

# 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](mailto:siting.council@ct.gov)

[www.ct.gov/csc](http://www.ct.gov/csc)

April 15, 2011

TO: Parties and Intervenors

FROM: Linda Roberts, Executive Director *LR*

RE: **PETITION NO. 973** – North Atlantic Towers, LLC and New Cingular Wireless PCS, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required to replace and expand an existing structure located at 880 Andrew Mountain Road, Naugatuck, Connecticut.

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As stated at the hearing in Naugatuck on March 10, 2011, 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 petition by April 21, 2011.

LR/CMW/laf

Enclosure

**LIST OF PARTIES AND INTERVENORS  
SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<b>Petitioner</b>	<input checked="" type="checkbox"/> U.S. Mail	North Atlantic Towers, LLC and New Cingular Wireless PCS LLC	Lucia Chiocchio, Esq. Christopher B. Fisher, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 <sup>th</sup> Floor White Plains, NY 10601 (914) 761-1300 (914) 761-5372 <a href="mailto:lchiocchio@cuddyfeder.com">lchiocchio@cuddyfeder.com</a> <a href="mailto:cfisher@cuddyfeder.com">cfisher@cuddyfeder.com</a>

**PETITION NO. 973** – North Atlantic Towers, LLC and New Cingular Wireless PCS, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required to replace and expand an existing structure located at 880 Andrew Mountain Road, Naugatuck, Connecticut. }

Connecticut

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April 8, 2011

## **DRAFT Findings of Fact**

### **Introduction**

1. On October 18, 2010, North Atlantic Towers, LLC and New Cingular Wireless PCS, LLC (AT&T), in accordance with provisions of Connecticut General Statutes (C.G.S) § 16-50k, submitted a Petition for a declaratory ruling (Petition) that a Certificate of Environmental Compatibility and Public Need is not required for the proposed replacement and expansion of an existing lattice tower at 880 Andrew Mountain in Naugatuck, Connecticut. (North Atlantic Towers [NAT]/AT&T 1, p. 1)
2. The party in this proceeding are the Petitioners. (Transcript 1, March 10, 2011, 3:15 p.m. [Tr. 1], p. 4)
3. The proposed replacement tower would provide AT&T with coverage to western Naugatuck, particularly along Route 8, Rubber Avenue and the surrounding area. (NAT/AT&T 1, pp. 5, 6)
4. The Petitioners placed a four-foot by six-foot sign along Andrews Mountain Road on February 23, 2011. The sign contained information regarding the proposed project and Council's public hearing (record; Tr. 1, p. 21)
5. Pursuant to C.G.S. § 16-50m, the Council, after giving due notice thereof, held a public hearing on March 10, 2011, beginning at 3:00 p.m. and continuing at 7:00 p.m. at Naugatuck Town Hall, 229 Church Street, Naugatuck, Connecticut. (Tr. 1, p. 2; Transcript 2, March 10, 2011, 7:00 p.m. [Tr. 2], p. 2)
6. The Council and its staff conducted an inspection of the proposed site on March 10, 2011, beginning at 2:00 p.m. During the field inspection, the applicant flew a balloon at the proposed site to simulate the height of the proposed tower. Weather conditions were windy, which made it impossible for the balloon to fly vertically to its intended height. The balloon was aloft from 8:00 a.m. to 5:00 p.m. for the convenience of the public. (Tr. 1, pp. 21, 22)
7. Pursuant to C.G.S. § 16-50m (c), the Council published public notice of the hearing the Waterbury Republican on January 31, 2011 and the Citizen's News on February 4, 2011. (record)
8. On December 2, 2010, the Petitioners provided notice of the proposed project to all abutting property owners by certified mail. (NAT/AT&T 3, R. 1)

### **State Agency Comment**

9. Pursuant to C.G.S. § 16-50j (h), on January 26, 2011 and March 11, 2011, the following State agencies were solicited by the Council 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); Department of Agriculture (DOAg); Department of Transportation (DOT); and Department of Emergency Management and Homeland Security (DEMHS). (record)
10. On March 3, 2011, the Council received a response from the DOT stating it had no comment on the proposed project. (DOT Comments dated March 3, 2011)
11. The following agencies did not respond with comment on the application: DEP, DPH, CEQ, DPUC, OPM, DOAg, DEMHS and the DECD. (record)

### **Municipal Consultation**

12. In May 2010, North Atlantic Towers consulted with the Town of Naugatuck regarding the construction of a 150-foot tower at the proposed site. The town did not provide any adverse comments on the potential 150-foot structure. Following the consultation with the town, AT&T, which would be the anchor tenant on the structure, determined that it could satisfy its coverage needs at 120 feet above ground level (agl). (NAT/AT&T 1, p. 6)

### **Existing and Proposed Wireless Coverage –AT&T**

13. AT&T is licensed by the Federal Communication Commission (FCC) to provide wireless communications services throughout Connecticut. (NAT/AT&T 1, Tab 7)
14. At cellular frequencies (850 MHz), the existing coverage gap in the area of the proposed site is approximately 33.1 square miles for in-building coverage (at -74 dBm) and 16.9 square miles for in-vehicle coverage (at -82 dBm). Refer to Figure 1. (NAT/AT&T 1, Tab 7)
15. At 120 feet agl using cellular frequencies (850 MHz), AT&T would provide 4.1 square miles of in-building coverage and 6.2 miles of in-vehicle coverage. The proposed antennas would provide coverage to 12.3 percent of the coverage gap for in-building coverage and 36.8 percent of the coverage gap for in-vehicle coverage. Refer to Figure 2. (NAT/AT&T 1, Tab 7)

### **Facility Description**

16. North Atlantic Towers proposes to replace an existing unused 100-foot lattice tower and abandoned shelter with a 120-foot monopole and associated equipment at a 105-acre parcel owned by Franklin B. Andrew at 880 Andrew Mountain Road in Naugatuck. Refer to Figure 3 and Figure 4. (NAT/AT&T 1, pp. 1, 2, Tab 2)
17. The existing structure is located in the north-central portion of the property within a wooded area. The existing structure is not adequate to support AT&T's proposed equipment. The existing tower was installed during the 1950s by the Connecticut "Division of Fish and Game." (NAT/AT&T 1, p. 2)

18. The property owner is the current owner of the existing tower. North Atlantic Towers would be responsible for the removal of the existing tower. (NAT/AT&T 3, R. 3)
19. The proposed 120-foot replacement tower would be located within a 75-foot by 75-foot fenced compound that would be located at the base of the structure. The proposed tower would be located in the same location as the existing tower. The proposed compound would be located within a 100-foot by 100-foot lease area. (NAT/AT&T 1, p. 2; NAT/AT&T 4)
20. North Atlantic Towers would reduce the size of the equipment compound from 75 feet by 75 feet to 50 feet by 50 feet to minimize clearing. (NAT/AT&T 5, Post-Hearing Submission)
21. AT&T would install six panel antennas at the 120-foot level of the proposed monopole. (NAT/AT&T 1, p. 2)
22. AT&T could flush mount antennas on the proposed tower; however, AT&T would require at least two additional levels of flush mounted antennas, resulting in a tower height of 140 feet agl. (NAT/AT&T 3, R. 5)
23. AT&T's proposed equipment would be installed within a 12-foot by 20-foot equipment shelter on a concrete pad. AT&T proposes to install a 4-foot by 11-foot concrete pad for an emergency generator within the equipment compound. (NAT/AT&T 1, pp. 2, 3)
24. Space would be available on the proposed monopole and within the compound for three additional carriers. The replacement tower and foundation could be designed to accommodate a future extension to 149 feet agl. (NAT/AT&T 1, Tab 2; NAT/AT&T 2, Supplemental Submission; Tr. p. 65)
25. Access to the site would extend over a new 12-foot wide gravel access drive within a 15-foot wide easement for a distance of approximately 580 feet to the compound. The northern edge of the proposed access road would be approximately 15 feet from the northern property boundary. The proposed access road is designed with a one to two percent slope toward the south. Utilities would be installed underground from the overhead utility lines that exist along the northern property boundary, parallel to the proposed access road. Refer to Figure 3. (NAT/AT&T 1, p. 3; Tr. 1, pp. 10, 11, 44)
26. The Petitioners originally proposed the access road south of the shrubs along the property line, which would require no clearing of that vegetation. The Petitioners relocated the proposed access road to the north at the request of the property owner. The property owner was concerned about the continued use of his property and wanted to maximize available space for hay and agricultural uses. (Tr. 1, pp. 9, 10)
27. The access drive could be moved to its original location, approximately 50 feet from the northern property boundary. Refer to Figure 4. (NAT/AT&T 5, Post-Hearing Submission)
28. North Atlantic Towers would investigate the potential to create a swale on the north side of the compound to divert any runoff to the south. (Tr. 2, p. 10)
29. The average height of the tree canopy near the proposed site is approximately 50 feet to 60 feet agl. (NAT/AT&T 2, Supplemental Submission)
30. There are 26 residences within a 1,000-foot radius of the site. (NAT/AT&T 2, Supplemental Submission)

31. The nearest residence is approximately 273 feet north of the site, located at 41 Tower Lane. (NAT/AT&T 2, Supplemental Submission)
32. A 120-foot monopole constructed by North Atlantic Towers would typically require a diameter of approximately 3.5 to 4 at the base and tapering to approximately 2 to 3 feet at the top. The existing lattice tower is approximately two feet per face. (Tr. 1, p. 17; NAT/AT&T 5, Post-Hearing Submission)
33. North Atlantic Towers discussed the relocation of the proposed tower and compound approximately 100 feet south of the existing site. The property owner did not agree to this relocation. The access drive could be moved to its original location, approximately 50 feet from the northern property boundary. (NAT/AT&T 3, R. 7; Tr. 1, pp. 17, 18; NAT/AT&T 5, Post-Hearing Submission)

#### **Environmental Considerations**

34. No wetlands are located along the proposed access road or within 150 feet of the proposed replacement tower. (NAT/AT&T 1, p. 3)
35. North Atlantic Towers would install all appropriate sediment and erosion control measures for the proposed project, in accordance with the *2002 Connecticut Soil Erosion and Control Guidelines*. (NAT/AT&T 1, p. 3)
36. No marking or lighting would be required for the proposed tower by the Federal Aviation Administration. The Oxford Airport in Oxford, Connecticut is approximately three miles west of the proposed site. (NAT/AT&T 1, p. 4)
37. The proposed site would have no effect on historic, architectural or archaeological resources. (NAT/AT&T 1, p. 4)
38. The proposed project would comply with the United States Fish and Wildlife Service guidelines to minimize potential impacts to bird species. No migratory bird species are expected to be adversely impacted by the construction of the proposed facility. (NAT/AT&T 5, Post-Hearing Submission)
39. The tower setback radius of the proposed monopole would remain within the property boundary. (NAT/AT&T 1, Tab 2)
40. Vegetative clearing would be necessary along the northern property boundary for construction of the proposed access road that would be located approximately 15 feet from the northern property boundary, and surrounding the proposed compound. (NAT/AT&T 4)
41. One resident of Tower Lane inquired with the Petitioners regarding the proposed access road and drainage. The Petitioners maintain that drainage from the proposed access road would not noticeably increase the runoff rate because it would be constructed of gravel. Additionally, existing grades and associated drainage patterns would be maintained as part of the proposed project. (NAT/AT&T 3, R. 2)

42. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T's proposed antennas is 9.1% 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. (NAT/AT&T 1, Tab 3)

Visibility

43. Visual impacts associated with the proposed 20-foot increase in height would be primarily within an area near the existing facility. (NAT/AT&T 1, p. 4)
44. The existing 100-foot tower is visible, year-round, from approximately 69 acres within a two-mile radius of the site. Refer to Figure 6. (NAT/AT&T 1, Tab 6)
45. The proposed 120-foot tower would be visible, year-round, from approximately 81 acres within a two-mile radius of the site. Refer to Figure 6. (NAT/AT&T 1, Tab 6)
46. Visibility of the proposed tower from specific locations within a one-mile radius of the site (as shown in Figure 5 of this document) is presented in the table below.

Location	Visible	Approx. Portion of Tower Visible	Approx. Distance to Tower
1. Dorman Drive	Yes	20 feet - through trees	0.21 miles southwest
2. Dorman Drive	Yes	40 feet - through trees	0.24 miles southwest
3. Fieldstone Terrace	Yes	15 feet - through trees	0.4 miles southwest
4. Intersection of Fieldstone Terrace & Yorktown Lane	No	-	0.4 miles southwest
5. Andrew Mountain Road	Yes	60 feet - through trees	0.14 miles southwest
6. Tower Lane	Yes	50 feet - through trees	0.09 miles northeast
7. Andrew Mountain Road	Yes	25 feet - through trees	0.32 miles northeast
13. Hunter Mountain Road	Yes	50 feet - above trees	0.95 miles southeast
14. Hunter Mountain Road	Yes	50 feet - above trees	0.96 miles southeast

(NAT/AT&T 1, Tab 6)

47. The proposed tower could be constructed as a galvanized steel monopole with t-arm antenna mounts to lessen the visual impact of the proposed monopole. (Tr. 1, p. 15)
48. North Atlantic Towers could construct a brown pole up to the height of the tree canopy line and another color above that height to reduce potential visual impact. (Tr. 1, p. 15)
49. The homes at the end of the Tower Lane cul-de-sac would have views of the proposed 120-foot monopole. (Tr. 1, p. 33)
50. If the proposed monopole were moved to the south outside of the existing stand of trees, the view of the monopole from Tower Lane would be greatly reduced. (Tr. 1, p. 35)

51. The proposed monopole may be visible from a portion of the Larkin State Park trail located approximately one and a half miles away. (Tr. 1, pp. 54, 55)



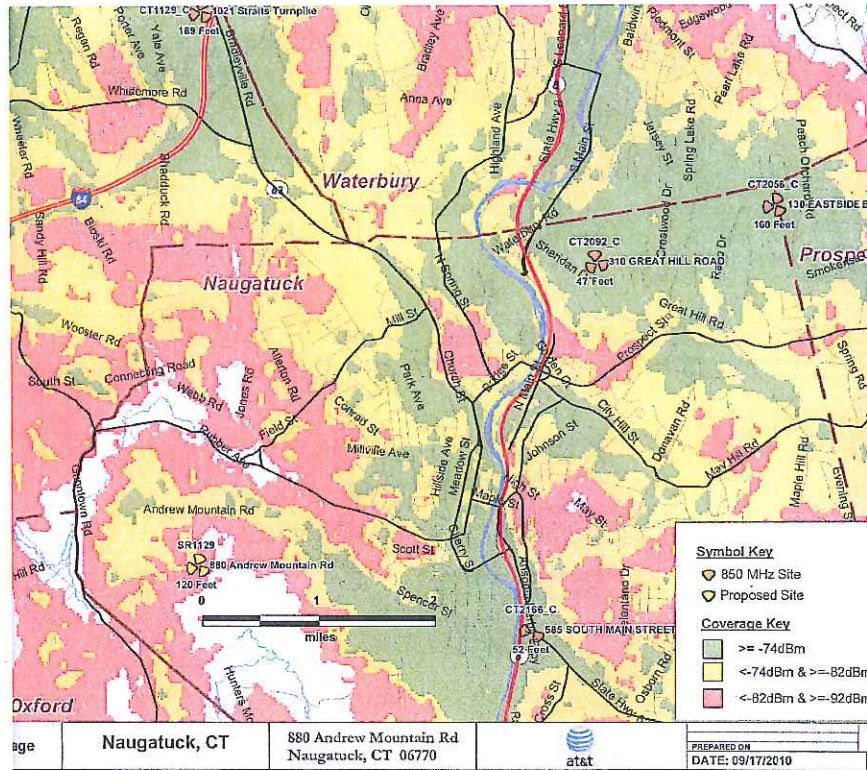


Figure 1. AT&T's existing coverage near the proposed site. (NAT/AT&T 1, Tab 7)

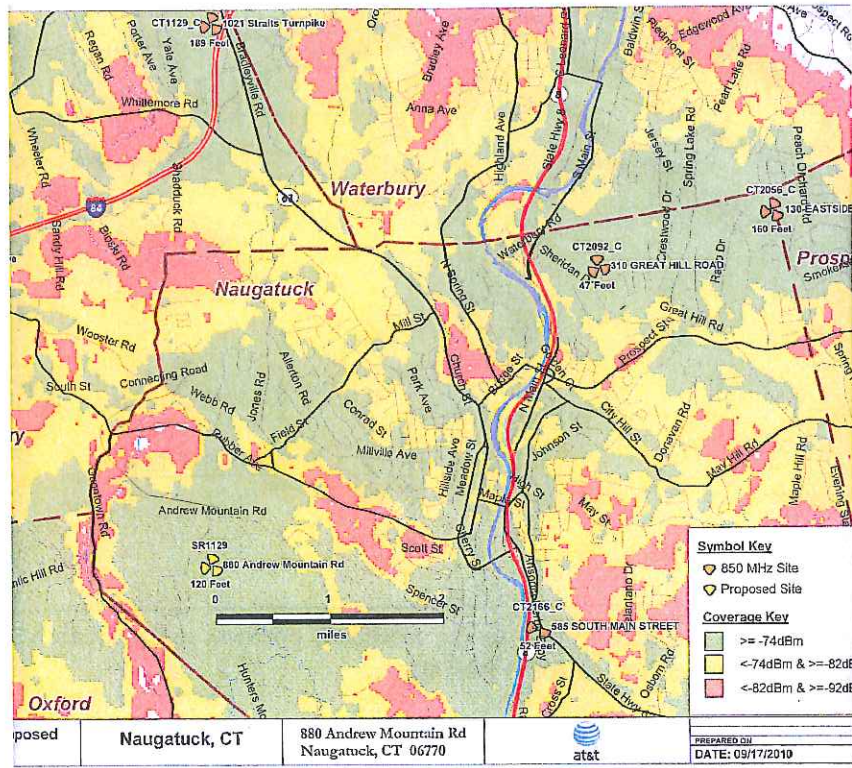
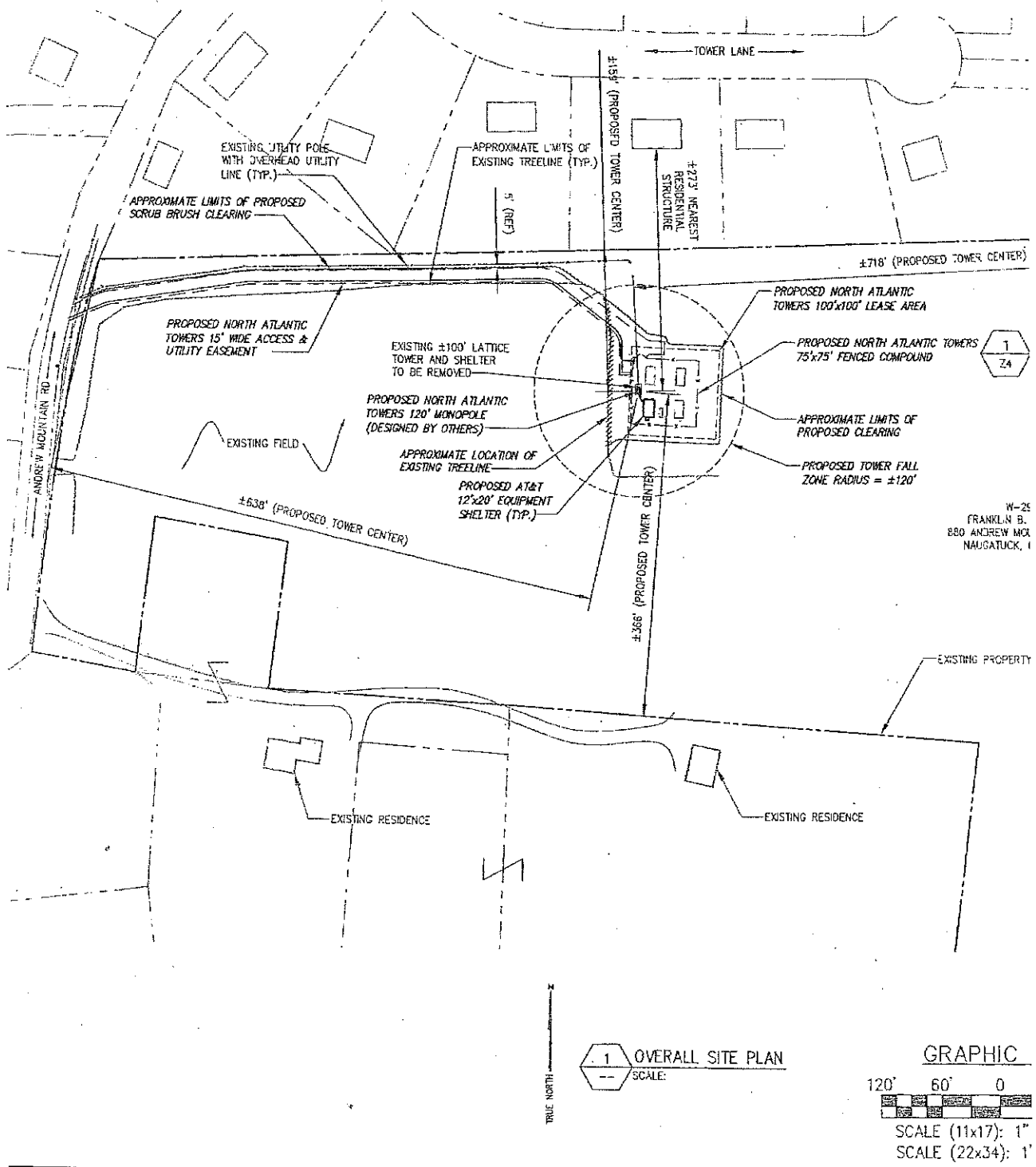


Figure 2. AT&T's existing coverage and coverage from the proposed site at 120 feet agl. (NAT/AT&T 1, Tab 7)



**Figure 3.** Site plan showing the access road in the relocated position approximately 15 feet from the northern property boundary. (NAT/AT&T 4)

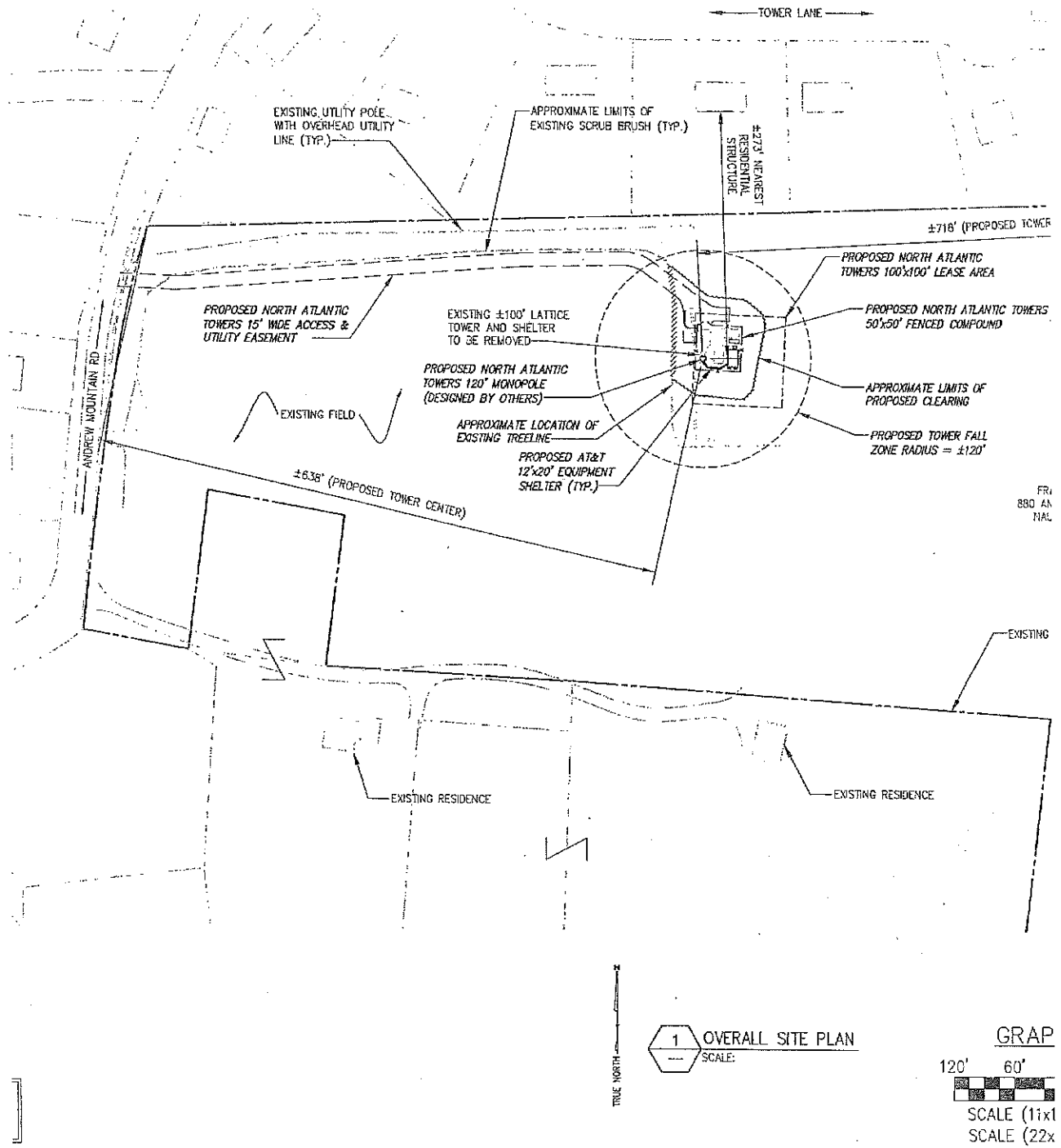
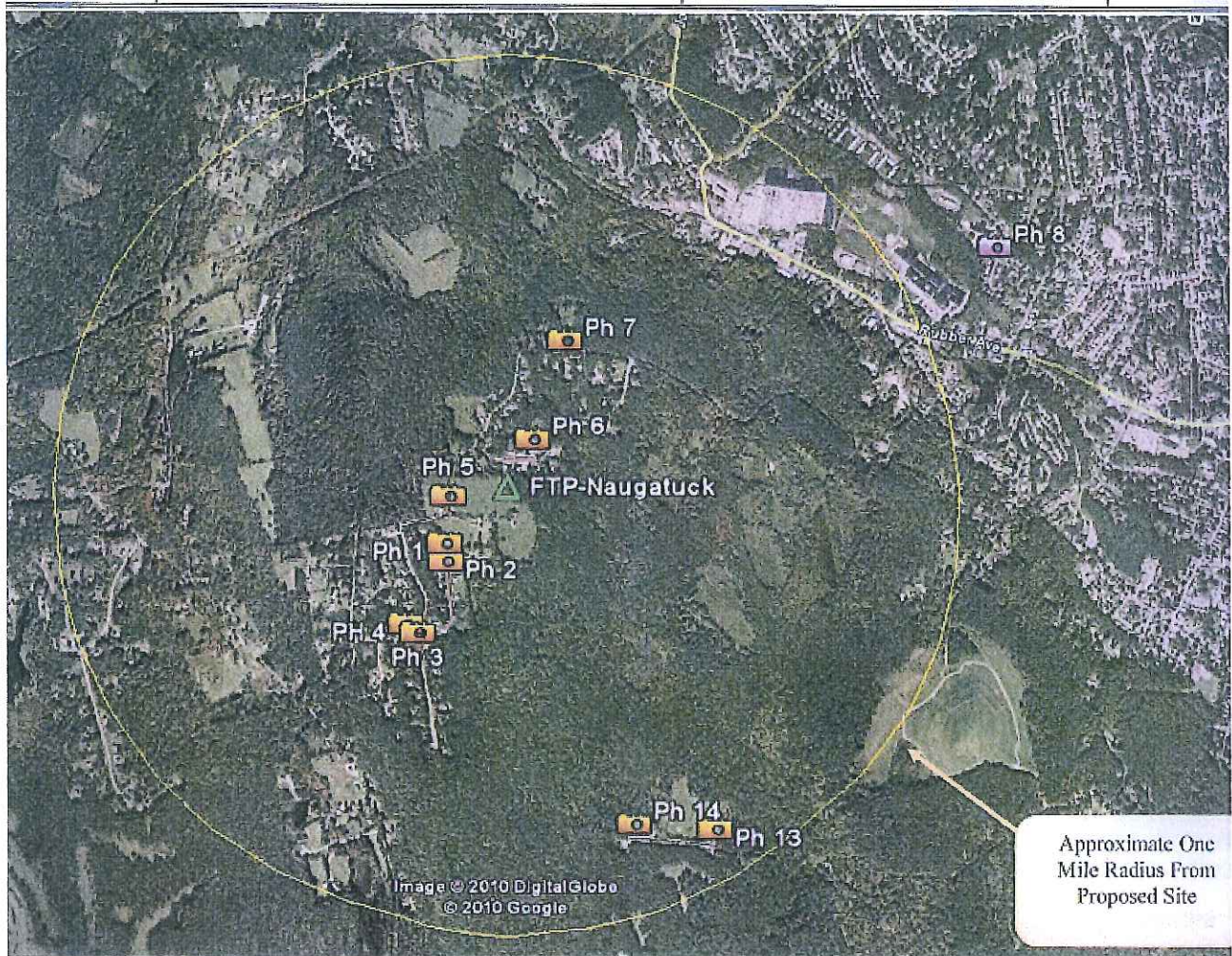


Figure 4. Site plan with access road south of shrub vegetation. (NAT/AT&T 4)





**Figure 5.** Map showing locations of photographs used for photosimulations. (NAT/AT&T 1, Tab 6)



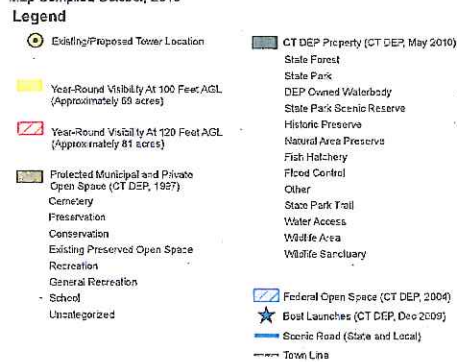
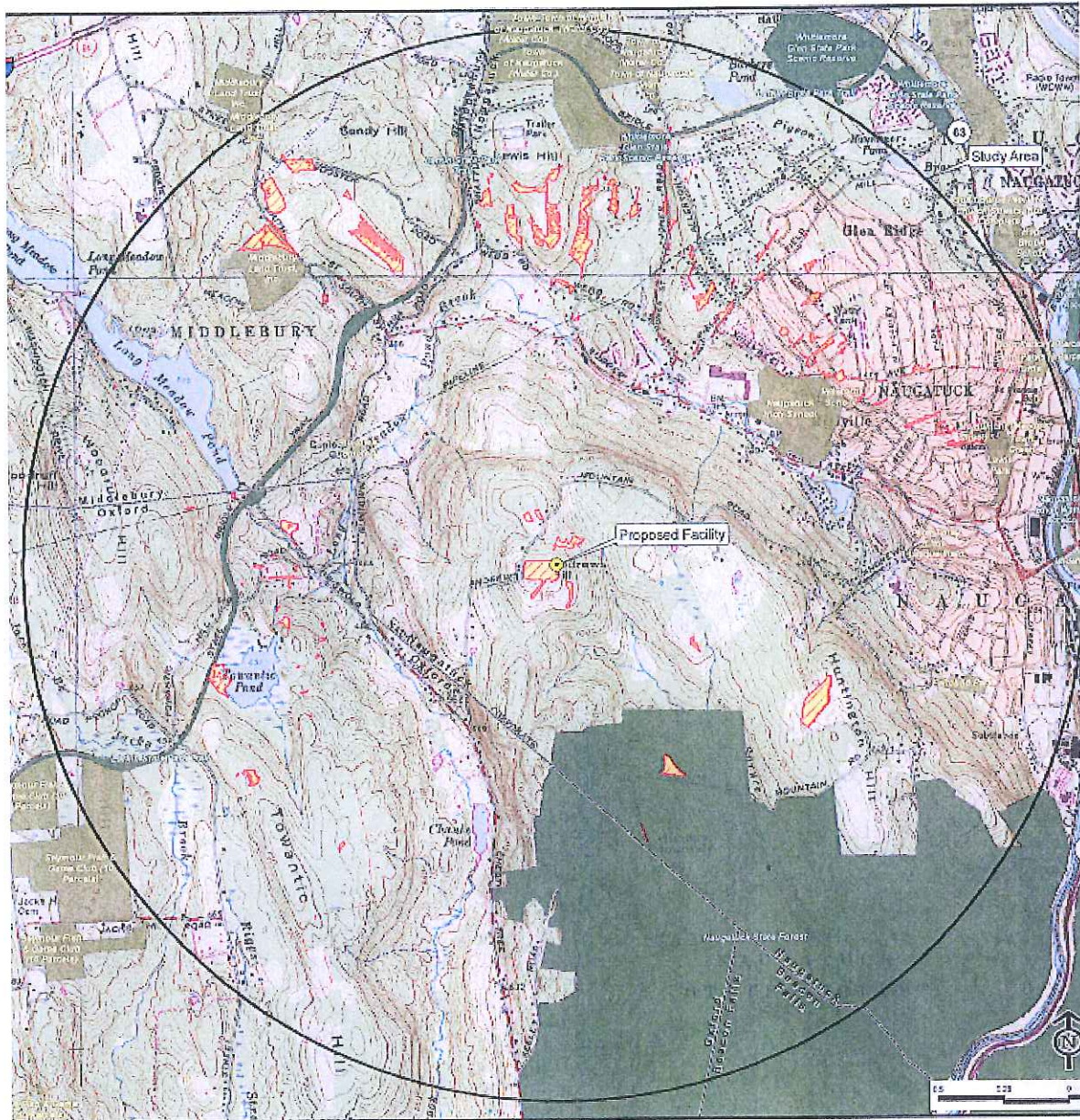


Figure 6. Viewshed analysis map showing potential visibility of the proposed tower. (NAT/AT&T 1, Tab 6)