

PETITION NO. 722 – Cellco Partnership d/b/a Verizon Wireless petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed modifications to an existing telecommunications facility located at 70 Platt Road, Shelton, Connecticut.	} } }	Connecticut Siting Council November 3, 2005
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Findings of Fact

Introduction

1. On June 3, 2005, Cellco Partnership d/b/a Verizon Wireless (Verizon) petitioned the Connecticut Siting Council (Council) for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need (Certificate) would be required for the extension of an existing telecommunications facility located at 70 Platt Road, Shelton, Connecticut. (Verizon 1, p. 1)
2. The Council held a public hearing on this petition on August 16, 2005, beginning at 4:00 p.m. and continued at 7:00 p.m. at the Shelton Community Center, 41 Church Street, Shelton, Connecticut. Public notice of the hearing was published in the Connecticut Post on July 6, 2005 and in the Huntington Herald on July 13, 2005. (Transcript 4:00 p.m. [Tr. 1], p. 3; Transcript 7:00 p.m. [Tr. 2], p. 3; Record)
3. The parties in this proceeding are the applicant and the City of Shelton. (Tr. 1, pp. 5-6)
4. The Council and its staff conducted an inspection of the proposed site on August 16, 2005, beginning at 3:00 p.m. During the field inspection, the applicant flew a balloon at the site to a height of 140 feet above ground level (agl) to represent the height of the tower with the proposed extension. (Council's Hearing Notice dated July 1, 2005; Tr. 1, p. 17)
5. Verizon provided notice of the application by certified mail to all abutting property owners. (Verizon 3)
6. Pursuant to General Statutes § 16-50j (h), on July 1, 2005, the following State agencies were solicited by the Council to submit written comments regarding the proposed facilities; 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)
7. No comments from any state agency were received. (Record)

Telecommunications Act

8. 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)

9. 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)
10. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)
11. 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 the Federal Communications Commission's (FCC) 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)

Existing Site

12. On March 25, 2003 the Council approved Petition No. 608T, a proposal by AT&T Wireless PCS LLC (New Cingular) to replace an existing 75-foot light duty monopole supporting one whip antenna with a 100-foot monopole designed to support three carriers. The replacement pole was constructed 275 feet west of the existing tower location. (Verizon 1, p. 1, Attachment 1)
13. The existing 100-foot monopole is located on property owned by Brennan Realty LLC at 70 Platt Road in Shelton Connecticut and is used by the Brennan Construction Company (Brennan). The tower is located in an equipment storage area, adjacent to a low-rise warehouse. The parcel is zoned industrial, IA-2. (Verizon 1, p. 2, Attachment 1; Shelton 2B)
14. The existing tower supports the following: six panel antennas on a platform at a centerline height of 100 feet agl, operated by AT&T; six panel antennas on a platform at a centerline height of 74.5 feet agl, operated by Sprint; and a nine-foot whip antenna mounted at the top of the tower operated by Brennan. (Verizon 1, Attachment 3, Attachment 4; Verizon 5)
15. The existing 970 square foot compound contains equipment cabinets used by New Cingular and Sprint. (Verizon 1, Attachment 4)
16. There is one residence within a 1,000-foot radius of the site, approximately 200 feet to the north at 79 Platt Road. The residence is a non-conforming use in an office park district zone. (Verizon 1, Attachment 4; Verizon 4, Q. 2; Shelton 2B; Tr. 1, p. 62)
17. The nearest residential zone is the Country Place Condominium development, approximately 1,080 feet northeast of the site. (Shelton 2B)

Proposed Modifications

18. Cellco proposes to extend the tower from a height of 100 feet agl to 140 feet agl. The tower anchor bolts would require strengthening through the addition of grout to support the 40-foot tower extension and proposed antenna loading. (Verizon 1, Attachment 3, Attachment 4)
19. Cellco proposes to install 12 panel antennas on a platform at a centerline height of 140 feet agl. AT&T would relocate its antennas from the 100-foot level to the 130-foot level of the tower. Sprint would remain at the 74.5-foot level of the tower. The Brennan whip antenna would be relocated to the top of the tower. (Verizon, p. 3, Attachment 4)

20. Cellco proposes to expand the southside of the compound by 112 square feet to accommodate a 12-foot by 20-foot equipment shelter. A propane fueled emergency generator would be installed within the shelter. A propane tank would be installed east of the compound, within a fenced enclosure adjacent to a storage shed on the property. (Verizon 1, Attachment 4)

Environmental Concerns

21. The site is located within an active construction yard adjacent to a warehouse and exterior construction storage racks. No clearing or grading would be required for construction or compound expansion. (Verizon 1, Attachment 1, Attachment 4)
22. Aircraft hazard obstruction marking or lighting of the 140-foot tower would not be required. (Verizon 4, Q. 4)
23. The conservative worst-case approximation of electromagnetic radiofrequency power density, assuming all Verizon, AT&T, Sprint, and Brennan antennas are directed towards the base of the tower with all channels are operating simultaneously, would be 29.8% of the standard for Maximum Permissible Exposure as adopted by the FCC. (Verizon 5)

Visibility

24. The existing 100-foot tower is visible from approximately 58-acres within a two-mile radius of the site (refer to Figure 1), with a majority of the visibility impact within a half-mile of the site. Land use within this area consists of light industrial and commercial to the south and east, and a mix of residential and commercial to the west in the Platt Road-Buddington Road area. (Verizon 1, Attachment 5; Tr. 1, pp. 18-19)
25. Increasing the height of the tower to 140 feet would increase the area of visibility to 61-acres within two-miles of the site, mostly around the periphery of areas that currently have views of the 100-foot tower. (Verizon 1, Attachment 5; Tr. 1, p. 49)
26. Residences with year-round visibility of the proposed 140-foot tower include the single-family residence at 79 Platt Road, approximately 12 residences in the area of the Buddington Road-Platt Road intersection, approximately 1,300 feet west of the site, and a residence at 33 Forest Parkway 1,075 feet east of the site. The residence at 33 Forest Parkway is a nonconforming use in a light industrial park zone. (Verizon 1, Attachment 5; Shelton 2A, 2B; Tr. 1, pp. 15, 47-48)
27. Two residences on English Lane, west of the site, may have seasonal views of the proposed 140-foot tower through mature woods. The residences are adjacent to an existing 195-foot guyed lattice tower owned by Cablevision. (Verizon 6; Tr. 2, pp. 31-32, 53-54)
28. The proposed 140-foot tower would not be visible from the Buddington Manor Condominium complex, approximately 1,650 feet southwest of the site, due to an existing vegetative buffer. (Verizon 1, Attachment 5; Shelton 2A; Tr. 2, pp. 44, 55-56)
29. The proposed 140-foot tower may be visible from several second floor units of the Country Place Condominium complex, approximately 1,080 feet northwest of the site, that are oriented towards the tower. The tower would not be visible from other areas of the complex. (Shelton 2A; Tr. 2, p. 52)

30. The proposed 140-foot tower would not be visible from the Sunwood Condominium complex, approximately 2,000 feet northwest of the site. (Verizon 1, Attachment 5; Shelton 2A; Tr. 2, p. 52)
31. The proposed 140-foot tower would not be visible from residential areas northeast of the site along Long Hill Avenue. (Verizon 1, Attachment 6; Tr. 2, pp. 52-53)

Cablevision Facility

32. Verizon is currently operating antennas at the 150-foot level of the 195-foot Cablevision tower located off Buddington Road in Shelton. (Verizon 1, p. 2)
33. Verizon's lease agreement with Cablevision expired on May 31, 2005. (Verizon 1, p. 2)
34. Verizon sought to upgrade its equipment and expand the antenna array from six to 12 panel antennas at the Cablevision site; however, based on a structural analysis performed in March 1995, the tower was at structural capacity and would require a re-build to support such loading. (Verizon 2; Tr. 1, p. 23)
35. Cablevision rejected an offer by Verizon to rebuild the tower and informed Verizon that it did not intend on renewing the tower lease agreement. (Verizon 2; Tr. 1, pp. 23-25; Tr. 2, pp. 22-23)

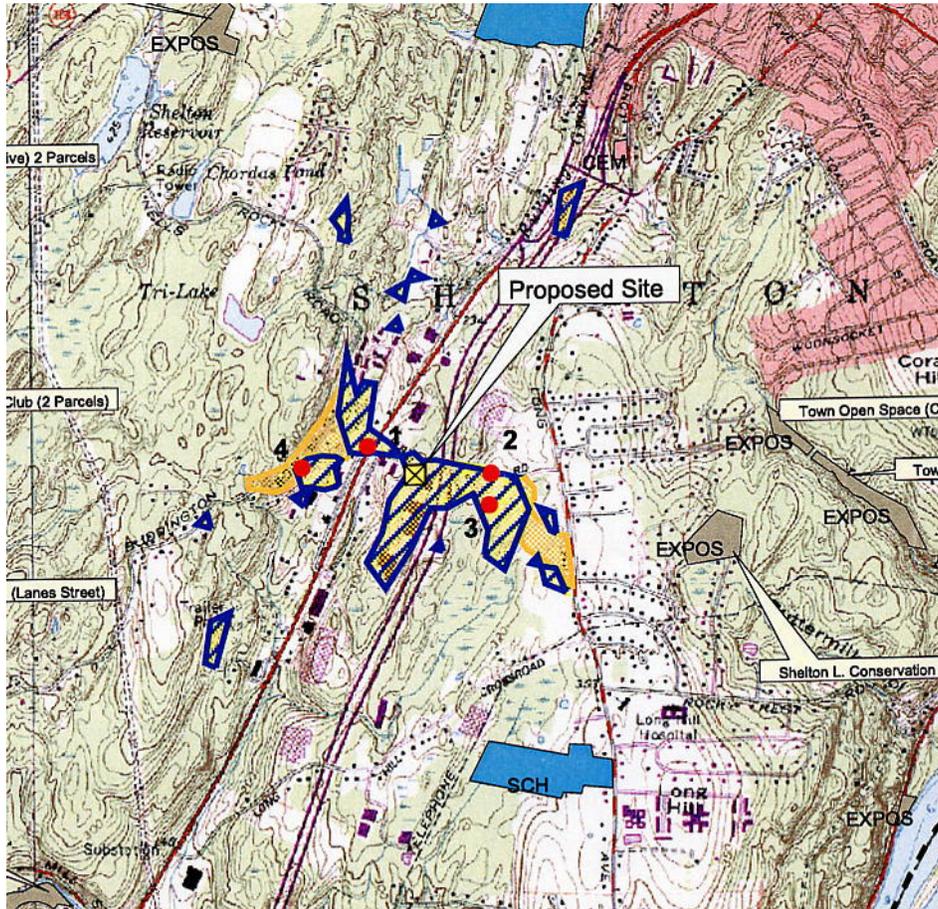
Verizon – Existing and Proposed Coverage

36. Verizon seeks to provide coverage to Route 8 between exits 13 and 14, and the surrounding area including commercial and industrial areas along Bridgeport Avenue, Forest Parkway, and Platt Road and residential areas along Nells Rock Road, and Buddington Road. (Verizon 1, Attachment 2; Verizon 4, Q. 3; Shelton 2A)
37. Verizon operates in both the 800 MHz and 1900 MHz frequency bands. Installing antennas at the 140-foot level of the tower would provide adequate coverage to Route 8 and the surrounding area (refer to Figure 2). (Verizon 4, Q. 3; Tr. 2, pp. 44-45)
38. Installing antennas at an antenna height of 130 feet agl would negatively affect 1900 MHz coverage for a tenth of a mile on Route 8 north of the site in the vicinity of Hill Street (refer to Figure 3). (Verizon 4, Q. 3; Tr. 2, pp. 19-21)

Municipal Comment

39. The City of Shelton, represented by Richard Shultz, Planning and Zoning Administrator, is opposed to the extension of the tower due to concerns about negative visual impacts to residential areas east and west of the site including the Buddington Road-Nells Rock Road area, the Buddington Manor Condominiums, the Heritage Point development, residential areas on Buddington Road south of Heritage Point, and two residences on English Lane. (Shelton 1; Tr. 2, pp. 34, 41, 63)
40. Verizon submitted a copy of the petition to the City of Shelton on June 3, 2005. The Shelton Planning and Zoning Commission discussed the site and determined the tower height was inappropriate for the area. The City did not approach Verizon to discuss alternative locations. (Tr. 2, pp. 29-31, 63-64)
41. The City of Shelton favors co-location over the building of new telecommunications towers. (Tr. 2, p. 46)

**FIGURE 1
LOCATION AND VISIBILITY OF PROPOSED SITE**

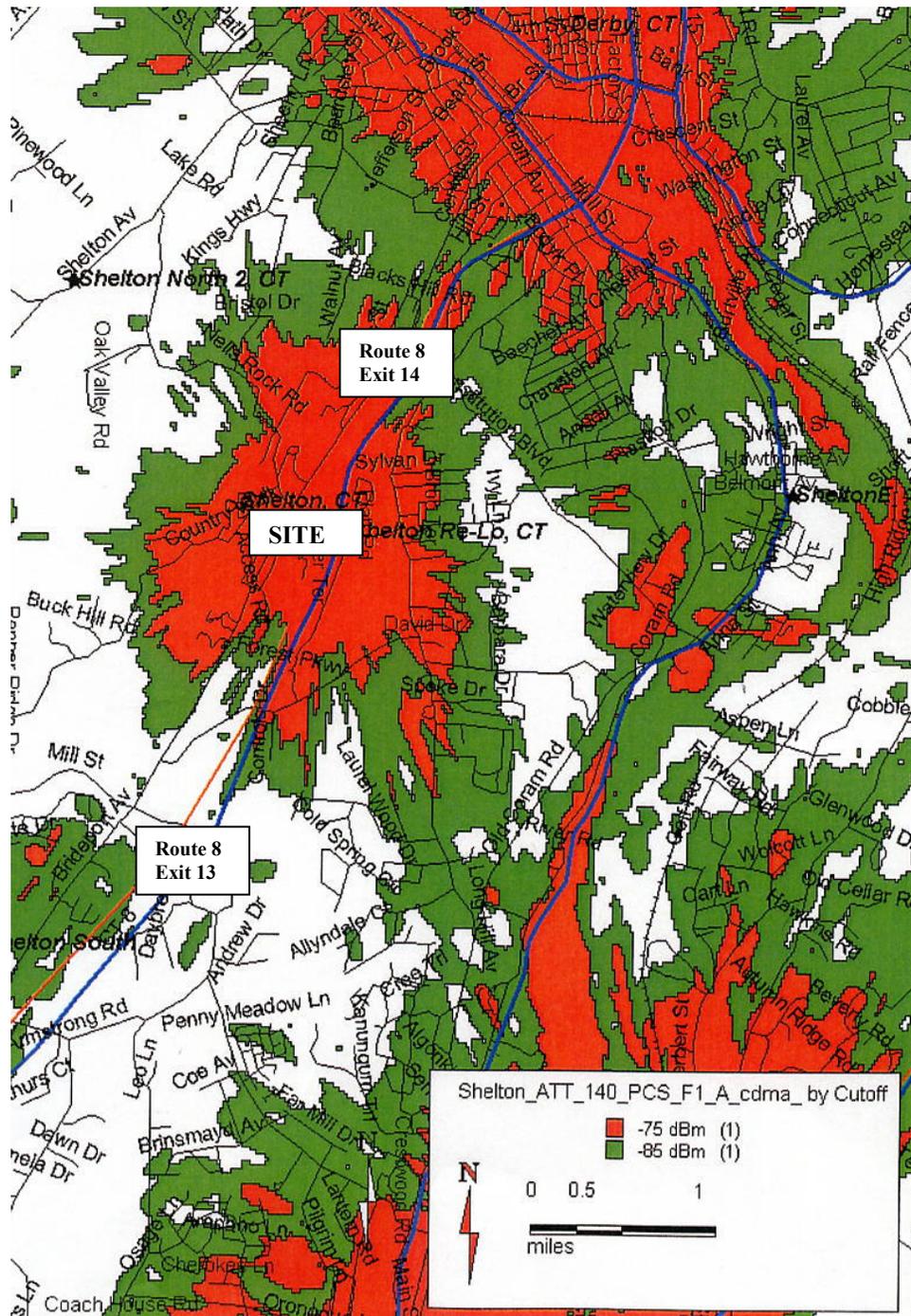


LEGEND

-  Facility Location (Includes area of visibility approximately 500 feet around Facility)
- Photopoint Locations - May 17, 2005
 -  Existing Facility and Balloon visible above trees
 -  Anticipated seasonal visibility (Approximately 17 acres)
 -  Year-round visibility Existing Facility (approximately 58 acres)
 -  Year-round visibility Proposed Extension (approximately 61 acres)

(Verizon 1, Attachment 5)

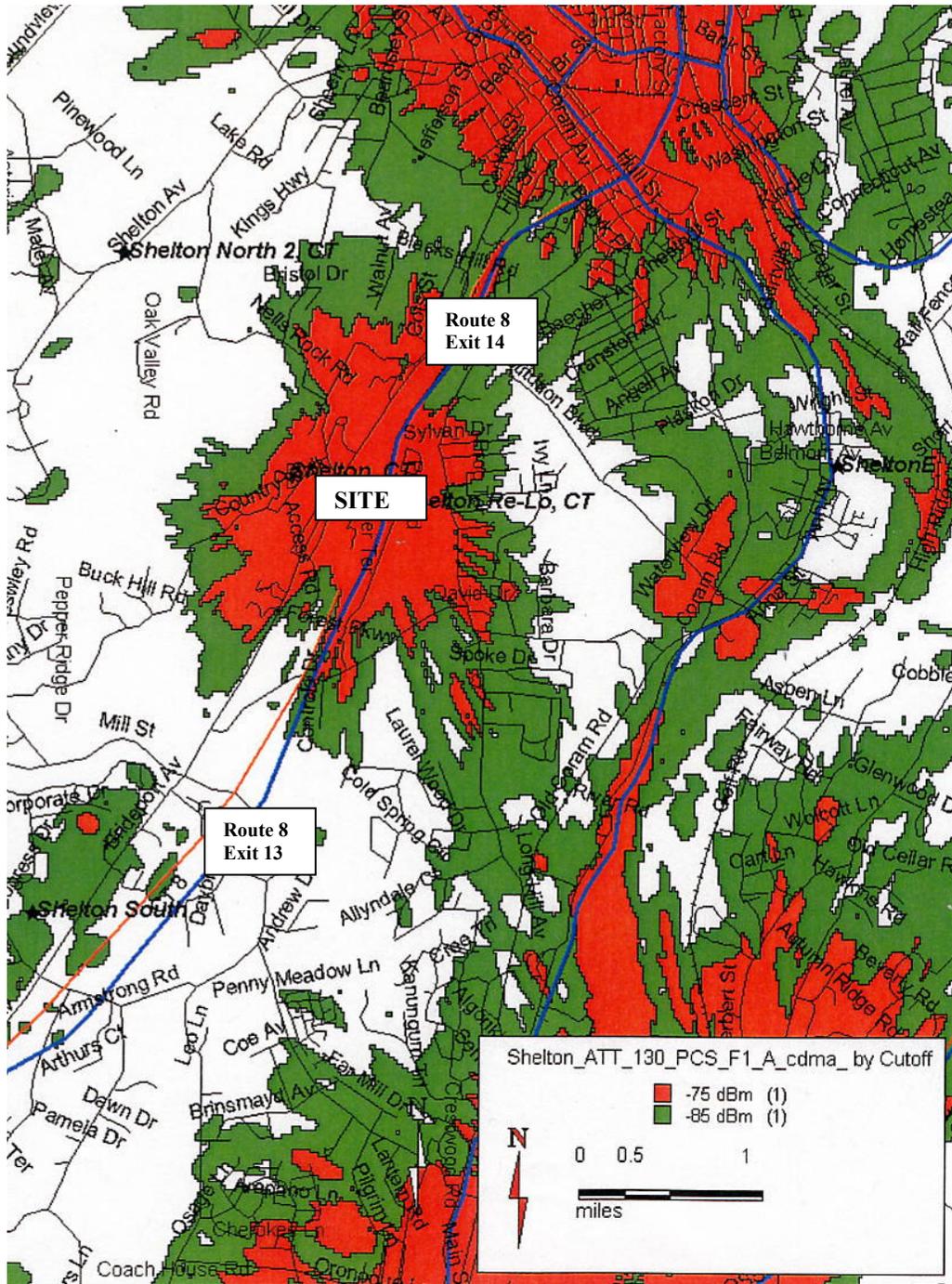
FIGURE 2
VERIZON – PROPOSED 1900 MHz COVERAGE AT 140 FEET



The site provides 1900 MHz coverage to the Route 8 Exit 14 area. A gap in 1900 MHz coverage would remain on Route 8 in the Exit 13 area. The site provides adequate 800 MHz coverage (not shown) between Exit 13 and Exit 14 on Route 8.

(Verizon 1, Attachment 2; Verizon 4, Q. 3)

FIGURE 3
VERIZON – PROPOSED 1900 MHz COVERAGE AT 130 FEET



The coverage model depicts a tenth of a mile 1900 MHz coverage gap on Route 8 approximately 1.5 miles north of the site.

(Verizon 4, Q. 3)