



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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March 2, 2010

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 386** – T-Mobile Northeast LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

By its Decision and Order dated February 25, 2010, the Connecticut Siting Council granted a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

SDP/RDM/laf

Enclosures (3)

c: State Documents Librarian

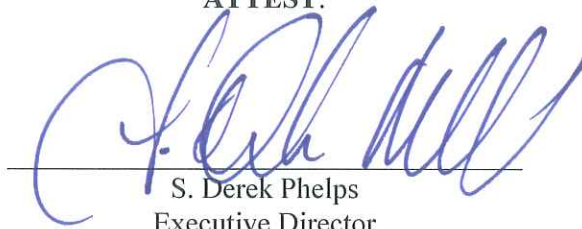
STATE OF CONNECTICUT)

ss. New Britain, Connecticut :

COUNTY OF HARTFORD)

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

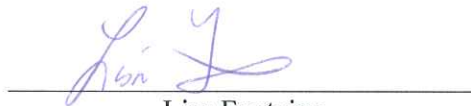
ATTEST:



S. Derek Phelps
Executive Director
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 386 has been forwarded by Certified First Class Return Receipt Requested mail on March 2, 2010 to all parties and intervenors of record as listed on the attached service list, dated October 9, 2009.

ATTEST:



Lisa Fontaine
Fiscal Administrative Officer
Connecticut Siting Council

LIST OF PARTIES AND INTERVENORS
SERVICE LIST

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input checked="" type="checkbox"/> U.S. Mail	T-Mobile Northeast LLC	Julie D. Kohler, Esq. Monte E. Frank, Esq. Jesse A. Langer, Esq. Cohen and Wolf, P.C. 1115 Broad Street Bridgeport, CT 06604 (203) 368-0211 (203) 394-9901 fax jkohler@cohenandwolf.com mfrank@cohenandwolf.com jlanger@cohenandwolf.com
Intervenor (granted 10/08/09)	<input checked="" type="checkbox"/> U.S. Mail	New Cingular Wireless PCS, LLC (AT&T)	Christopher B. Fisher, Esq. Daniel M. Laub, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 th Floor White Plains, NY 10601 (914) 761-1300 (914) 761-5372 fax Cfisher@cuddyfeder.com DLaub@cuddyfeder.com

DOCKET NO. 386 – T-Mobile Northeast LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

} Connecticut
} Siting
} Council

February 25, 2010

Findings of Fact

Introduction

1. T-Mobile Northeast LLC (T-Mobile), in accordance with the provisions of Connecticut General Statutes (CGS) §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on September 14, 2009 for the construction, maintenance, and management of a 125-foot wireless telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut. (T-Mobile 1, p. 1)
2. T-Mobile is a Delaware corporation with an office in Bloomfield, Connecticut. T-Mobile is licensed by the Federal Communications Commission (FCC) to construct and operate a personal wireless service system in Connecticut. (T-Mobile 1, p. 2)
3. The party in this proceeding is the applicant. An intervenor is New Cingular Wireless PCS LLC (AT&T). (Transcript 1 – 12/15/09, 3:00 p.m. [Tr. 1], p. 6)
4. The purpose of the proposed facility is to provide wireless service for T-Mobile and AT&T to the Pine Orchard Road area of Branford, including the Amtrak rail corridor and shoreline area. (T-Mobile 1, p. 5, Tab H; Tr. 1, pp. 98-99; Tr. 2, pp. 71-73, 89-90)
5. Pursuant to CGS § 16-50m, the Council held a public hearing on December 15, 2009, beginning at 3:00 p.m. and continuing at 7:00 p.m. at the Branford Community House, 46 Church Street, Branford, Connecticut. (Tr. 1, p. 3; Transcript 2 – 12/15/09, 7:10 p.m. [Tr. 2], p. 2)
6. The Council and its staff conducted an inspection of the proposed site on December 15, 2009, beginning at 2:00 p.m. The applicant flew a four-foot diameter balloon at the site from 12:00 p.m. to 4:30 p.m. to simulate the height of the proposed tower. The balloon was flown at its intended height of 125 feet above ground level (agl) during the field review. (T-Mobile 6)
7. Notice of the application was sent to all abutting property owners by certified mail. All notices were claimed. Public notice of the application was published in the New Haven Register on August 6 and August 8, 2009. (T-Mobile 1, Tab F, Tab G; T-Mobile 2, Q. 1)
8. T-Mobile installed a four-foot by six-foot sign at the entrance to the property on November 16, 2009. The sign presented information regarding the project and public hearing. (T-Mobile 3a)
9. Pursuant to CGS § 16-50l(b), T-Mobile provided notice to all federal, state and local officials and agencies listed therein. (T-Mobile 1, Tab I)

State Agency Comment

10. Pursuant to General Statutes § 16-50j(h), on October 15, 2009 and December 16, 2009, 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), the Department of Transportation (DOT) and the Department of Agriculture (DOAg). (Record)
11. The Council received a written no comment response from the DPH Drinking Water Section on October 19, 2009 and the DOT Bureau of Engineering and Highway Operations on December 2, 2009. (Record)
12. No response was received from the DOAg, DEP, CEQ, DPUC, OPM, or DECD. (Record)

Municipal Consultation

13. T-Mobile submitted a technical report to Anthony DaRos, the First Selectman of the Town of Branford, on May 28, 2009. T-Mobile met with First Selectman DaRos on June 16, 2009. The Town did not schedule a town hearing on the application. (T-Mobile 1, pp. 17-18)
14. T-Mobile offered the town lease-free space on the tower for municipal service antennas. The town did not respond to this offer. (T-Mobile 1, p. 8; Tr. 1, p. 62)

Public Need for Service

15. 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)
16. 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. T-Mobile is licensed by the FCC to provide wireless service to New Haven County. (Council Administrative Notice Item No. 7; T-Mobile 1, p. 7)
17. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)
18. The Telecommunications Act of 1996, a Federal law passed by the United States Congress, 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)
19. In an effort to ensure the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999. The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (T-Mobile 1, p. 6)

20. The site would provide enhanced 911 services to the proposed service area. (T-Mobile 1, p. 6)
21. The proposed facility would be an integral component of T-Mobile's and AT&T's wireless network in New Haven County. Presently, T-Mobile and AT&T both have degraded service in the Pine Orchard Road/Route 146 area of Branford, as well as along the shoreline in Branford. (T-Mobile 1, p. 5; AT&T 1; AT&T 2, Q. 1; Tr. 2, p. 90)

T-Mobile - Existing and Proposed Wireless Coverage

22. T-Mobile is licensed by the FCC to provide service in the 1900 MHz frequency range (PCS). (T-Mobile 5, Q. 5)
23. T-Mobile designs and operates at the following signal level thresholds: in-vehicle service is -84 dBm and in-building service is -76 dBm. (T-Mobile 5, Q. 6)
24. T-Mobile currently has degraded coverage in the area of Pine Orchard Road, Route 146, Damascus Road, Meadow Wood Road, and the Amtrak rail corridor, with signal levels ranging from -84 dBm to -110 dBm (refer to Figures 6 & 7). The proposed service area is primarily zoned for residential and would provide reliable coverage to customers who live, work and travel through the area. (Branford Plan of Conservation and Development; T-Mobile 1, p. 5; T-Mobile 2, Q. 8; T-Mobile 5, Q. 9)
25. T-Mobile experiences an interruption of service percentage of 0.9% in the proposed service area. (T-Mobile late file 01/13/10)
26. Installing antennas at 122 feet agl would provide reliable service to the proposed service area (refer to Figure 8) and provide capacity relief to adjacent facilities. (T-Mobile 3b, Q. 7)
27. Installing antennas at 112 feet would cause in-vehicle coverage to degrade to signal levels less than -84 dBm for a one-mile section of Route 146 south of the site along the shoreline. Shoreline coverage is one of the objectives of this site and is the basis for the proposed 122-foot antenna height. In-building coverage would also degrade along the periphery of the in-building coverage footprint (refer to Figure 7). (Tr. 1, pp. 98-99; Tr. 2, p. 90; T-Mobile 2, Q. 9; T-Mobile 3b, Q. 10)
28. If the proposed site was constructed, T-Mobile would still need a site east of the Pine Orchard area to provide coverage to adjacent areas of southeast Branford. T-Mobile currently has an active search ring to identify a suitable site. (Tr. 1, pp. 49-50)
29. The site would provide adequate in-vehicle coverage to Route 146 along the shoreline. Although the site would not provide reliable in-building coverage, T-Mobile would have service in the area. T-Mobile indicated it would not seek to develop another site to provide in-building coverage in this area in the near term. (Tr. 1, pp. 48-49)

AT&T - Existing and Proposed Wireless Coverage

30. AT&T is licensed by the FCC to provide cellular (850 MHz) and PCS service to Connecticut. (AT&T 1)
31. AT&T proposes to initially install cellular service at this site and expand by installing PCS equipment if the site requires additional capacity. (AT&T 2, Q. 3)

32. AT&T is designing the site with a coverage threshold of -74 dBm, sufficient for in-building coverage in the Pine Orchard Road, Damascus Road, and Amtrak rail line area. (AT&T 2, Q. 2; Tr. 2, pp. 71-72)
33. AT&T's current coverage in the proposed service area ranges from -82 dBm to -92 dBm (refer to Figure 9). (AT&T 2, Q. 1)
34. AT&T currently experiences a drop call rate of 2% (average) in the proposed service area. (Tr. 1, p. 83)
35. AT&T's proposed installation at 112 feet would provide adequate coverage to the proposed service area at a signal level of -82 dBm with most of the area receiving a signal greater than -74 dBm (refer to Figure 10). (AT&T 2, Q. 6, Q. 7)
36. Installing antennas at 102 feet agl would cause in-building coverage to degrade along Route 146 to the south and west of the site, particularly in the shoreline area. (AT&T 2, Q. 7; Tr. 2, p. 73)
37. The proposed installation would not be able to provide adequate coverage to areas of Route 146 along the shoreline. AT&T indicated it would seek to develop another site in the Short Beach area (west of the site) that would provide in-building coverage along the immediate shoreline. (Tr. 2, pp. 73-74, 78, Council Administrative Notice Item No. 16)

Site Selection

38. T-Mobile established a search ring for the proposed service area in July of 2008. The ring was centered in the Pine Orchard Road-Knollwood Drive area and extended outward for a half mile. Other areas were considered outside of the ring in an attempt to find the best possible location to provide service. (T-Mobile 1, p. 5; T-Mobile 3 a, Q. 6, Tr. 1, pp. 26-30, 95)
39. T-Mobile's initial coverage in the general area was focused on the I-95 corridor leaving the shoreline areas and the Amtrak line without sufficient coverage. Sites within the search area would allow T-Mobile to provide service to both the shoreline areas and the Amtrak line. (Tr. 2, pp. 87-89)
40. The search included identification of potential structures that could be used for telecommunications purposes and the examination of area properties to identify potential telecommunications sites. (T-Mobile 1, Tab J; T-Mobile 3a, Q. 5)
41. The nearest T-Mobile facility to the proposed site is a 90-foot smokestack facility located at 50 Maple Street in Branford, approximately 1.2 miles to the west. Coverage from this site or other nearby sites does not extend to the proposed service area. (T-Mobile 1, Tab H)
42. T-Mobile did not identify any structures in the search area that would be suitable for a telecommunications facility. (T-Mobile 1, Tab J)

43. After determining there were no viable structures within the search area, T-Mobile searched for properties suitable for tower development. T-Mobile investigated 11 different locations and selected one for tower development. The ten rejected locations and reasons for their rejection are as follows:
- a) Pine Orchard Firehouse, 180 Pine Orchard Road – fire department association not interested in lease;
 - b) Shoreline Pet Lodge, 157 Pine Orchard Road – landowner did not respond to inquiries;
 - c) Tabor Property, town property – town not interested in lease;
 - d) Birch Road, town property – town not interested in lease;
 - e) Pine Orchard School, 190 Pine Orchard Road – town not interested in lease;
 - f) 153 Pine Orchard Road, town property – lot is only 0.35 acre, too small for development;
 - g) 213 Pine Orchard Road – subject to deed restriction that only allows residential use;
 - h) 45 Tabor Drive, Tabor Lutheran Church – would not meet coverage objectives;
 - i) 44 Tabor Drive- would not meet coverage objectives;
 - j) 34 Montowese Street – property owner would only allow a facility on an existing barn, barn too low to meet coverage objectives.
- (T-Mobile 1, Tab J; T-Mobile 8; Tr. 1, pp. 16-25)
44. Amtrak would not allow T-Mobile to use the existing 30-foot catenaries within the Amtrak right-of-way since they are not structurally capable of handling additional loading. Additionally, the right-of-way in this area is too narrow to accommodate a tower facility. Amtrak would require any new structure to be a minimum distance of 35 feet from the tracks. (Tr. 1, pp. 76-77, 95-97; T-Mobile late file of 01/14/10)
45. T-Mobile assessed the property at 308 East Main Street that its owner suggested to the Council as a potential alternate location for a facility. This property is adjacent to an existing T-Mobile facility at 10 Sylvia Street in Branford and is not within the search area. (T-Mobile late file of 01/13/10)
46. AT&T established a search ring in December of 2008 that was centered in the Knollwood Drive area. AT&T investigated three sites prior to intervening in this proceeding, as follows:
- a) Shoreline Pet Lodge, 157 Pine Orchard Road – landowner did not pursue lease agreement;
 - b) Hotchkiss Grove Parcel (near pet lodge) – landowner did not respond to inquiries;
 - c) Walsh Intermediate School – tower in this location would have to be 180 feet in height, wetland issues.
- (AT&T 1, Q. 9; Tr. 2, pp. 69-70, 74)

Facility Description

47. The proposed facility is located on a 3.75-acre parcel identified as 123 Pine Orchard Road, Branford. The parcel, owned by Malavasi Investments L.L.C., is used as commercial storage/trucking operation (refer to Figure 1). (T-Mobile 1, p. 8; Tab A, Tab M)
48. The parcel is located to the rear of 121 Pine Orchard Road, a 0.4-acre residential parcel also owned by Malavasi Investments L.L.C. (T-Mobile Tab B, Tab P)
49. The parcel is zoned residential (R3). A commercial facility has been allowed for non-conforming use, operating at the site for approximately 45 years. (T-Mobile 1, p. 9; Tr. 1, pp. 78-79)
50. The parcel contains an office trailer and concrete warehouse building and a large parking area to the rear. The Amtrak rail corridor borders the parcel to the south. (T-Mobile 1, Tab B, Tab P)

51. Access to the site parcel would be from the paved driveway originating on Pine Orchard Road that crosses the 121 Pine Orchard Road property to access the rear gravel lot. (T-Mobile 3c, Q. 6)
52. T-Mobile proposes to construct a 125-foot monopole at the site. The tower site would be located at the rear of the parcel, along the south property boundary, approximately 120 feet south of the on-site warehouse building and 485 feet south of Pine Orchard Road (refer to Figure 2). (T-Mobile 1, p. 8, Tab B; T-Mobile 3a, Q. 8)
53. The monopole would be designed to support four levels of platform-mounted antennas with a 10-foot vertical separation between each level. It would be constructed in accordance with the Electronic Industries Association standard ANSI/TIA-222-F. (T-Mobile 1, Tab B; Tr. 1, p. 54)
54. T-Mobile proposes to install nine panel antennas and six tower amplifiers on standoff arm mounts (t-arms) at the 122-foot level of the tower. (T-Mobile 1, Tab B)
55. AT&T proposes to install six panel antennas at the 112-foot level of the tower. (AT&T 1, Q. 4; Tr. 1, p. 37)
56. Youghioghney Communications Northeast, LLC d/b/a Pocket Wireless has expressed interest in the 102-foot level of the tower. (Tr. 1, pp. 53-55; T-Mobile late file of 01/14/10, Vergati)
57. Clearwire, a telecommunications provider operating in Connecticut, is interested in the 92-foot level of the tower. (Tr. 1, p. 53-55; T-Mobile late file of 01/14/10, Vergati)
58. T-Mobile proposes to construct a 50-foot by 50-foot equipment compound within a 75-foot by 75-foot lease area. T-Mobile would install three equipment cabinets on a concrete slab within the compound. AT&T would install a 12-foot by 20-foot equipment shelter within the compound. There would be enough space in the proposed compound for two additional carriers. (T-Mobile 1, Tab B; AT&T 1, Q. 8)
59. The compound would be surfaced with gravel and secured by an eight-foot high chain link fence. (T-Mobile 1, p. 9)
60. Access to the compound would be from the improved driveway and existing gravel lot on the property. T-Mobile proposes to expand the existing driveway at 121 Pine Orchard Road by 575 square feet and widen the existing curb cut by 19 feet to ensure all site access is on the landowner's property. Currently, the entrance area of the access drive is partially on property owned by the abutter to the west at 119 Pine Orchard Road (McNamara property). (T-Mobile, 1, Tab B; T-Mobile 3c, Q. 6)
61. T-Mobile anticipates a technician would visit the site once a month to service equipment. (T-Mobile 1, p. 13)
62. Underground utilities would service the compound from an existing pole on Pine Orchard Road. (T-Mobile 1, Tab B; Tr. 1, pp. 56-57)
63. The tower is approximately 50 feet north of the Amtrak railroad right-of-way and approximately 65 feet from the railroad tracks. Moving the tower closer to the tracks would put the site in Amtrak's review area and could potentially require T-Mobile to install temporary or permanent sheet piling to protect the rail bed. (T-Mobile 1, Tab B; Tr. 1, pp. 58-61, 76-77; T-Mobile late file of 01/14/10)

64. The tower is approximately 88 feet from the east property boundary (O'Neill property). (T-Mobile 1, Tab B)
65. The tower setback radius would extend onto the railroad right-of-way by 75 feet and the O'Neill property by 37 feet. The tower could be designed with a pre-engineered fault to prevent encroachment onto adjacent properties in the event of a tower failure. (T-Mobile 1, Tab B; T-Mobile 3c, Q. 11)
66. The tower is approximately 365 feet east of the residence at 119 Pine Orchard Road (McNamara residence) and 360 feet south of the residence at 117 Pine Orchard Road (Johansson residence). (T-Mobile 1, Tab B, Tab L)
67. There are 61 single-family residences within 1,000 feet of the tower site. (T-Mobile 1, Tab L)
68. Land use within a quarter-mile of the site consists of residential, the Amtrak rail corridor and a few commercial properties. Property located south of the site is zoned industrial. (Branford Plan of Conservation and Development; T-Mobile 1, Tab B, Tab M)
69. The tower site would be located at a ground elevation of 31 feet above mean sea level (amsl) at 41° 16' 29" north latitude and 72° 47' 35" west longitude. Surrounding terrain is generally flat to rolling. Trees in the area range from 55 to 65 feet in height. (T-Mobile 1, Tab M; Tr. 1, p. 34)
70. The estimated construction cost of the facility, not including T-mobile's or AT&T's radio equipment or antennas, is:

Tower and foundation	\$76,000.
Site development	79,000.
<u>Utility installation</u>	<u>43,000.</u>
<u>Total estimated cost</u>	<u>\$198,000.</u>

(T-Mobile 1, p. 19)

Environmental Concerns

71. The proposed facility would have no adverse effect on historic, architectural or archeological resources listed in or eligible for the National Register of Historic Places. The tower would not be visible from the Norton House, a structure on the National Register of Historic Places approximately 0.6 miles southeast of the proposed site. (T-Mobile 1, Tab N; Tr. 1, p. 41; T-Mobile late file of 01/14/10)
72. The site is not within any designated area indicating the presence of Federally threatened or endangered species or State endangered, threatened or special concern species. (T-Mobile 1, Tab N)
73. The tower would have minimal effect on bird migration. In accordance with U.S. Fish and Wildlife guidelines, the tower would be less than 200 feet in height, would not be supported by guy-wires and would not be lit for aviation safety. (Tr. 1, pp. 113-114)
74. One large oak tree in front of 121 Pine Orchard Road would be removed to accommodate the expansion of the driveway. Although the tree is at the edge of the driveway improvement area, it has a shallow root system that could be damaged during driveway construction. (T-Mobile 1, Tab B; T-Mobile 3c, Q. 6; Tr. 1, pp. 32)

- 75. Development of the compound would not directly affect any wetlands or watercourses. The nearest water body is a pond located approximately 150 east of the proposed compound on an adjacent parcel (O'Neill property). The pond has steep banks and is bordered by mature forest. (T-Mobile 1, Tab K; T-Mobile 3e, Q. 7, 8, 9)
- 76. Erosion and sedimentation controls and other best management practices would be established and maintained for the duration of site construction. (T-Mobile 1, p. 17)
- 77. The site is not within a 100-year or 500-year floodplain. (T-Mobile 1, p. 14, Tab P)
- 78. Aircraft hazard obstruction marking or lighting of the tower is not proposed or required. (T-Mobile 1, p. 18, Tab R)
- 79. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of the proposed T-Mobile antennas is calculated to be 8.8% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of 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, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower base. (T-Mobile 1, p. 12, Tab O; AT&T 1, Q. 4)

Visibility

- 80. The proposed tower would be visible year-round from approximately 50 acres within 0.6 mile of the site (refer to Figure 3). The tower would be seasonally visible from an additional 33 acres within 0.6 mile of the site. (T-Mobile 1, Tab M)
- 81. The tower would be visible year-round from 633 acres of Long Island Sound and areas of Branford Harbor, approximately one mile south/southwest of the site. The tower would extend approximately 20-25 feet above the treeline when viewed from open water areas but would not be prominent, given the distance. The tower would not be visible from adjacent beach areas. (T-Mobile 1, Tab M; Tr. pp. 39, 104-105, 112-113)
- 82. Visibility of the proposed tower from specific locations within a 0.6 mile radius of the site is as follows:

Specific Location and Area Receptors	Visible	Approximate Portion of Tower Visible	Approx. Distance from Tower*
Route 146 north of Field Place (scenic road- residential area)	Yes	40 feet – unobstructed	0.6 mile southwest
Tabor Cemetery on Tabor Street (cemetery and commercial area)	Yes	12 feet – unobstructed	0.4 mile west
Route 146 south of Tabor Street (scenic road and residential)	Yes	25 feet – unobstructed	0.6 miles west
Knollwood Drive (residential area)	Yes	30 feet - unobstructed	0.2 mile north
Knollwood Drive/Pine Orchard Road intersection (residential area)	Yes	60 feet- unobstructed	0.2 mile south

(T-Mobile 1, Tab M)

* 0.1 mile = 528 feet.

83. The tower would be visible year-round from nine residential properties in the immediate area of the site including four properties on Pine Orchard Road, four properties on Knollwood Drive, and one property on Hotchkiss Grove Road. An additional eighteen residential properties in this area would have seasonal views of the tower, including four properties on Knollwood Drive and 14 properties on Collins Drive. A representative view from the immediate area is shown in Figure 5. (T-Mobile 1, Tab M; Tr. 1, pp. 33-34, 71-76; Tr. 2, pp. 28-29, 91)
84. The tower would be visible year-round from eight residential properties and seasonally visible from four residential properties on Route 146, approximately 0.6 miles southwest of the site (refer to Figure 4). Two residential properties on Ark Road, 0.5 southwest of the site, would have seasonal views. (T-Mobile 1, Tab M)
85. The abutting residence at 119 Pine Orchard Road (McNamara property) would have seasonal views of the upper portion of the tower and seasonal views of the compound whenever trailers are being stored, since trailer block the view. (Tr. 1, pp. 33-36)
86. The abutting residence at 117 Pine Orchard Road would have year-round views of most of the tower from yard areas and the kitchen window. (Tr. 2, pp. 28-29, 91)
87. Removal of the large oak tree for driveway improvements would increase visibility of the tower from residential properties across from 121 Pine Orchard Road, including the residence at 5 Knollwood Drive. (Tr. 1, pp. 32-35)
88. To replace the oak tree, a 10-12-foot spruce tree could be installed to provide visual screening to areas on the north side of Pine Orchard Road as the tree matures. (Tr. 1, pp. 82-84)
89. The site is outside of the coastal boundary as designated in the Connecticut Coastal Management Act. The nearest coastal resource is the Branford River, approximately 1,800 feet southwest of the site. (T-Mobile 1, Tab N)
90. The tower would not be visible from any known hiking trails maintained by the DEP or the Connecticut Forest and Park Association. The Branford Trail, a town trail, is located 1,200 feet southeast of the site at its closest point. There may be limited views of the tower from this area of the trail. (Council Administrative Notice Item No. 19; Tr. 1, pp. 85-86)
91. The tower would be visible from two separate sections of Route 146, a state designated scenic road, for approximately 0.15 mile (refer to Figure 4). The views would be off to the side of the road rather than in the direction of travel. (T-Mobile 1, Tab M; Tr. 1, pp. 109-110)
92. Designing the tower as a tree would not be an effective stealth option since most of the open views are near-range and the tower is not surrounded by much vegetation. A "monopine" design would only camouflage the tower from a few viewpoints where the tower would be visible through vegetation, or where only the top of the tower is visible. (Tr. 1, pp. 88-89, 111-112)
93. A flagpole or slim profile tower (flush-mounted antennas) would require T-Mobile to locate antennas at 135 and 125 feet agl to meet coverage objectives, since only three antennas could be accommodated at each level. T-Mobile would not favor a traditional flagpole with a flag due to flag maintenance and lighting requirements. (Tr. 1, pp. 89-94)
94. AT&T would require antenna heights of 122 and 112 feet on a flagpole or slim profile tower to accommodate their proposed six-antenna installation. (Tr. 1, pp. 50-52; Tr. 2, pp. 74-75)

95. AT&T could use dual-band antennas with a flagpole or slim profile type tower to provide cellular and PCS coverage to the proposed service area. (Tr. 2, pp. 79-80)



SITE



AERIAL MAP
SCALE : 1" = 500'-0"

GRAPHIC SCALE



(IN FEET)
1 inch = 500 ft.

Figure 1: Location of site at 123 Pine Orchard Road, Branford. (T-Mobile 1, Tab B)

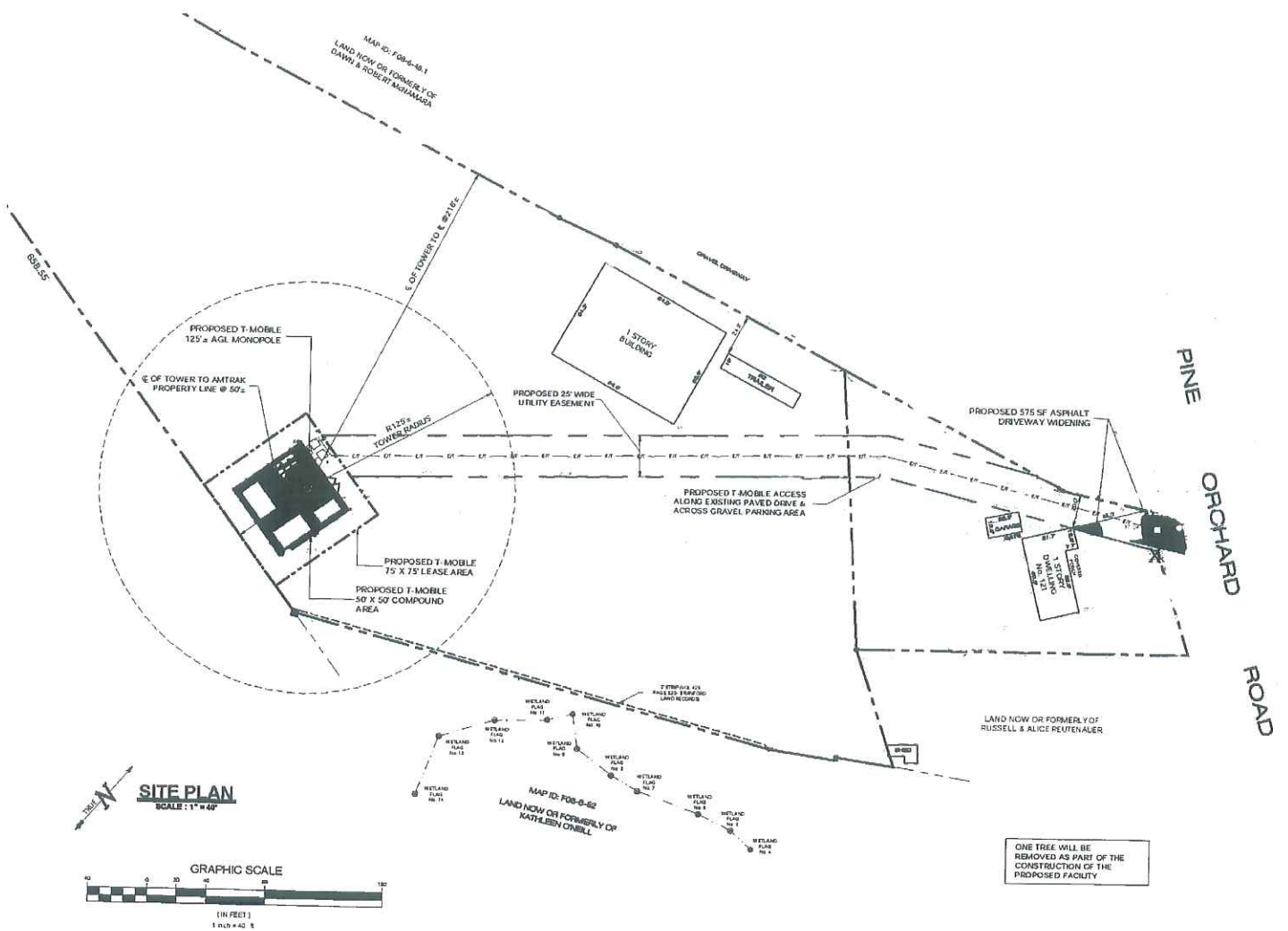
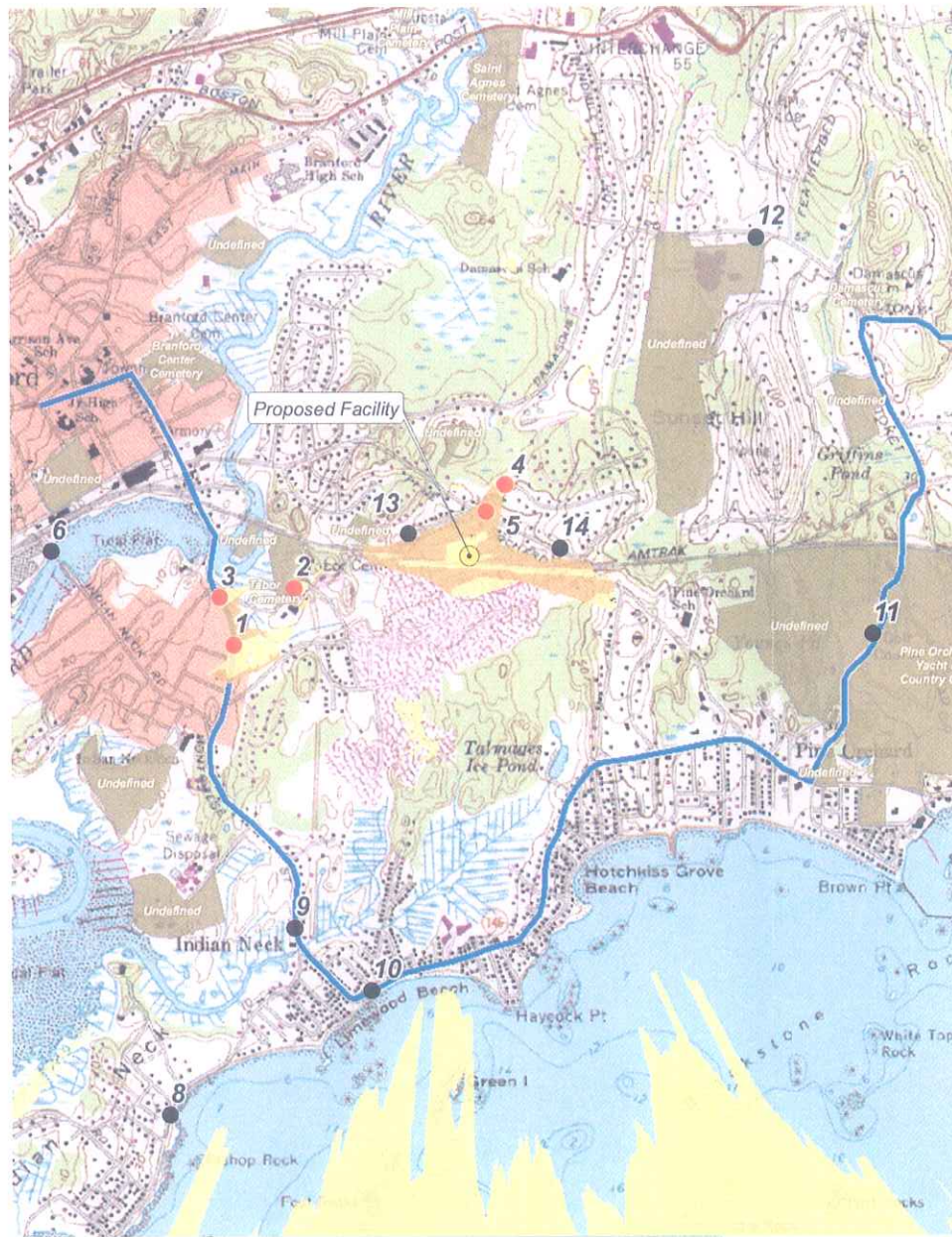


Figure 2: Site plan of proposed location at 123 Pine Orchard Road. (T-Mobile 1, Tab B)



Legend

-  Tower Location
- Photographs - July 14, 2009
 -  Balloon is not visible
 -  Balloon visible above trees
-  Year-Round Visibility (Approximately 683 acres)
-  Seasonal Visibility (Approximately 33 acres)
-  Protected Municipal and Private Open Space Properties (1997)
-  Cemetery Preservation



Figure 3: Projected visibility of proposed site. (T-Mobile 1, Tab M)



Figure 4: Photo-simulation of proposed tower from Route 146 0.6 mile west of site. Route 146 is a scenic road (location 1 on Figure 3). (T-Mobile 1, Tab M)



Figure 5: Photo-simulation of proposed tower from intersection of Knollwood Drive, 0.2 mile north of site (location 4 on Figure 3). (T-Mobile 1, Tab M)

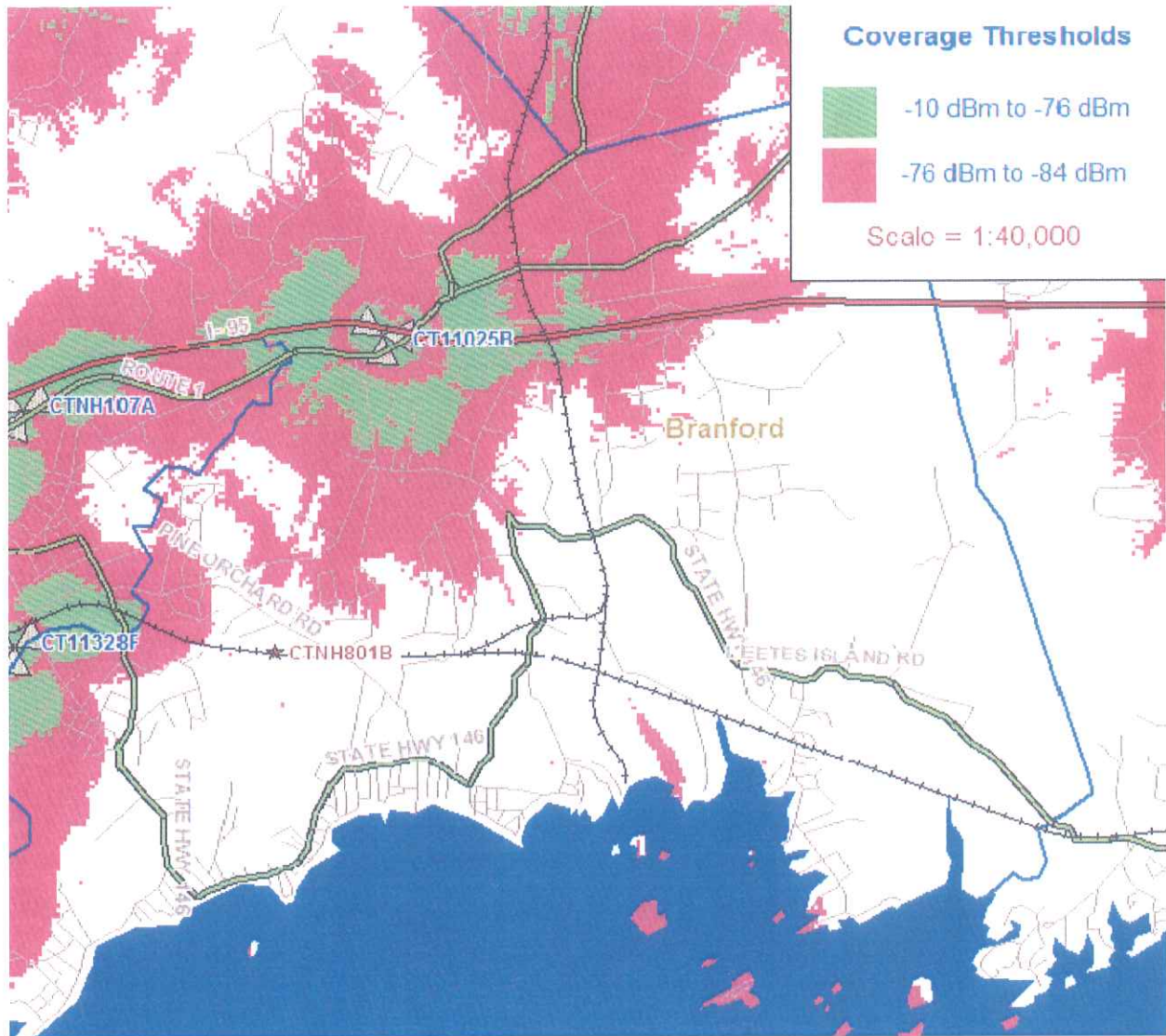


Figure 6: T-Mobile's existing wireless coverage. (T-Mobile 3b)

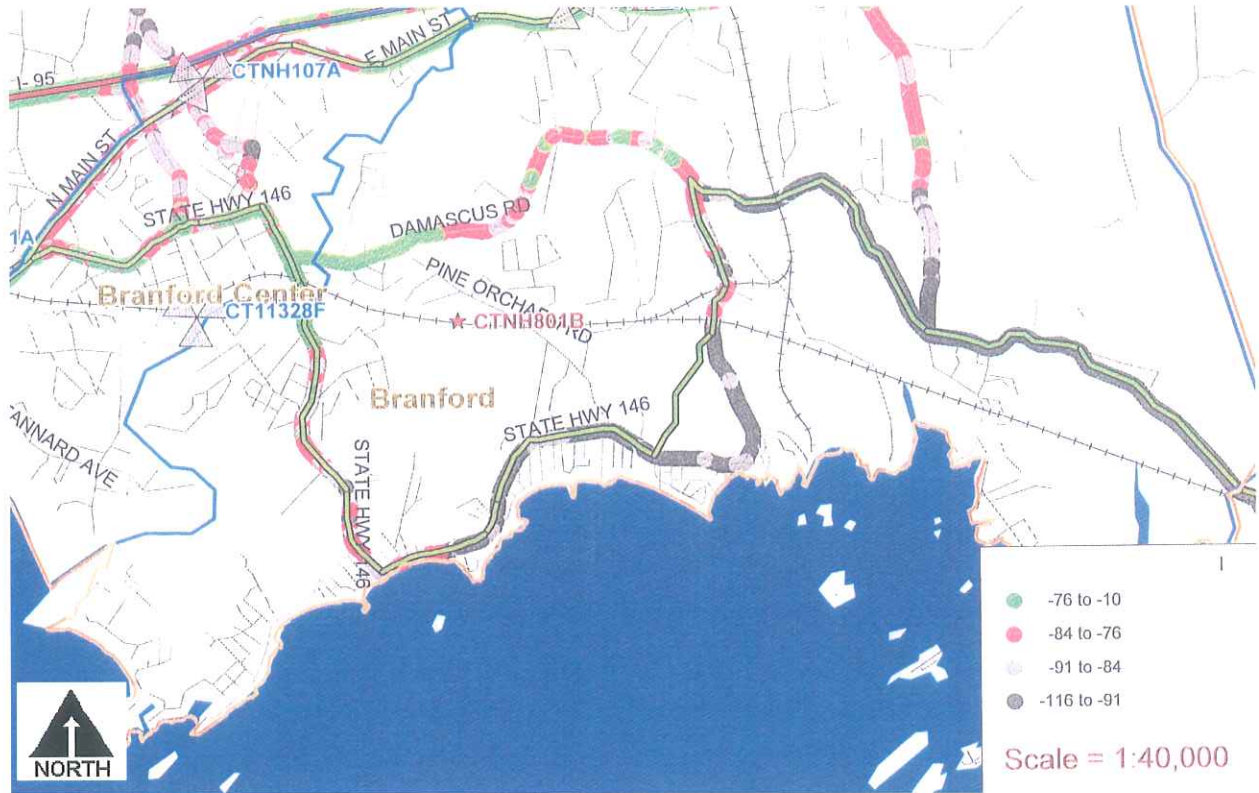


Figure 7: T-Mobile drive test data depicting inadequate coverage in areas east to the southwest of the site. (T-Mobile 2, Q. 8)

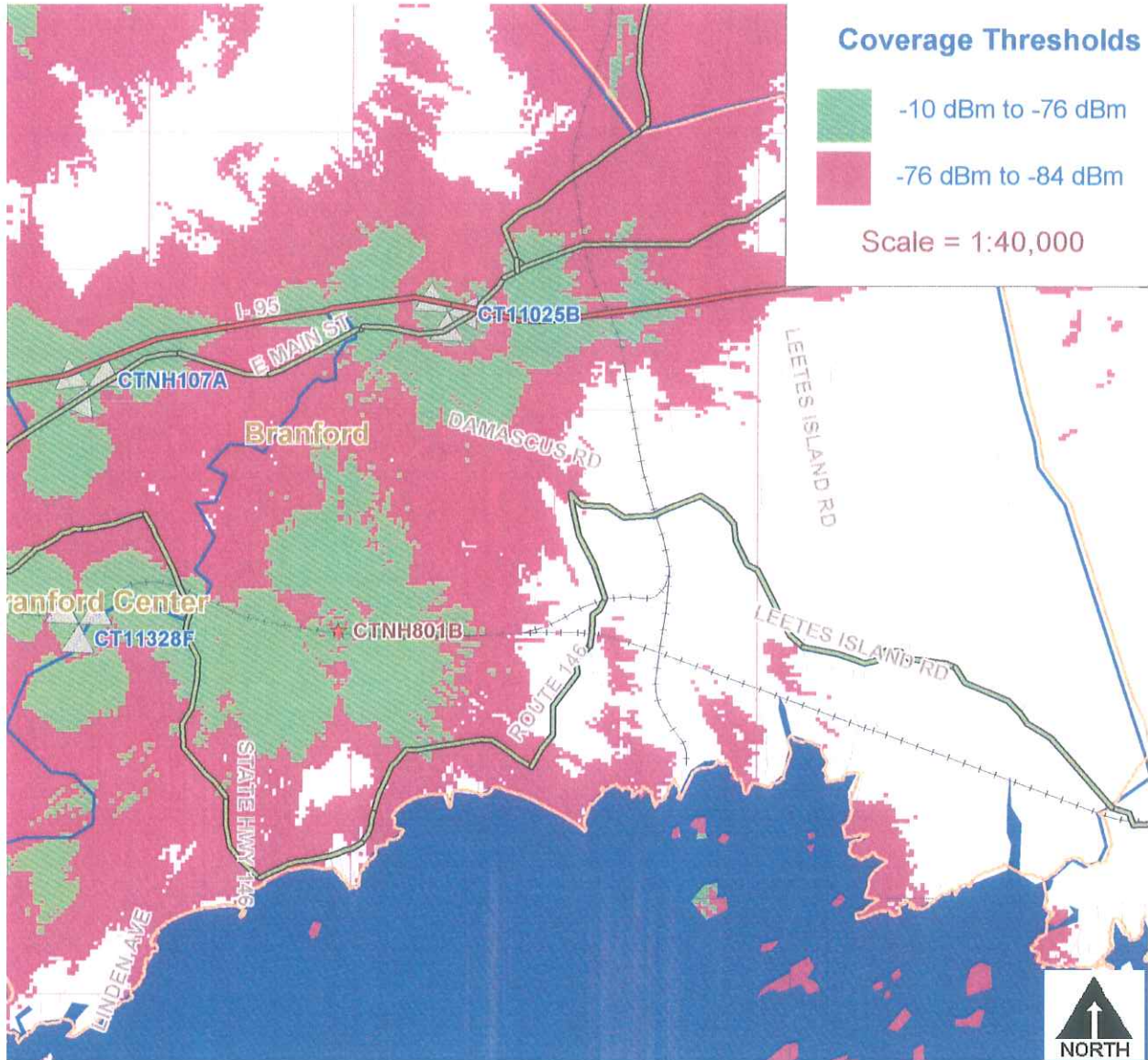


Figure 8: T-Mobile's proposed wireless coverage with antennas mounted 122 feet agl.
(T-Mobile 2, Q. 9)

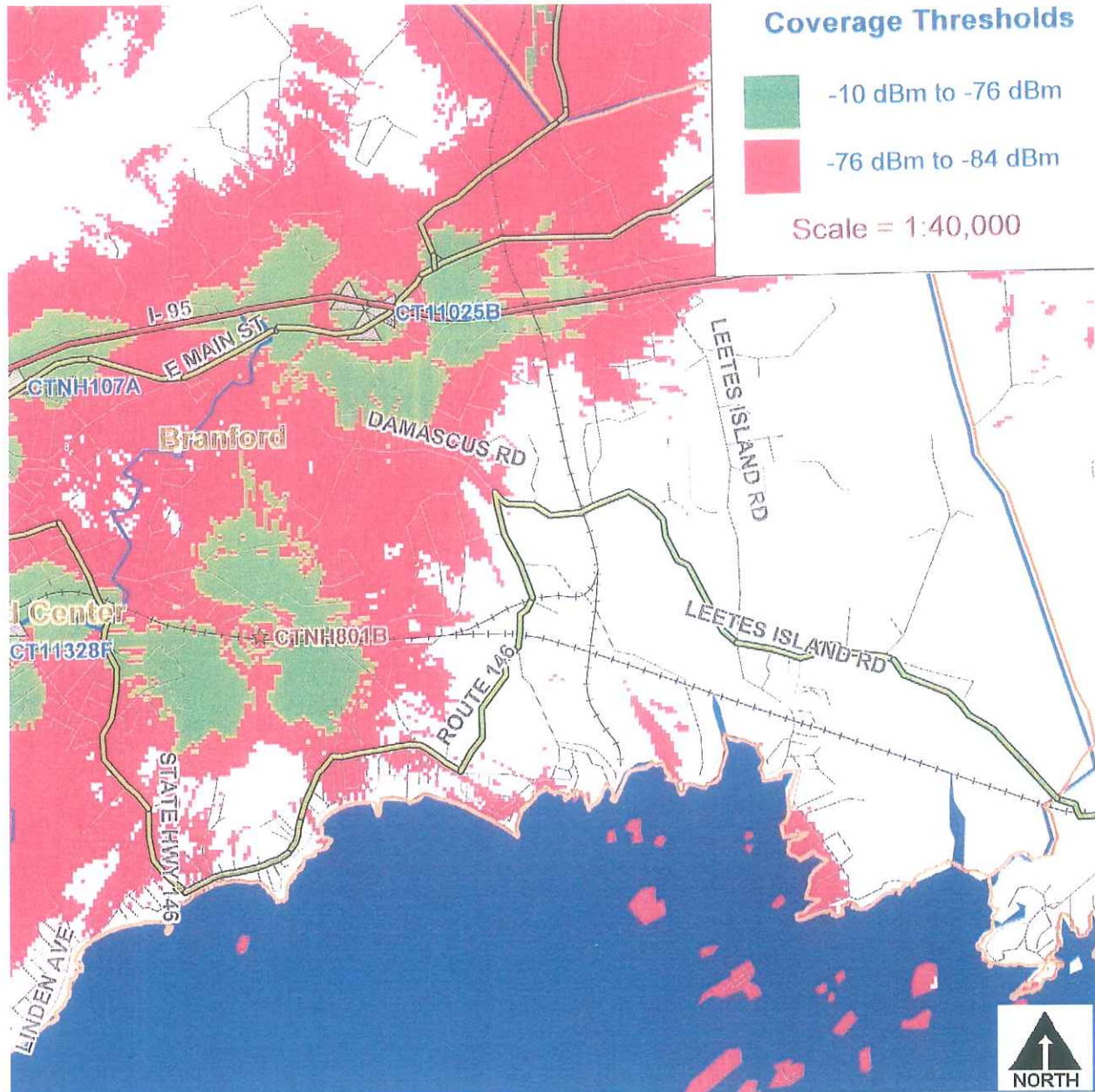


Figure 9: T-Mobile wireless coverage with antennas at 112 feet agl.
(T-Mobile 2, Q. 9)

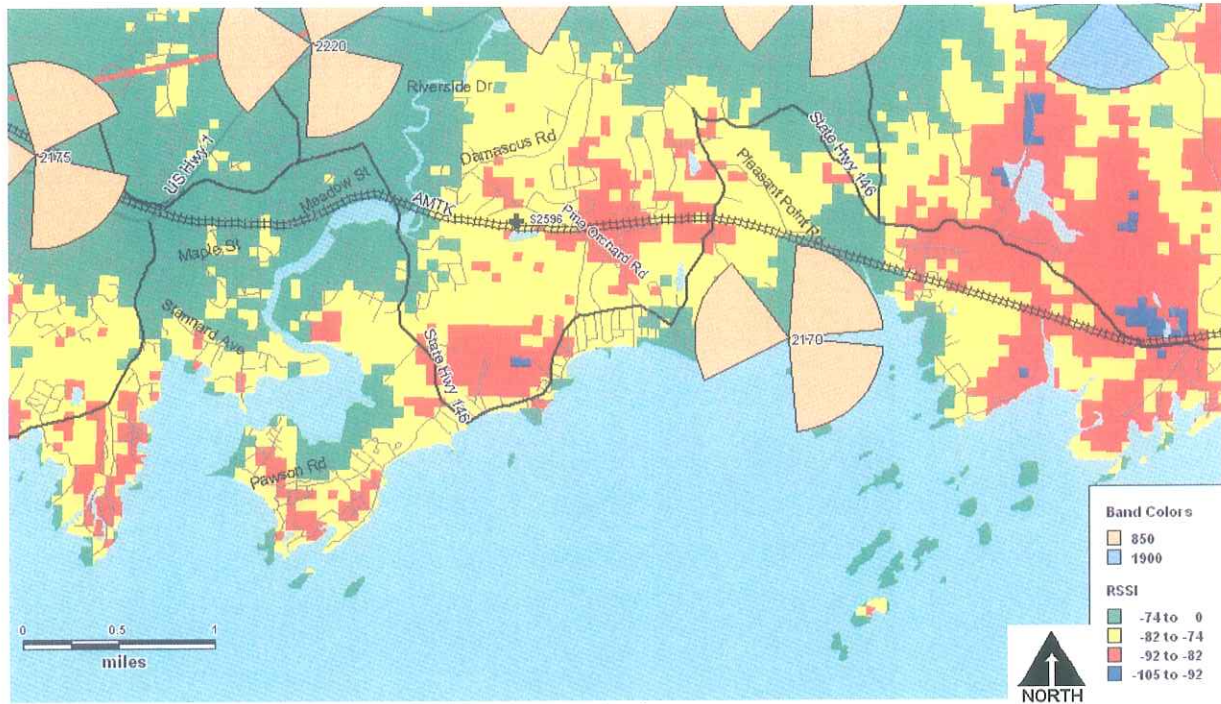


Figure 10: AT&T existing coverage. (AT&T 2, Q. 6)

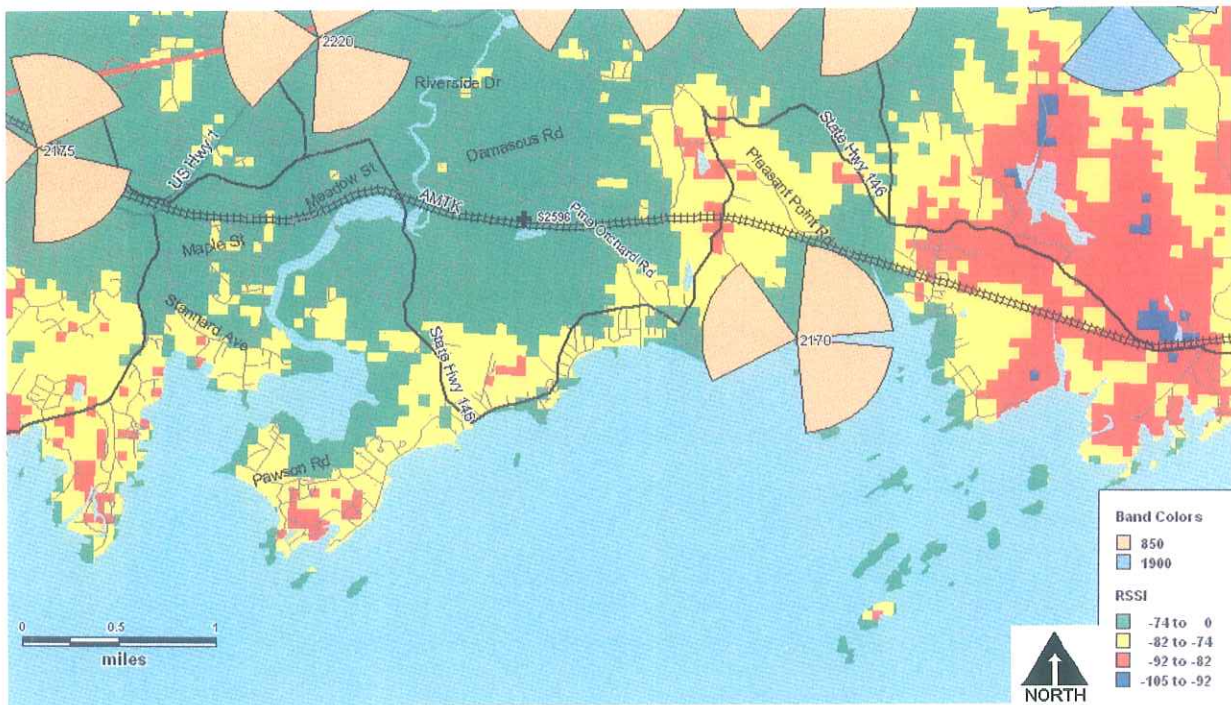


Figure 10: AT&T proposed coverage with antennas at 112 feet agl. (AT&T 2, Q. 7)

DOCKET NO. 386 – T-Mobile Northeast LLC application for a } Connecticut
Certificate of Environmental Compatibility and Public Need for }
the construction, maintenance and management of a } Siting
telecommunications facility located at 123 Pine Orchard Road, }
Branford, Connecticut. } Council

February 25, 2010

Opinion

On September 14, 2009, T-Mobile Northeast LLC (T-Mobile) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and management of a wireless telecommunications facility located at 123 Pine Orchard Road in Branford, Connecticut. The proposed facility would provide wireless service for T-Mobile and New Cingular Wireless PCS LLC (AT&T) to the Pine Orchard Road area of Branford, including the Amtrak rail corridor.

T-Mobile seeks to provide coverage to Pine Orchard area of Branford including the Amtrak rail corridor and shoreline area. T-Mobile's network in this area originated with facilities providing coverage to the I-95 corridor, which is over a mile north of the Pine Orchard area. Reliable service did not extend to the shoreline area or the Amtrak rail corridor. The proposed site would enable T-Mobile to provide reliable in-building coverage to residential areas surrounding the site and reliable in-vehicle coverage to Route 146 along the shoreline and along the Montowese Street area of Route 146. An examination of coverage models indicates a lower tower height would degrade T-Mobile's in-vehicle coverage for approximately one mile of Route 146 along the shoreline. Coverage for the shoreline is the basis for T-Mobile's proposed antenna height.

AT&T's need in this area is focused on in-building coverage and the site would provide adequate coverage to the surrounding neighborhood. The site would not be able to provide AT&T adequate in-building coverage at the shoreline but AT&T is seeking to develop a facility west of the proposed site to meet this need.

Based on coverage gaps in T-Mobile's and AT&T's coverage network, the Council finds a need for a new facility. Existing catenaries on the Amtrak right-of-way are 30 feet in height, too short to provide substantial coverage to the proposed service area. The town owns a large parcel south of the proposed site (Tabor property) but it was not interested in leasing space because it wants to prevent encumbrances to potential future development of the parcel. Another large parcel, the Pet Lodge property (157 Pine Orchard Road), was also considered but the landowner was not responsive to repeated inquiries. There are no other large parcels of land in the search area that would be suitable for a telecommunications facility and no tall structures exist where antennas could be placed.

T-Mobile proposes to construct a 125-foot monopole and an associated compound on a 3.75-acre parcel used for a commercial trucking operation at 123 Pine Orchard Road in Branford. The parcel is set back from Pine Orchard Road and contains an office trailer, a concrete warehouse building and a large open area used for the storage of trailers. It has been in commercial use for 45 years, even though neighboring lots are residential. The property is to the rear of a single-family residence at 121 Pine Orchard Road that is also owned by the lessor. The tower site is located within the rear parcel along the southern property line, adjacent to the Amtrak right-of-way. The tower setback radius would extend onto the Amtrak right-of-way and onto the rear portion of the abutting parcel to the east at 129 Stonybrook Road. On the other side of the Amtrak right-of-way from the tower site is town-owned undeveloped, industrially zoned property.

The Council finds the property suitable for tower development given its size, the setback from Pine Orchard Road, past commercial use, and the presence of other commercial uses and industrially-zoned property in the immediate area. Furthermore, a 125-foot tower would provide T-Mobile and AT&T sufficient coverage to the proposed service area while allowing tower space for other telecommunication providers that may wish to locate at this site in the future. Two carriers, Youghioghny Communications Northeast, LLC d/b/a Pocket Wireless and Clearwire, have already indicated interest in the facility. In addition, T-Mobile would provide space on the tower at no compensation for any municipal emergency service communication antennas, provided such antennas are compatible with the structural integrity of the tower.

The tower site would be accessed from an expanded driveway across the property at 121 Pine Orchard Road and through the existing gravel lot in the back. T-Mobile proposes to expand the existing driveway entrance area by 575 square feet and widen the existing curb cut by 19 feet to ensure all site access is on the landowner's property. Currently, the entrance area of the access drive is partially on property owned by the abutter to the west at 119 Pine Orchard Road. The expansion would necessitate the removal of one large oak tree in front of 121 Pine Orchard Road. The Council is concerned about the loss of this tree because it provides valuable visual screening for properties situated northeast of the site. The Council will order that T-Mobile negotiate with the adjacent landowner for continued, unimpeded use of the driveway entrance. If an agreement cannot be reached, and the driveway is widened as proposed, T-Mobile shall replace the oak tree with a 12-foot spruce tree.

T-Mobile proposes to install nine panel antennas on standoff arm mounts (t-arms) at a centerline height of 122 feet. AT&T proposes to install six panel antennas on t-arms at the 112-foot level of the tower. Pocket Wireless has expressed interest in the 102-foot level of the tower. Clearwire is interested in the 92-foot level of the tower.

The site is not within any known habitat of federally threatened or endangered species or State endangered, threatened or special concern species. Development of the site would not affect any wetlands or watercourses or any archaeological or historic resources. Proper erosion and sedimentation control measures would be established during construction to contain disturbed soils.

Although the tower is adjacent to residential areas, the tower is set back from residences to the greatest extent possible. There are 61 residences within 1,000 feet of the site, with the nearest residences 360 feet to the north at 117 Pine Orchard Road and 365 feet to the west at 119 Pine Orchard Road.

Mature wooded vegetation is located throughout the neighborhood, providing visual screening of the tower especially in leaf-on conditions. Year-round views of the tower from the neighborhood would be possible from four residences on Pine Orchard Drive, four residences on Knollwood Drive and one residence on Hotchkiss Grove Road. Seasonal visibility of the tower would be possible in the immediate surrounding area, including most of the properties on Collins Drive, the west part of Knollwood Drive and adjacent areas of Pine Orchard Drive. The only distant views of the upper portion of the tower would be from residential areas on Route 146, a state-designated scenic road, and Ark Road, both a half mile southwest of the site. No direct views of the tower would be possible for travelers on Route 146 due to the north-south orientation of the road.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined radio frequency power density levels of T-Mobile's and AT&T's antennas proposed to be installed on the tower have been calculated to amount to 8.8% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. The Telecommunications Act of 1996 prohibits any state or local agency 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. If federal or state standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, maintenance, and management of a telecommunications facility at the proposed site, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, maintenance, and management of a 125-foot monopole telecommunications facility at 123 Pine Orchard Road in Branford, Connecticut.

DOCKET NO. 386 – T-Mobile Northeast LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

Connecticut

Siting

Council

February 25, 2010

Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, maintenance, and management of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to T-Mobile Northeast LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility at 123 Pine Orchard Road, Branford, Connecticut.

The facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a monopole, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of T-Mobile Northeast LLC and New Cingular Wireless PCS LLC and other entities, both public and private, but such tower shall not exceed a height of 125 feet above ground level. Panel antennas shall be installed in a flush-mount configuration or utilizing t-arm mounts and such panel antennas shall not exceed a height of 125 feet above ground level.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Branford for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line, and landscaping; and
 - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
 - c) correspondence indicating results of discussions with the property owner at 119 Pine Orchard Road regarding continued use of the existing driveway entrance. If an agreement cannot be reached and the driveway is expanded as proposed, a 12-foot spruce tree shall be planted in the front yard of 121 Pine Orchard Road.

3. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
4. Upon the establishment of any new State or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
5. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
6. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of Branford public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
7. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
8. At least one wireless telecommunications carrier shall install their equipment and shall become operational not later than 120 days after the tower is erected. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
9. Any request for extension of the time period referred to in Condition 7 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of Branford. Any proposed modifications to this Decision and Order shall likewise be so served.
10. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
11. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.

12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the New Haven Register.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

Applicant

T-Mobile Northeast LLC

Its Representative

Julie D. Kohler, Esq.
Monte E. Frank, Esq.
Jesse A. Langer, Esq.
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604

Intervenor

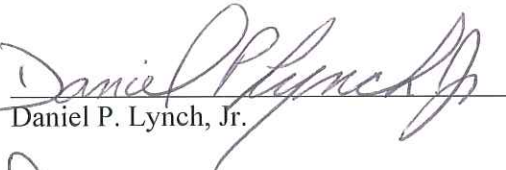
New Cingular Wireless PCS, LLC

Its Representative

Christopher B. Fisher, Esq.
Daniel M. Laub, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

CERTIFICATION

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 386** – T-Mobile Northeast LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut, and voted as follows to approve the proposed telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut:

<u>Council Members</u>	<u>Vote Cast</u>
 _____ Daniel F. Caruso, Chairman	Yes
 _____ Colin C. Tait, Vice Chairman	Yes
 _____ Commissioner Kevin M. DelGobbo Designee: Wayne V. Estey	No
 _____ Commissioner Amey Marrella Designee: Brian Golembiewski	No
_____ Philip T. Ashton	Absent
 _____ Daniel P. Lynch, Jr.	Yes
 _____ James J. Murphy, Jr.	Yes
 _____ Dr. Barbara Currier Bell	Yes
 _____ Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, February 25, 2010.



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Internet: ct.gov/csc

March 2, 2010

Julie D. Kohler, Esq.
Monte E. Frank, Esq.
Jesse A. Langer, Esq.
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604

RE: **DOCKET NO. 386** – T-Mobile Northeast LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

Dear Attorney Kohler, Attorney Frank, and Attorney Langer:

By its Decision and Order dated February 25, 2010, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

Enclosed are the Council's Certificate, Findings of Fact, Opinion, and Decision and Order.

Very truly yours,


S. Derek Phelps
Executive Director

SDP/RDM/laf

Enclosures (4)



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Internet: ct.gov/csc

**CERTIFICATE
OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
DOCKET NO. 386**

Pursuant to General Statutes § 16-50k, as amended, the Connecticut Siting Council hereby issues a Certificate of Environmental Compatibility and Public Need to T-Mobile Northeast LLC for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut. This Certificate is issued in accordance with and subject to the terms and conditions set forth in the Decision and Order of the Council on February 25, 2010.

By order of the Council,

Daniel F. Caruso, Chairman

February 25, 2010



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Internet: ct.gov/csc

March 2, 2010

TO: Classified/Legal Supervisor
386091215
New Haven Register, The (Daily)
40 Sargent Drive
New Haven, CT 06511

FROM: Lisa A. Fontaine, Fiscal Administrative Officer

RE: **DOCKET NO. 386** – T-Mobile Northeast LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut.

Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

Please send an affidavit of publication and invoice to my attention.

Thank you.

LAF



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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NOTICE

Pursuant to General Statutes § 16-50p (e), the Connecticut Siting Council (Council) announces that, on February 25, 2010, the Council issued Findings of Fact, an Opinion, and a Decision and Order approving an application from T-Mobile Northeast LLC for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and management of a telecommunications facility located at 123 Pine Orchard Road, Branford, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut