The Soundview Neighbors respectfully request that the Council consider the following excerpts from the testimony at the hearings.

Regarding testimony from the 7/9/20 Hearing:

1. At various points in the proceedings, Homeland refers to the landlord's desires regarding siting on the property and aesthetics. (pg 18, line 23; pg 20, line 2; pg 21, line 20;). There was no evidence of any consideration being given to the desires of any other stakeholders, including neighbors and the Town of New Canaan's Planning and Zoning Commission; The evidence was that no neighbors were ever even consulted.
2. Mr. Vergati from Homeland Towers asserts that "the facility cannot be moved to provide additional screening in that access drive." (pg. 20, line 12). In a later query, Mr. Morisette asks why it couldn't be moved south (pg 46, line 17). Mr. Vergati's response on page 47 again says he would have to "have some additional conversations with our landlord", but offered no concrete reason why it couldn't be sited accordingly. We submit there is no reason why it couldn't be moved far enough south to accommodate screening and P&Z requirements.
3. On page 25, line 1, Mr. Lavin states "it doesn't do any good in terms of capacity", and on line 13 adds "For the user experience, there isn't anyone experiencing a capacity deficiency right now in the sites around there."
4. On page 27, Mr. Perrone, the Council's Siting Analyst, asks about the stated coverage of the tower being several hundred square feet (an obvious typographical error). Yet Mr. Lavin from C-Squared gives a nebulous answer to the actual coverage, saying "it's over a number of square miles", and later asserts "I believe we addressed that in a previous

response.” For the record, it was not addressed. There was no definitive estimate of the number of households and residents that would benefit from the additional coverage.

5. In the discussions about coverage differences between Soundview Lane and Smith Ridge Road (commencing at page 39) Mr. Morissette correctly observed “Looking at the AGL of 146, that coverage appears...it appears that it does cover quite a bit of that.” The respondents provide no evidence about the population differences in the area covered by the alternative locations. As discussed throughout, Smith Ridge road is a main thoroughfare while the area to the north and east of Soundview Lane is sparsely populated.
6. On page 40, in response to a question from Mr. Morrisette, Mr. Vergati stated: “I’d like to really stress to the Council members regarding the 1160 Smith Ridge Road. It’s a property owner who I spoke with who requested a lot of money from a rental perspective, way above the market rent.” There was no evidence in the record to support this assertion. Mr. Vergati did not even know what rental was being paid for other New Canaan towers.
7. On pages 49-50, Mr. Vergati was dismissive of the planning and zoning requirements that the buildings resemble residential outbuildings.
8. In response to Mr. Edelson’s question on page 92, regarding compliance with town P&Z requirements, Mr. Vergati’s answer reveals again that Homeland was dismissive of the Town’s regulations, and that he knows what’s best.
9. In response to Mr. Cannavino’s questions on page 110, Mr. Burns acknowledges that moving the tower southward would have an insignificant change in elevation.
10. Regarding the site at 1160 Smith Ridge road, Mr. Lavin from C-Squared acknowledged that the site is 48 feet higher than the Soundview site.
11. On page 119 Mr. Vergati acknowledged that he couldn’t assume that the site at 1160 would not have preferable visibility concerns despite being located on a state highway (Rte. 123) and bordered by heavily wooded, largely uninhabited properties.
12. On page 123 Mr. Lavin acknowledged that although his propagation analysis was conducted only by computer modeling, not by crane tests, it failed to consider that much of the increased coverage provided by the Soundview site would be in areas with sparse or no population, and on page 130 he was unable to name the ½ mile of major road coverage that the Soundview site would provide. This is after acknowledging that the Smith Ridge site would provide seamless coverage on a state highway.

Regarding testimony from the 7/28/20 hearing:

1. On page 12, Mr. Vergati acknowledges that he “respected the landlord’s wishes in designing the site”. The evidence showed that landlord was the only affected Soundview Lane resident with whom Mr. Vergati discussed the proposed tower.
2. Mr. Libertine acknowledged he did not ask any Soundview neighbors for access to their properties in order to conduct a visibility analysis, but acknowledged that one of his soil scientists did enter on to Mr. Wiley’s property to mark wetlands. (Page 17.)

3. On page 17 and beyond, Mr. Vergati acknowledges that the design for the tower was done in close consultation with the landlord. He actually claimed not to recall most of the provisions of the P&Z regulations. (page 17 et. seq.) He testified that the landlord wanted a faux tree, so that was how they proceeded, despite a town preference for monopole designs and despite the fact that most other New Canaan towers are monopoles.
4. On page 26, apparently after researching his incomplete assertion raised in point 12 above, Mr. Lavin acknowledged that only ½ mile of Rte. 123 would gain coverage, leaving miles of gaps on that key thoroughfare.
5. On pages 27-28, Mr. Vergati acknowledges that if the tower were moved to comply with the P&Z requirement that a tower be located no closer than 90 feet from the property line, the tower would be closer to the landlord's house, but no closer to Mr. Wiley's house. Clearly Homeland, in collaboration with Mr. Richey, determined to locate the proposed tower closer to the neighboring school and away from Mr. Richey's home.
6. On page 29 and beyond, Mr. Lavin ultimately acknowledges that the incremental coverage provided by this tower would affect only 369 people and .89 square miles out of 21 in the town of New Canaan. There was absolutely no evidence to support the First Selectman's assertion that the tower would provide coverage for 1,000 families. We reiterate our request that the Council take judicial notice of the New Canaan Assessor's data base, as those records reveal how few homes are located in the area of coverage.
7. Under interrogation by Mr. Rosow on page 43, Mr. Lavin reluctantly admits that because of WiFi available to the St. Luke's community, they would only be gaining a different type of coverage, not new coverage.
8. On page 47, Mr. Vergati acknowledged that they never considered a site with a 90 foot setback from the property line.
9. On pages 51-52, Mr. Burns acknowledges that any additional screening would be have to be on St. Luke's property, forcing them to surrender their property to provide screening. That was strictly because the landlord controlled the facility's location on his property.
10. On page 58, Mr. Burns' testimony makes it clear that if the tower is extended in height – as was noted as being possible in prior testimony – the current proposed hinge point would be inadequate to prevent the tower from falling on St. Luke's property in the event of catastrophic failure.
11. On page 60 and beyond, Mr. Vergati ultimately acknowledged that despite their contention that the neighbors never allowed Homeland on their properties, there was adequate opportunity for them to provide notice to St. Luke's (and presumably others) ahead of their balloon test.
12. On page 72 Mr. Libertine acknowledges year-round visibility of the tower from St. Luke's School.
13. On page 73 and 76, Mr. Rosow and Ms. Gabriele noted that St. Luke's is planning to hold classes outdoors to meet the spacing guidelines that the CDC is putting out as a result of Covid 19.
14. On page 78, Mr. Lavin acknowledges that the Smith Ridge Road site would offer more coverage, "but not into the area we're trying to serve with this site."

15. In the questioning of Mr. Burns by Mr. Morrisette on page 87 and thereafter, Mr. Burns asserts that the yield point of the tower is designed to collapse within feet or inches of the property line. Yet there was prior testimony that the tower could be extended several more feet. In that case, the yield point would clearly be insufficient.
16. The Soundview neighbors all testified that despite relatively tall trees in the neighborhood, the tower would be above the tree line. Further, many of the mature Norway maples that are currently providing screening are suffering from root girdle, which will limit their lifespans.
17. During testimony by Mr. Camporine (page 123), he acknowledged that he would consider a rent of \$4,000/month for 1160 Smith Ridge Road.
18. In response to questions from Mr. Hannon (pages 129, 131) the neighbors emphasize that the cell tower project is completely out of character with the quiet residential neighborhood. Mr. Sosnick stated (page 132) "I really think that there are ways around this without having to set the precedent in our town of one landowner on a street basically encumbering all his neighbors by sticking a private business -- this would be a business. Sticking a private business that generates income in a neighborhood that is quiet, residential, I think that's a terrible precedent. There's a lien [sic] that separates commercial from residential. This does not do it, and it does it in a sense that it benefits one neighbor at the expense of all the others. That is a terrible precedent." Mr. Wiley added (page 133) "Laying precedence [sic] in examples under different administrations in this town, where the Town looked very carefully and very thoughtfully about the consequences and avoiding ... those unintended consequences, and in a case where they actually moved the tower, and in the long run, they mitigated the situation and avoided a lot of the negatives. I feel like we, as neighbors, have tried to be responsible to look for an alternative location that minimized the impact of the cell tower not only to the neighborhood but to the school. We've been very proactive in trying to bring a solution to the table, as opposed to just complaining about the problem."
19. In response to a question from Mr. Hannon (page 133), Mr. Sweeney testified that the First Selectman acknowledged that Soundview Lane already receives adequate coverage from the Vista, NY tower.

20. In response to a question from Mr. Morisette (page 149), Mr. Rosow reminded the Council (page 150) “The rear entrance to the school, our emergency exit and access is through Soundview Lane, and if that was blocked by a tower, for example, in some sort of catastrophic event, that would be a real concern to us.”

Respectfully Submitted,

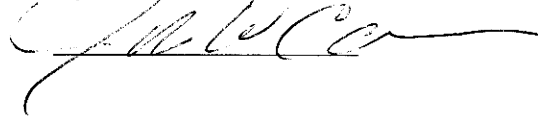
Hugh Wiley

Joseph Sweeney

Steven Sosnick

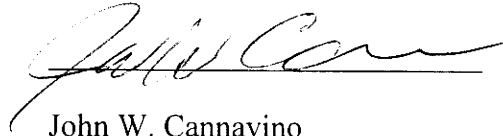
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By John W. Cannavino

A handwritten signature in black ink, appearing to read "John W. Cannavino", written over a horizontal line.

I hereby certify that on this day the foregoing was sent electronically to the Connecticut Siting Council and the service list below.

August 26, 2020



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