

STATE OF CONNECTICUT
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 ONE OF TWO
SITES IN THE TOWN OF KENT, CONNECTICUT

DOCKET NO. 488

May 15, 2020

**APPLICANTS' RESPONSES TO PARTIES AND INTERVENORS BALD HILL
NEIGHBORS INTERROGATORIES**

Q1. What are the distances from the property boundaries at Site A to the proposed monopole tower structure?

A1. *See the Site Impact Statement included in Application Attachment 4.*

Q2. Are there primary residences /houses within 600 feet of the proposed monopole tower at Site A? If so, how many houses, and what addresses?

A2. *A list of residential buildings and addresses within 1,000 feet of Site A was provided in Application Attachment 4.*

Q3. Did the Applicant(s) consider the effect, including any damage, (as would be consistent with Kent, Connecticut Zoning Regulations§ 9610), of the proposed monopole tower on the values of homes surrounding Site A? If so, what was the effect found in terms of property values and on what factors and reports did the Applicant(s) rely in determining that effect on value?

A3. *The impact of the Proposed Facility on property values is not included in the legal criteria for the Siting Council to consider in a certificate proceeding as set forth in Connecticut General Statutes ("C.G.S") Section 16-50p. C.G.S. Section 16-50p requires the Siting Council to balance the public need for facilities with their probable environmental impacts and does not allow for Siting Council consideration of real estate values.*

*In addition, please note that pursuant to C.G.S. Section 16-50x, the Siting Council has exclusive jurisdiction over telecommunications tower facilities in the State. Based on judicial decisions of the United States Second Circuit Court of Appeals and the Supreme Court of the State of Connecticut, no local zoning approvals or compliance with local zoning regulations are required for such telecommunication tower facilities. See Sprint Spectrum LP v. Connecticut Siting Council, 274 F.3d 674, 677 (Dec. 17, 2011); Town of Westport v. Connecticut Siting Council, 47 Conn. Supp. 382 (Super. Ct. 2001), *aff'd*, 260 Conn. 266, 274 (2002). Therefore, any Siting Council consideration of local zoning regulations is advisory*

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and not controlling. Thus, the Proposed Facility does not need to comply with the development standards in the Kent Zoning Regulations.

- Q4. Did the Applicant(s) compare the proposed monopole tower's effect values of neighboring homes near Site A to the effect of a "small cells" or similar solution (e.g., utility pole antennas, etc.) on those values? If so, how did the two solutions compare in terms of loss of value to neighboring properties?
- A4. *See the Section III.C of the Application for a discussion of Technological Alternatives. As discussed therein, "small cells" are not a practicable or feasible means of addressing the existing coverage deficiencies in Kent.*
- Q5. What is the proposed site disturbance at Site A (in square feet, and as a percentage of the parcel's square footage)?
- A5. *See the Site Evaluation Report included in Application Attachment 4.*
- Q6. How much impervious surface area would be added to the lot at Site A, and how much of that impervious surface would be within 100 feet of the property boundaries of Site A?
- A6. *The total impervious area for the proposed facility is identified by the various concrete equipment pads either within or just outside of the proposed fenced compound. If all active carriers install concrete equipment pads within the compound, the approximate area would be 1,160 square feet. This approximation is based on the assumption that all carriers will utilize concrete equipment pads, which is not always the case. All of these proposed equipment pads are within 100' of the existing property lines.*
- Q7. What is the grade/slope of the property within 100 feet of the boundary shared with the property of Peter Fitzpatrick (15 Bald Hill Road)?
- A7. *Approximately 90% of the proposed development occurs within 100' of the southern property line. The proposed grades/slopes vary significantly across the development so there is no one grade or slope that occurs in that area.*
- Q8. What degree of excavation and re-grading would be performed to within 100 feet of the southern and western boundaries of the Site A property, or within 250 feet of any neighboring house?
- A8. *Approximately 90% of the proposed grading will occur within 100' of the southern and the western property lines. Approximately 90% of the proposed development occurs within 250' of two single family residences located at 9 Bald Hill Road and 15 Bald Hill Road.*
- Q9. What is the Applicants' plan to mitigate erosion and run-off due to re-grading and impervious surface to be done within 100 feet of the property boundaries of Site A?
- A9. *An environmental assessment statement for Site A was provided in Application Attachment*

7. As noted therein, Erosion and Sedimentation Control measures will be designed, installed and maintained during construction activities in accordance with the 2002 Connecticut Guidelines For Soil Erosion and Sediment Control. These measures are shown on the Site Drawings provided in Application Attachment 3.

Q10. As to Site A: how far is the edge of the cell tower and compound (including any fence) from each property boundary at the closest points?

A10. See Response A1.

Q11. Has the proposed tower for Site A been designed with a "breakpoint" (technology causing the tower to snap-and-fall or telescope downward)? If so, where is that breakpoint located on the tower's structure?

A11. The proposed 154' monopole will be designed with a hinge point at 91' AGL.

Q12. In the event of a tower break or collapse, has the Applicant(s) studied where around Site any substantial debris (include any portion of the monopole and any attachment thereto) would fall (e.g., a fall zone for debris)?

A12. As noted in the Application, Attachment 4, the tower will be deigned in accordance with American National Standards Institute TIA/EIA-222-G "Structural Standards for Steel Antenna Tower and Antenna Support Structures" and the 2012 International Building Code with 2016 Building Code Amendment. Thus, a tower break or collapse is highly unlikely. With respect to a tower radius, see Response A11.

Q13. Does the Applicant(s) have a mapped and designated "fall zone" for the tower as would be delineated on a site plan complying with Kent, Connecticut Zoning Regulations § 9640?

A13. See Responses A3 and A11.

Q14. Is it possible that any attachment, wire, or other apparatus of the proposed tower on Site A, or its accompanying utility compound (including wires, antennas, etc.) could catch fire (whether due to natural causes or man-made conditions)?

A14. Yes, however the possibility is very low. Monopoles are constructed of non-combustible steel sections and the tower will be bonded and grounded. Therefore, lightning strikes are not a concern. All work on the Facility will conform to OSHA Guidelines. Moreover, the Proposed Facility is designed to accommodate emergency service vehicles in the unlikely event of an emergency.

Q15. Has the Applicant(s) created a plan to prevent the spread of any such fire to nearby trees and neighboring properties (e.g., forest/brush fire mitigation plan, etc.) around Site A? If so, what is that plan?

A15. See Responses A11 and A14.

Q16. How does the Applicant(s)' plan to remove 22 trees from Site A, all of which are greater than five inches diameter at four feet above-ground-level comport with Kent,

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Connecticut Zoning Regulations § 8530 governing preservation of major trees?

A16. See Response A3 and Application Attachments 3 and 4.

Q17. Could fire, weather, or other factor weaken the monopole structure being proposed for Site A, or otherwise cause any breakpoint/telescopic technology on that monopole to fail?

A17. No, as noted in Response A12, the proposed tower and tower foundation will be designed to meet the ANSI/TIA-222-G "Structural Standard for Antenna Supporting Structures and Antennas" and all applicable state and federal structural requirements for loading, including wind and ice loads.

Q18. Has a soil and/or conditions study for Site A been conducted to determine whether the soil or any other conditions would enhance corrosion or otherwise prematurely weaken the monopole structure or its foundation? If so, please cite where such a report can be accessed and state whether the design specifications there comply with Kent, Connecticut Zoning Regulations § 9650(5).

A18. See Response A13. A geotechnical investigation will be performed prior to finalization of the tower and tower foundation design. As previously discussed in Responses A12 and A17, the proposed tower and tower foundation will be designed to meet the ANSI/TIA-222-G "Structural Standard for Antenna Supporting Structures and Antennas" and all applicable state and federal structural requirements for loading, including wind and ice loads.

Q19. As to Site A: in the event of a tower collapse/break, is it possible that the monopole structure or any attachment thereto could fall onto a neighboring property or neighboring houses?

A19. See Response A11.

Q20. In the event of a storm or high wind event, is it possible that debris (e.g., snow, ice, etc.) could blow or otherwise fall onto neighboring property or onto neighboring houses around Site A?

A20. See Response A18. Accumulation of ice is generally of function of altitude, structure height and site location. Smaller monopole structures (200' or <) such as the Proposed Facility and specifically located in Southern New England have not been reported to have shedding ice issues. Falling ice is not as much a concern with monopole structures such as the proposed Facility as it is with broadcast towers guyed towers and/or lattice towers.

Q21. Has the Applicant(s) received any easement encumbering neighboring property abutting Site A that create a permitted "fall zone" for any portion of the monopole tower structure or any attachment thereto falling on abutting property?

A21. An easement for a "fall zone" is not necessary, see Response A11.

Q22. Has the Applicant(s) conducted or relied on any meteorological study showing wind directions and speeds at proposed Site A, including both average and storm/high-

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wind conditions? If so, what was the wind condition data relied on in formulating the proposed tower plan for Site A?

A22. See Response A18.

Q23. What is the strength rating of the Site A proposed monopole tower against wind and similar conditions that might cause the tower to fall or break?

A23. See Response A18.

Q24. How does the proposed construction of a 150-foot monopole and its accompanying utility structures at Site A comport with Kent, Connecticut Zoning Regulations§ 1410 and§ 1420, which provide that a land use is prohibited unless it is specifically permitted?

A24. See Response A3 and Application Section VII.

Q25. Kent, Connecticut Zoning Regulations § 9660 require that a cell tower be on a lot size of at least three acres and the tower shall be set back from all property lines by a distance of not less than 120 percent of the height of the tower. How does Site A comport with these regulations?

A25. See Response A3 and Application Section VII.

Q26. As to Site A, under Kent, Connecticut Zoning Regulations § 9660, is there any position that the tower could be placed on Site A that would conform with only the setback requirements?

A26. See Response A3 and Application Section VII.

Q27. How does the Applicant(s) justify the building of a 150-foot monopole on a 1.99 acre site (Site in a rural residential use district of the Town of Kent, in violation of Kent, Connecticut Zoning Regulations§ 3200, as well as§ 1510 and§ 1520?

A27. See Response A3 and Application Section VII.

Q28. As described in Kent, Connecticut Zoning Regulations§ 9640, has the Applicant(s) completed and provided a report showing the following together: the rationale for locating the proposed Site A tower on a rural residential zoned lot of 1.99 acres; an analysis comparing the functionality of proposed Site A tower to other tower locations and alternative technologies; and a report showing that the proposed 154-foot tower on Site A is the minimum tower height to provide adequate coverage? If so, please cite where such a report can be accessed.

A28. See Response A3, Application Section VII, and Application Attachments 1 and 2.

Q29. Does the Applicant(s) intend to apply for a zoning permit (whether a Special Permit or any other type of zoning-related permit) from the Zoning Officer of the Town of

Kent under Kent, Connecticut Zoning Regulations § 9640? If not, then on what legal authority does the Applicant(s) rely for not complying with § 9640?

A29. See Response A3 and Application Section VII.

Q30. Will the proposed equipment shed and facility on Site A be more than 750 feet in gross floor area or more than 12 feet in height? Will such facilities and shed be screen from view from adjacent properties and any public streets, including Bald Hill Road as set forth in Kent, Connecticut Zoning Regulations § 9660?

A30. See Response A3.

Q31. Will construction and maintenance traffic for proposed Site A require any changes made to Bald Hill Road to accommodate such traffic and construction or maintenance? If so, what changes are required?

A31. There are no anticipated changes that need to be made to Bald Hill Road to accommodate construction and maintenance traffic.

Q32. Has the Applicant(s) studied and developed any plan to ensure adequate emergency access to the site, including maintaining a site operation and management provider, and ensuring emergency vehicle access up Bald Hill Road and to the tower site via adequate driveway? If so, what measures are involved in that plan?

A32. Yes, access driveway from Bald Hill Road to the tower has been designed to accommodate emergency vehicles, construction and maintenance vehicles.

Q33. Has the Applicant(s) conducted a Phase I Environmental Site Assessment ("ESA") for Site A (see Exhibit 1 attached hereto)? If so, what were the results, and please supply a copy of that report and the name of the person or entity who prepared that report.

A33. Yes. See Applicant's May 6, 2020 Motion in Response to Bald Hill Road Neighbor's April 27, 2020 Motion.

Q34. Has the Applicant(s) conducted a Phase II ESA for the presence of hazardous substances (see Exhibit 1 attached hereto)? If so, what were the results of those assessments and tests, and please provide a copy of that report and the name of the person or entity who prepared that report.

A34. No. A Phase II is not required. See Applicant's May 6, 2020 Motion in Response to Bald Hill Road Neighbor's April 27, 2020 Motion.

Q35. Does the Applicant(s) have a remediation plan in place if hazardous substances are found after testing or disturbed after commencement of construction on Site A (see Exhibit 1 attached hereto)? If so, what is the substance of that plan?

A35. See Responses A33 and A34.

Q36. Does the Applicant(s) have a plan to prevent the spread of any hazardous substances or other contaminants at Site A disturbed during construction, whether directly related to tower or any other part of the areas to be disturbed on the property, to ground water feeding the wells of neighboring properties?

A36. See Responses A33 and A34.

Q37. Is the Applicant(s) required by any statute or regulation to notify the Department of Energy and Environmental Protection before removing or disturbing potentially hazardous debris or substances on Site A (see Exhibit 1 attached hereto)?

A37. See Responses A33 and A34.

Q38. Has the applicant retained the services of a Licensed Environmental Professional ("LEP") to test Site A and supervise the remediation of the site? If so, please identify the name, addressee and credentials of the LEP.

A38. See Responses A33 and A34.

Q39. Has any LEP on behalf of the Applicant(s) prepared a scope of study or any reports for Site A? If so, please provide copies of same.

A39. See Responses A33 and A34.

CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing was sent electronically and one copy via mail to the Connecticut Siting Council, in accordance with Connecticut Siting Council directives with an electronic copy to:

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