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STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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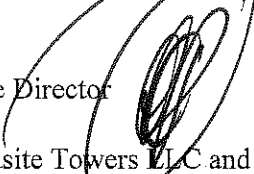
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May 9, 2008

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director 

RE: **DOCKET NO. 342** - Optasite Towers LLC and Omnipoint Communications, Inc. application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 425 Litchfield Road, New Milford, Connecticut.

As stated at the hearing in New Milford on September 10, 2007, after the Council issues its draft findings of fact, parties and intervenors may identify errors or inconsistencies between the Council's draft findings of fact and the record; however, no new information, evidence, argument, or reply briefs will be considered by the Council.

Parties and Intervenors may file written comments with the Connecticut Siting Council on the Draft Findings of Fact issued on this docket by May 16, 008.

SDP/cm

Enclosure



DOCKET NO. 342 - Optasite Towers LLC and Omnipoint }
Communications, Inc. application for a Certificate of }
Environmental Compatibility and Public Need for the }
construction, maintenance and operation of a telecommunications }
facility located at 425 Litchfield Road, New Milford, }
Connecticut.

Connecticut

Siting

Council

April 30, 2008

DRAFT Findings of Fact

Introduction

1. Optasite Towers LLC (Optasite) and Omnipoint Communications, Inc. (T-Mobile), collectively referred to as the "Applicant", in accordance with provisions of General Statutes §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on June 22, 2007 for the construction, operation, and maintenance of a wireless telecommunications facility at 425 Litchfield Road, New Milford, Connecticut. (Applicant 1, p. 1)
2. The purpose of the proposed 140-foot tower is to provide wireless service to Route 202 in the Northville area of New Milford. (Applicant 1, p. 1)
3. Optasite is a Delaware corporation with an administrative office located in Westborough, Massachusetts. Optasite would be the Certificate Holder and would construct and maintain the facility. T-Mobile is a Delaware corporation with an administrative office in Bloomfield, Connecticut. T-Mobile would be a tenant on the Optasite tower. (Applicant 1, pp. 2-3)
4. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on September 10, 2007, beginning at 4:00 p.m. and continuing at 7:00 p.m. at the New Milford High School, New Milford, Connecticut. (Council's Hearing Notice dated August 6, 2007; Transcript 1 – 09/10/07, 4:00 p.m. [Tr. 1], p. 2; Transcript 2 – 09/10/07, 7:00 p.m. [Tr. 2], p. 2)
5. The Council and its staff conducted an inspection of the proposed site on September 10, 2007, beginning at 3:00 p.m. The Applicant flew a balloon from 8:00 a.m. to 6:00 p.m. at the site to simulate the height of the proposed tower. The balloon reached the desired height of 140 feet above ground level (agl). (Council's Hearing Notice dated August 6, 2007; Applicant 10)
6. Notice of the application was sent to all abutting property owners by certified mail. Public notice of the application was published in the New Milford Spectrum on June 18, 2007 and The News-Times on June 18 and 20, 2007. (Applicant 2, Q. 1; Applicant 3)
7. The Applicant installed a four-foot by six-foot sign at the beginning of the proposed access road on August 22, 2007 that described the proposed project and provided contact information. (Applicant 9; Tr. 2, p. 9)
8. Pursuant to CGS § 16-50l (b), the Applicant provided notice to all federal, state and local officials and agencies listed therein. (Applicant 1, p. 4)
9. The Council closed the hearing on September 10, 2007. (Tr. 2, p. 52)

10. On December 7, 2007, Cellco Partnership d/b/a Verizon Wireless (Verizon) submitted an application (D 355) to the Council for a proposed telecommunication facility at 359 Litchfield Road in New Milford. The proposed Verizon facility would provide coverage to the Route 202 corridor in Northville area of New Milford. (Verizon 1, p. 2)
11. The Verizon site is approximately 0.6 miles south of the proposed site. (Applicant 1, Tab J; Verizon 1, Tab 12)
12. On December 18, 2007, the Council, pursuant to Connecticut General Statute § 16-50m(d), voted to hold a common evidentiary hearing for D 342 and D 355 to determine, in part, whether one tower could meet the mobile telecommunications needs of the area. (Council meeting minutes of December 18, 2007)
13. The Council, after giving due notice thereof, held a public hearing regarding D 342 and D 355 on March 11, 2003, beginning at 3:00 p.m. and continuing at 7:00 p.m. at the New Milford High School, New Milford, Connecticut. The public hearing was continued on April 4, 2008 at the office of the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut. (Council's Hearing Notice dated February 8, 2008; Transcript 3 – 03/11/08, 3:00 p.m. [Tr. 4], p. 3; Transcript 4 – 03/11/08, 7:00 p.m. [Tr. 4], p. 3; Transcript 5 – 04/04/08, 10:00 a.m. [Tr. 5], p. 3)

State Agency Comment

14. Pursuant to General Statutes § 16-50j (h), on August 6, 2007, September 12, 2007, February 8, 2008, and April 7, 2008, the following State agencies were solicited to submit written comments regarding the proposed facility: Department of Environmental Protection (DEP), Department of Public Health (DPH), Council on Environmental Quality (CEQ), Department of Public Utility Control (DPUC), Office of Policy and Management (OPM), Department of Economic and Community Development (DECD), and the Department of Transportation (DOT). (Record)
15. The Council received a written response from the DOT's Bureau of Engineering and Highway Operations on January 17, 2007, stating that they have no comment. (Record)
16. No response was received from the DEP, DPH, CEQ, DPUC, OPM, or DECD. (Record)

Municipal Consultation

17. The Applicant submitted a technical report to the Town on March 16, 2007. (Applicant 1, p. 19)
18. The Applicant met with the Mayor of New Milford, Patricia Murphy, on April 24, 2007 to discuss the project. Ms. Murphy had no comment regarding the tower itself but was pleased to hear the project would lead to improvement of the property. (Applicant 1, p. 19)
19. The Applicant attended a New Milford Zoning Commission public hearing on August 14, 2007. After hearing comments from area residents and the Applicant, the Commission concluded the following:
 - a. Based on the visual analysis, the tower would have a minimal visual impact;
 - b. The cleanup of the property must continue and the Applicant should work with the property owner to facilitate the cleanup; and
 - c. The Council should review all telecommunications proposals for the Route 202 corridor to ensure the unnecessary proliferation of telecommunication facilities.(Applicant 7)

Public Need for Service

20. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice Item No. 7)
21. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. (Council Administrative Notice Item No. 7)
22. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)
23. The Telecommunications Act of 1996 prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice Item No. 7)

Site Selection

23. The Applicant established a search ring for coverage in the Northville area in February of 2006. (Applicant 1, Q. 2)
24. The nearest existing tower facility to the search ring is approximately 2.7 miles east of the proposed tower site at 399 Chestnut Lane in New Milford. T-Mobile is not located on this facility; however, coverage modeling concludes the site would not provide adequate coverage to the target service area. (Applicant 1, Tab G, Tab H; Applicant 8; Tr. 1, pp. 22-25, 28-33; Tr. 2, pp. 30-32)
25. T-Mobile examined potential coverage from the facility proposed in D 332, a 150-foot Verizon tower at 6 Mountain Road in New Milford. Coverage modeling indicates if T-Mobile located at the 140-foot level of this tower, a two-mile coverage gap on Route 202 south of Northville would remain. (Applicant 11; Tr. 2, p. 28-30; Tr. 5, p. 72)
26. After determining there were no viable structures within the search area, the Applicant searched for properties suitable for tower development. The Applicant investigated seven parcels and selected one for site development. The six rejected parcels and reasons for their rejection are as follows:
 - a) Wheaton Drive - Town parcel used as a park and within close proximity to area residences;
 - b) Upland Road - Town parcel with development restrictions;
 - c) 9 Little Bear Road - Insufficient site screening;
 - d) 333 Litchfield Road - Owner decided not to pursue lease agreement.
 - e) 387 Litchfield Road - No response from owner, insufficient site screening;
 - f) Northville Fire Department - No response from owner. Property is under lease with Verizon and unavailable to the Applicant. Property is at a lower elevation, is smaller, and has less visual screening than the proposed site.(Applicant 1, Tab I; Tr. 2, pp. 35-48)

Site Description

27. The proposed site is located on a 28.86-acre parcel owned by the Estate of Edward J. Drazel at 425 Litchfield Road (Route 202) in New Milford. The property is on the west side of Route 202 (refer to Figure 1). (Applicant 1, p. 2)
28. The property is zoned general business and residential. The tower site is in the residentially zoned portion of the property. (Applicant 1, p. 2; Tr. 5, pp. 76, 78)
29. The property consists of woodland, fields, and a cleared area along Route 202 that contains several dilapidated structures, granite slabs and abandoned vehicles and equipment. The property slopes upward from Route 202. (Applicant 1, p. 17, Tab B)
30. The property owner is in the process of removing all debris from the property in advance of future development plans. The removal of all visible debris should be completed by early summer of 2008. (Tr. 5, p. 92)
31. The tower site is located on a hillside at an elevation of 640 feet above mean sea level (amsl). (Applicant 1, Tab B)
32. The Applicant proposes to construct a 140-foot monopole at the site. It would be designed to support four levels of antennas with a 10-foot center-to-center vertical separation. (Applicant 1, p. 9)
33. T-Mobile proposes to install six panel antennas on a platform at a centerline height of 137 feet agl. (Applicant 1, p. 9)
34. The Applicant proposes to construct a 70-foot by 70-foot equipment compound within an 100-foot by 100-foot lease area at the base of the tower (refer to Figure 2). An eight-foot high chain link fence would enclose the compound. Within the compound, T-Mobile proposes to install equipment cabinets on a concrete pad. A battery cabinet would provide emergency power. (Applicant 1, pp. 9-10, Tab B; Tr. 1, p. 19)
35. Access to the site would extend from Route 202 using an existing gravel road and an old logging road. The 12-foot wide road would be approximately 1,200 feet in length. The old logging road would be resurfaced with gravel and cleared, as necessary. (Applicant 1, Tab B; Tr. 1, pp. 16-17)
36. A majority of the access road has an 18% grade. Drainage swales would be installed as necessary to control runoff. (Tr. 5, pp. 58, 79-80)
37. Utilities would be installed underground along the access road from a new pole near the access road entrance. (Tr. 1, pp. 18-19)
38. The nearest abutting property to the tower site is approximately 272 feet to the south, owned by Michael and Debra Foss. (Applicant 1, Tab B)
39. The nearest residence to the proposed tower site is approximately 590 feet to the west, owned by John Kuck. (Applicant 1, Tab B)
40. Surrounding land use is mainly residential, although some small commercial use is present. The Town Conservation and Development Plan identified Route 202 as a heavily traveled corridor. (Applicant 1, pp. 15-18)

41. The estimated cost of construction to Optasite, not including T-Mobile's base station equipment and antennas, is:

a. Tower and foundation	74,000.
b. Site development	66,000.
c. Utilities	28,000.
Total estimated cost (Applicant 1, p. 21)	\$168,000.

Environmental Concerns

42. The proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (Applicant 6)
43. The proposed site contains no known existing populations of federal or State endangered, threatened or State special concern species. (Applicant 6)
44. Construction of the facility would require the removal of 42 trees with a diameter of six inches or greater, primarily in the compound area. Trees along the access road would be trimmed. (Applicant 1, Tab B; Applicant 2, Q. 16; Tr. 1, p. 16)
45. Construction of the compound would require a moderate amount of grading with 1,900 cubic yards of cut and 1,700 cubic yards of fill. The elevation and width of the access road would not be altered. (Tr. 5, pp. 34-35)
46. Site construction would not affect any wetlands or watercourses. No wetlands were identified on the property. (Applicant 1, p. 18)
47. The tower would not require aircraft hazard obstruction marking or lighting. (Applicant 6)
48. The cumulative maximum power density from radio frequency emissions from T-Mobile's proposed antennas is calculated to be 3.5 % of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously. (Applicant 1, Tab L)

Visibility

49. The tower would be visible year-round above the tree canopy from approximately 38 acres within a two-mile radius of the site (refer to Figure 3). The tower would be seasonally visible from an additional 18 acres. (Applicant 1, Tab J)
50. The tower is on an east-sloping ridge. To the west, the ridge rises steeply to an elevation of 800 feet above mean sea level (amsl) and then gradually rises to several summits. The tower would reach a height of 780 feet amsl. East of the tower, the ridge descends to Route 202 to an elevation of 500 feet amsl. East of Route 202 a ridge rises to an elevation of 900 feet amsl. (Applicant 1, Tab J)

51. A majority of the tower visibility is within a half-mile of the site, primarily from the Route 202 valley east and northeast of the site. Views from the west would be obscured by topography and vegetation except for two residences on McNulty Drive located on top of the ridgeline immediately west of the tower that may have views of the top of the tower. (Applicant 1, Tab J; Tr. 1, p. 45)
52. Approximately 25 residential properties would have partial, year-round views of the tower. This includes residences on Route 202, Sandpit Road, Sandy Acres Lane, Wheaton Road, Hillendale Drive, Hearthstone Terrace, and Upland Road. An additional 10 residences in these areas may have seasonal views of the tower. (Applicant 1, Tab J)
53. The tree canopy surrounding the site is approximately 65 feet agl. (Applicant 1, Tab J)
54. Two locally designated scenic roads would have views of the tower: Sandpit Road and Old Mill Road. Year-round views from Sandpit Road would be of the upper portion of the tower for approximately a tenth of a mile. Views from Old Mill Road would be seasonal for approximately a quarter of a mile. (Applicant 1, Tab J)
55. Year-round visibility of the tower from specific locations within a two-mile radius of the site is as follows:

Location	Visible	Approximate Portion of Tower Visible	Distance from Tower
Sandpit Road, adjacent to #1	Yes	30 feet - unobstructed	0.2 mile south
Sandy Acres Lane	Yes	55 feet - unobstructed	0.2 mile east
Hearthstone Terrace, adjacent to #3	Yes	25 feet - unobstructed	0.4 mile east
Hillendale Drive Extension, adjacent to #39	Yes	50 feet - unobstructed	0.6 mile north
Upland Road, adjacent to #109	Yes	25 feet - unobstructed with hillside as a backdrop.	0.5 mile east
Upland Road, adjacent to #77	Yes	25 feet - unobstructed with hillside as a backdrop.	0.5 mile east
Upland Road, adjacent to #95	Yes	30 feet - unobstructed with hillside as a backdrop.	0.5 mile east
Upland Road, adjacent to #117	Yes	20 feet - unobstructed with hillside as a backdrop.	0.5 mile east
Upland Road, adjacent to #21	Yes	20 feet - unobstructed	0.5 mile south
Wheaton Road	Yes	50 feet - unobstructed	0.3 mile northeast
Wheaton Road, adjacent to #57	Yes	15 feet - unobstructed	0.8 mile northeast
Route 202 at 425 Litchfield Road	Yes	45 feet - unobstructed	0.1 mile east
Route 202 adjacent to #469	Yes	25 feet - unobstructed	0.3 mile north

(Applicant 1, Tab J)

56. There are no hiking trails maintained by the DEP or the Connecticut Forest and Parks Association within a two-mile radius of the site. (Applicant 1, Tab J)
57. Visual mitigation by use of a stealth tree design at the proposed site would not be effective since many views from the Route 202 corridor would not have a hillside as a backdrop. (Tr. 5, pp. 60-61)

T-Mobile - Existing and Proposed Wireless Coverage

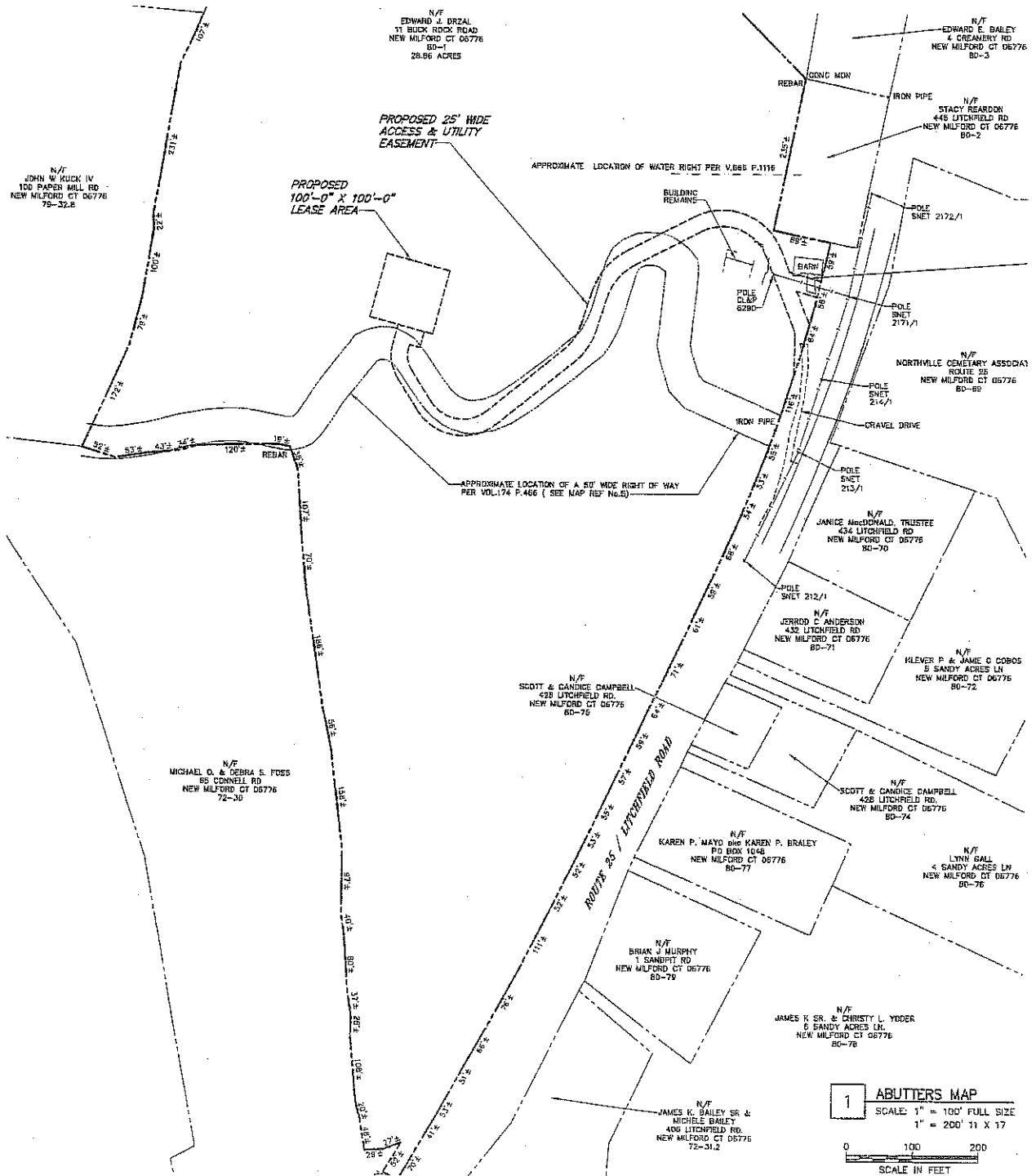
58. T-Mobile operates in the 1900 MHz frequency bands. T-Mobile's design thresholds for this area are -84 for in-vehicle coverage and -76 dBm for in-building coverage. (Applicant 2, Q. 9, Q. 10)
59. T-Mobile has no reliable, continuous coverage on Route 202 in the Northville area. Coverage from the site to the south, a facility on an electric transmission support structure, extends to Mill Road, just south of Northville (refer to Figure 4). (Applicant 1, Tab G, Applicant 2, Q. 3)
60. The proposed site with antennas at 137 feet agl would provide approximately six miles of coverage on Route 202, extending from Mill Road to approximately one mile south of New Preston village in Washington (refer to Figure 5). (Applicant 1, Tab G)
61. Installing antennas at 127 feet agl would cause a 0.3-mile gap in coverage on Route 202 south of the proposed site in the Mill Road area. (Tr. 1, pp. 49-50)
62. T-Mobile does not have any funded, active search rings to provide service on Route 202 north of the proposed site. The next active T-Mobile site on Route 202 to the north is in Torrington, approximately 16 to 18 miles to the northeast. (Tr. 5, pp. 33, 36-37, 41, 63)
63. T-Mobile does not have continuous reliable coverage on Route 202 between New Milford and Litchfield. T-Mobile does not have any roaming agreements with other carriers that serve the Route 202 corridor. (Tr. 5, pp. 41-42)
64. The proposed site would provide a greater coverage footprint than the proposed Verizon site (assuming a tower height of 140 feet), extending approximately two miles further north along the Route 202 corridor into the Town of Washington, ending near New Preston village (refer to Figures 5 & 6). (Tr. 5, pp. 42, 52)
65. Although T-Mobile does not have any active search rings north of the site, T-Mobile would examine if the proposed site could handoff to a potential Optasite location in Warren that T-Mobile may utilize in the future. If handoff were not possible, T-Mobile would establish a search ring in the Washington area. (Tr. 5, pp. 52-55)
66. The most effective search ring from a coverage perspective would be centered approximately 1.5 miles north of the existing D 332 Verizon site in Washington. T-Mobile would also examine this existing Verizon site since it would extend coverage approximately 1.2 miles to the north on Route 202, covering any remaining gap between the proposed D 342 site and the Optasite location in Warren. (Tr. 5, pp. 36, 44-50, 52-55, 65-66)
67. If T-Mobile located on the proposed Verizon D 355 site, the next search ring from a coverage perspective would be in the area of the existing Verizon D 332 site. (Tr. 5, pp. 38, 53-54)

FIGURE 1
LOCATION OF SITE



(Applicant 1, Tab B)

**FIGURE 2
 SITE PLAN**



(Applicant 1, Tab B)

FIGURE 3
VISIBILITY OF SITE



Legend

- Proposed Monopole Location (includes adjacent areas of visibility approximately 500 feet around facility)

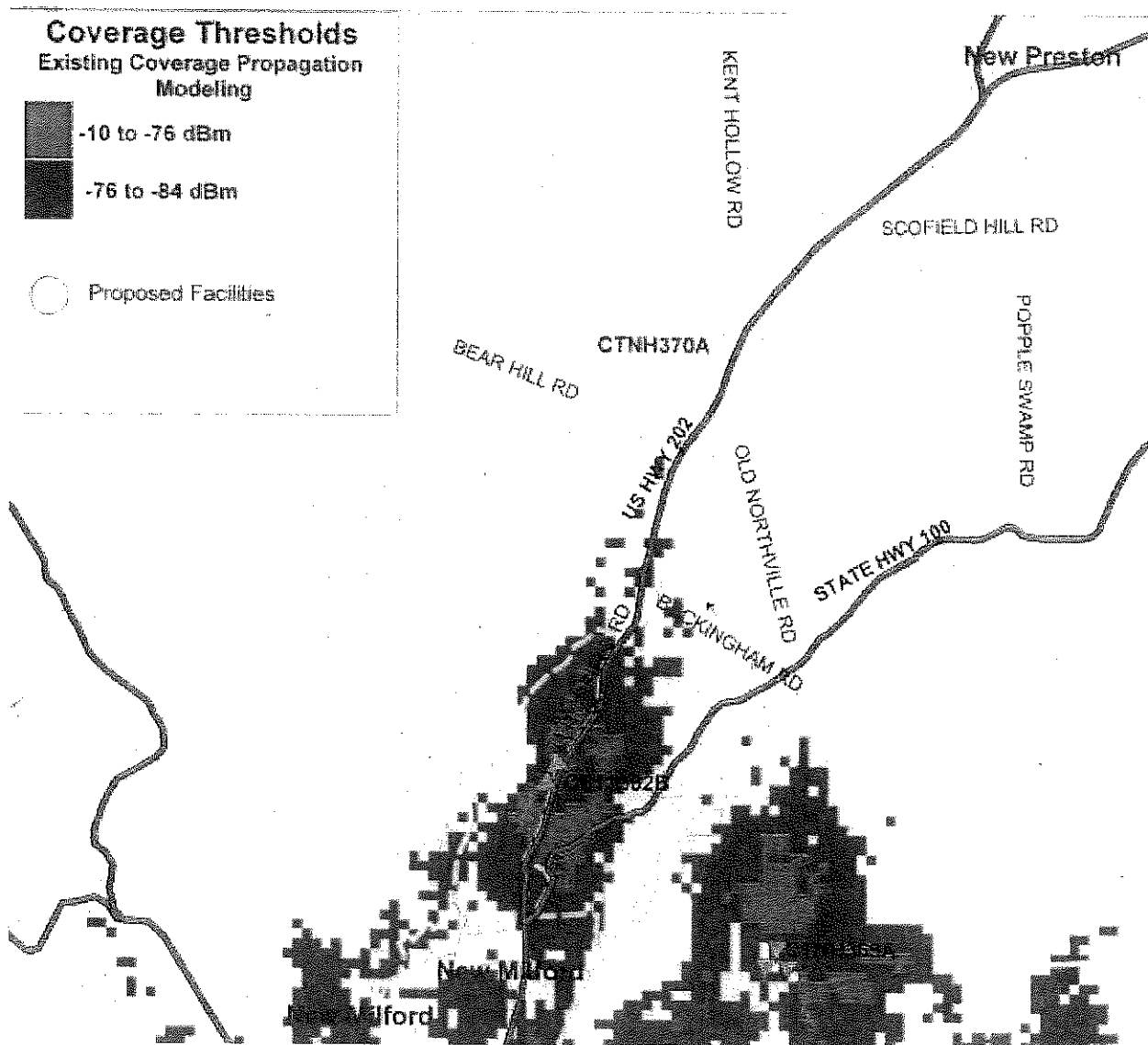
Photographs - June 8, 2007

- Balloon visible above trees

Year Round Visibility
(Approximately 38 Acres)

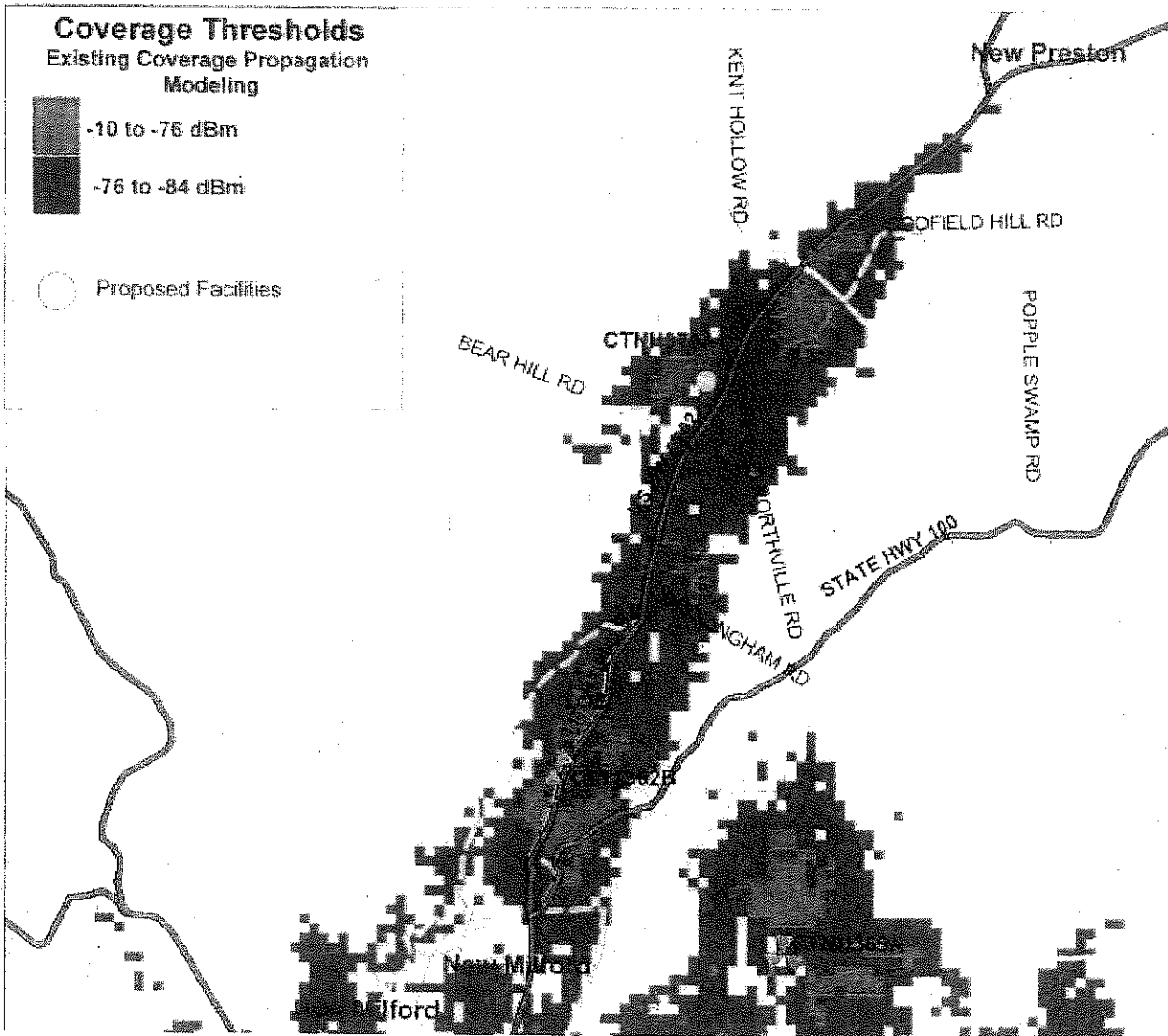
Anticipated Seasonal Visibility
(Approximately 18 Acres)

FIGURE 4
EXISTING T-MOBILE COVERAGE



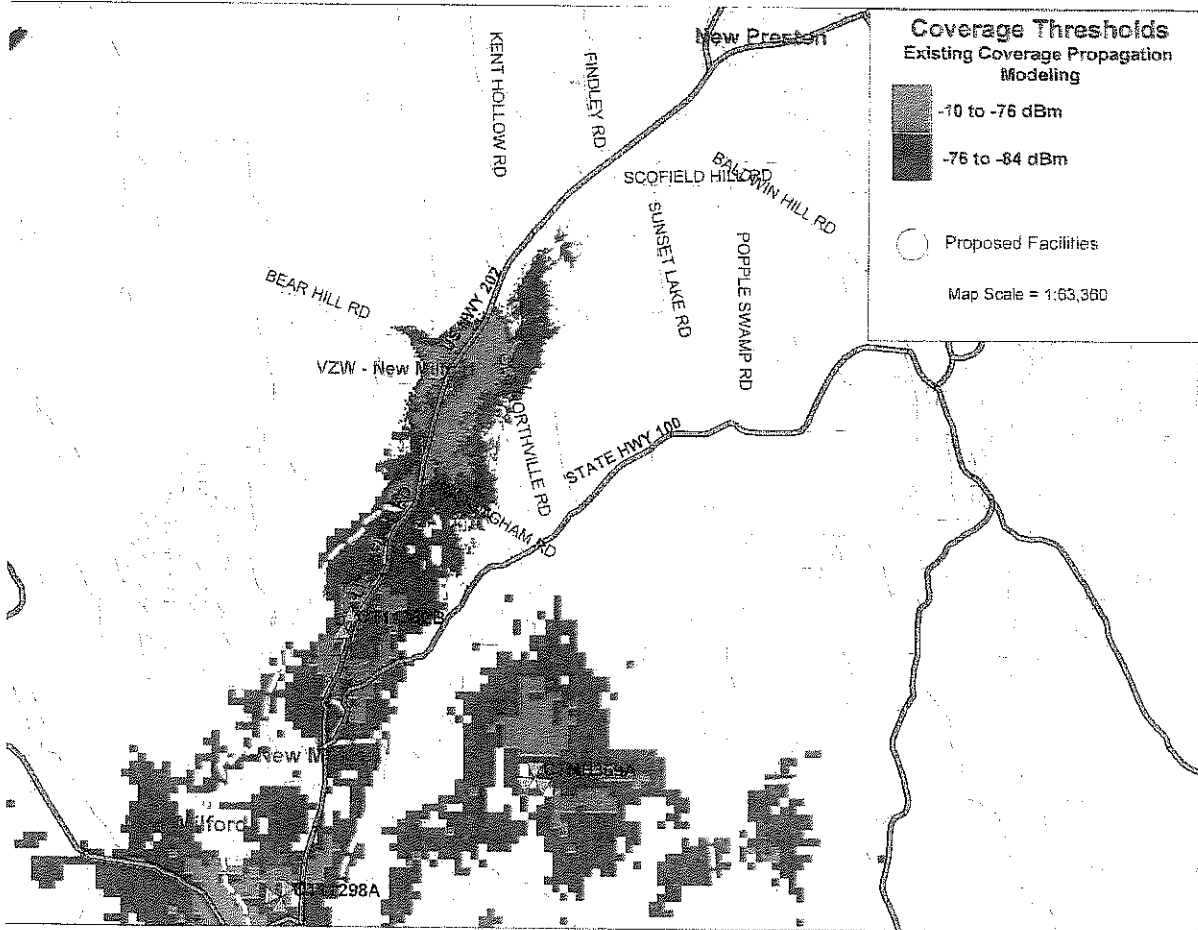
(Applicant 1, Tab G)

FIGURE 5
PROPOSED T-MOBILE COVERAGE FROM
425 LITCHFIELD ROAD @ 137 FEET AGL



(Applicant 1, Tab G)

FIGURE 6
PROPOSED T-MOBILE COVERAGE FROM
359 LITCHFIELD ROAD AT 140 FEET AGL



(Applicant 16, Q. 1)

