

DOCKET NO. 306 – Wireless *EDGE* Fairfield Group LLC } Connecticut
application for a Certificate of Environmental Compatibility and }
Public Need for the construction, maintenance, and operation of a } Siting
cellular telecommunications facility located at 52 Library Street, }
Salisbury, Connecticut. } Council

November 17, 2005

Findings of Fact

Introduction

1. Pursuant to Connecticut General Statutes § 16-50g et seq., and the Regulations of Connecticut State Agencies § 16-50j-1 et seq., Wireless *EDGE* Fairfield Group LLC (Wireless *EDGE*) applied to the Connecticut Siting Council (Council) on June 24, 2005 for a certificate of environmental compatibility and public need (Certificate) authorizing the construction, operation, and maintenance of a telecommunications facility at 52 Library Street, Salisbury, Connecticut. (Wireless *EDGE* 1, pp. 1-2)
2. Wireless *EDGE*'s proposed facility would include a 150-foot tall monopole that would be erected on property owned by the Town of Salisbury and used as the maintenance yard for the town's highway department. The tower would be used by the Salisbury Volunteer Ambulance Service and Litchfield County Dispatch for emergency services communications antennas and by Cingular Wireless which could provide wireless coverage for Routes 44 and 41 and the center of Salisbury from this location. (Wireless *EDGE* 1, pp. 1-2)
3. Wireless *EDGE* Fairfield Group LLC is a New York limited liability company, with its home office in New Rochelle, New York, that provides a variety of services, including locating, leasing, zoning, and constructing personal wireless facilities for providers of wireless telecommunications. (Wireless *EDGE* 1, pp. 2,6)
4. Wireless *EDGE* owns two telecommunications towers — one a flagpole tower in a public park in Mamaroneck, New York and the other a traditional monopole located at a police station in Stony Point, New York. The company also manages one telecommunications site and has several additional sites under development. (Transcript, September 13, 2005, 3:00 p.m. [Tr. 1], p. 16)
5. The party in this proceeding is the applicant. New Cingular Wireless (Cingular) and the Berkshire Litchfield Environmental Council (BLEC) are intervenors. (Tr. 1, pp. 5-6)
6. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on September 13, 2005, beginning at 3:00 p.m. and continuing at 7:00 p.m. in Salisbury, Connecticut. (Tr. 1, pp. 3 ff.)

7. The Council and its staff made an inspection of the proposed site on September 13, 2005. On the day of the field review, Wireless *EDGE* flew a balloon from 8:00 a.m. until 6:30 p.m. The balloon was flown at a height of 150 feet, and streamers were attached to the balloon tether at ten-foot intervals for 60 feet below the balloon. There were light winds during much of the day that caused the balloon to sway. The balloon did fly straight up at the proposed height at times during the day. (Tr. 1, p. 35; Tr. 2, p. 38)
8. Pursuant to Conn. Gen. Stat. § 16-50I(b), Wireless *EDGE* had public notice of this application published in the Lakeville Journal on June 9 and June 16, 2005 and in the Litchfield County Times on June 10 and 17, 2005. (Wireless *EDGE* 1, p. 3)
9. Wireless *EDGE* sent notification of its filing of an application with the Council to all owners of property abutting the proposed site on June 16, 2005. This notification was sent by certified mail, Wireless *EDGE* received certified mail receipts from all of the property owners to whom notice was sent. (Wireless *EDGE* 1, p. 4; Exhibit B)
10. Wireless *EDGE* sent a copy of its application to the Town of Salisbury's Chief Elected Official, Chairman of the Planning and Zoning Commission, Chairman of the Conservation Commission acting as the Inland Wetlands Agency, Chairman of the Conservation Commission, and Chairman of the Zoning Board of Appeals; to Andrew Roraback, State Senator; Roberta Willis, State Representative from the 64th House District; to the Northwestern Connecticut Council of Governments; to the Connecticut Attorney General; to the Connecticut Department of Environmental Protection (DEP); to the Connecticut Department of Public Health; to the Connecticut Department of Agriculture; to the Connecticut Department of Public Utility Control; to the Connecticut Department of Economic and Community Development; to the Council on Environmental Quality; to the Office of Policy and Management; to the Connecticut Department of Transportation (ConnDOT); to the Connecticut Historical Commission; to the Connecticut Trust for Historic Preservation; to Senator Joseph Lieberman; to Congresswoman Nancy Johnson; to the Federal Communications Commission; and to the Federal Aviation Administration. (Wireless *EDGE* 1, p. 4; Exhibit C)

State Agency Comments

11. Pursuant to CGS § 16-50I, the Council solicited comments on Wireless *EDGE*'s application from the following state departments and agencies: Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, and the Department of Transportation. The Council's letter requesting comments was sent on July 22, 2005. (CSC Hearing Package dated July 22, 2005)
12. The ConnDOT responded to the Council's solicitation of comments with no comments on this application. (ConnDOT letter dated August 29, 2005)
13. The following agencies did not respond with a comment on this application: DEP, DPH, CEQ, DPUC, OPM, and DECD. (Record)

Municipal Consultation

14. Wireless *EDGE* initially met with Salisbury officials on March 9, 2004 to introduce its proposal for a wireless communications tower in town. (Wireless *EDGE* 1, p. 23)
15. Wireless *EDGE* made a presentation at a public informational meeting scheduled by the Salisbury Board of Selectmen on June 14, 2004. The project was approved by a public vote at a Special Town Meeting on June 30, 2004. (Wireless *EDGE* 1, p. 23)
16. The Town of Salisbury executed a lease with Wireless *EDGE* for the construction of a telecommunications facility at this site after the town meeting approval. (Wireless *EDGE* 1, p. 23)
17. Wireless *EDGE* also appeared before the town's Planning and Zoning Commission on July 6, 2004 and December 7, 2004 and the Board of Selectmen on July 19, 2004, and met with various town departments including the town highway, ambulance, and fire departments. In addition to municipal boards and agencies, Wireless *EDGE* also met with the Connecticut State Police and Litchfield County Dispatch. (Wireless *EDGE* 1, pp. 23-24)
18. Wireless *EDGE* provided a technical report summarizing its pending Siting Council application to the Town's First Selectman on December 1, 2004. (Wireless *EDGE* 2, Response 5)
19. The Salisbury Planning and Zoning Commission recommended approval of Wireless *EDGE*'s plans to the Board of Selectmen in a letter dated December 20, 2004. (Wireless *EDGE* 1, Exhibit O)

Public Need for Service

20. With the passage of the Federal Telecommunications Act in 1996, the United States Congress recognized a nationwide public need for high quality wireless telecommunication services. (Wireless *EDGE* 1, p. 6)
21. 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. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice, Telecommunications Act of 1996)
22. The Telecommunications Act of 1996 prohibits local and state bodies from discriminating among providers of functionally equivalent services. (Council Administrative Notice, Telecommunications Act of 1996)
23. The Town of Salisbury has a significant need for telecommunications coverage in the area that would be served by the proposed tower, which would enable the town to provide emergency communications service in this area including Salisbury Town Center and along portions of Routes 41 and 44. (Wireless *EDGE* 1, p. 6)

24. Wireless *EDGE* would provide space on its tower for the Salisbury Volunteer Ambulance Service and Litchfield County Dispatch. (Wireless *EDGE* 1, p. 9)
25. The space Wireless *EDGE* would make available to the Town and its agencies would be provided free of charge. In addition, Wireless *EDGE* would provide an equipment shelter and other site improvements for the Town's antenna-related equipment. Wireless *EDGE* would install the antennas of the Town agencies and other public service agencies at no cost. This arrangement is reflected in Wireless *EDGE*'s lease agreement with the Town. (Wireless *EDGE* 2, Response 4)
26. Wireless *EDGE*'s proposed site was under consideration by Nextel and Verizon as a potential site at the time of the public hearing. (Tr. 1, pp. 28, 30)

Site Selection

27. Wireless *EDGE* determined that there were no existing structures that could provide suitable coverage to the target area. (Wireless *EDGE* 1, p. 7)
28. Wireless *EDGE* investigated ten other locations in Salisbury as possible telecommunications sites. These locations and the determination of their respective suitability are listed below.

| Site Description/Owner | Address | Comments |
|---|---------------------|---|
| High School (Private) Salisbury School | 251 Canaan Rd. | Too close to school; terrain blocks coverage of town center. |
| Edith Scoville Memorial Sanctuary Town of Salisbury | Taconic Road | Conservation area; terrain blocks coverage of town center. |
| Water Tank Aquarion Water Co. | 15 Bunker Hill Rd. | Terrain blocks coverage of Lakeville and Routes 41 and 44. |
| Memorial Park Town of Salisbury | 3 Undermountain Rd. | Property too small. |
| Field Parking Lot Salisbury Winter Sports | 80 Indian Cave Rd. | More exposed view from town center; no owner interest. |
| Town Hall/Cemetery Town of Salisbury | 27 Main Street | Property in historic area; no suitable area. |
| Salisbury Central School Town of Salisbury | 333 Main Street | Too close to school; terrain blocks coverage. |
| WPCA Town of Salisbury | 50 Walton Street | Too far south; terrain blocks coverage; possible subsurface issues. |
| Transfer Station Town of Salisbury | 309 Sharon Rd. | Too far south; terrain blocks coverage town center. |
| Ski Jump Salisbury Winter Sports | 80 Indian Cave Rd. | No suitable compound location; no owner interest. |

(Wireless *EDGE* 1, Exhibit E)

Project Description

29. Wireless *EDGE*'s proposed facility would be located on the northeastern corner of a 5.13 acre parcel owned by the Town of Salisbury at 52 Library Street. (Wireless *EDGE* 1, p. 4)
30. Wireless *EDGE* would lease an irregularly shaped area that would measure approximately 35 feet by 110 feet by 88 feet by 35 feet. Wireless *EDGE* would construct a 150-foot steel monopole inside a fenced compound area of approximately 3,465 square feet within this lease area. (Wireless *EDGE* 1, p. 4)
31. The total height of Wireless *EDGE*'s proposed facility, including the 20-foot tall whip antennas desired by the emergency service providers, would be approximately 170 feet. (Tr. 1, p. 21)
32. The proposed site is zoned CG-20 (General Commercial) and is used as the town's Highway Department garage facility. (Wireless *EDGE* 1, p. 4)
33. The proposed tower would be located at 41° 58' 51" latitude and 73° 25' 06" longitude. The elevation at ground level of the tower is 667 feet AMSL. (Wireless *EDGE* 1, Exhibit D – Sheet T1)
34. Communication antennas are a permitted use within the CG-20 district upon approval of a site plan. (Wireless *EDGE* 1, Bulk filing - Salisbury Zoning Regulations, p. 4-7)
35. The proposed tower would be designed to accommodate five wireless carriers in addition to Cingular and the emergency services providers. (Wireless *EDGE* 1, p. 5)
36. The proposed communications compound would be enclosed by an existing wooden stockade fence that would face the parcel exterior and a new eight-foot high chain link fence that would face the parcel interior. (Wireless *EDGE* 1, p. 5)
37. The area surrounding the proposed site is primarily used for residential and commercial purposes with large tracts of undeveloped, wooded land. (Wireless *EDGE* 1, p. 5)
38. There are 42 residences location within 1,000 feet of the proposed tower. (Wireless *EDGE* 2, Response 7)
39. The nearest residence is located at least 336 feet from the proposed tower location on property owned by Salisbury Square LLC. (Wireless *EDGE* 2, Response 8)
40. The proposed tower would be designed with a "yield point" at 75 feet which would reduce the effective setback radius to 75 feet and keep the setback radius within the Town's property. (Wireless *EDGE* 1, Exhibit N)
41. Vehicular access to the proposed site would be over a new, short access drive to be created off of Indian Cave Road. (Wireless *EDGE* 1, p. 5; Exhibit D - Sheets Z1 and Z2)
42. Utility service to the proposed site would be brought underground from an existing utility pole (No. 3307) on Indian Cave Road approximately 30 feet to the facility compound. (Wireless *EDGE* 1, Exhibit D – Sheet Z2)

43. Wireless *EDGE*'s design for the base compound does make allowances for on-site generators. In the case of prolonged power outages, carriers using the tower would have to bring in their own generators that would be set up outside the compound fence. (Tr. 1, pp. 63 ff.)
44. The estimated cost of the proposed tower is:

| | |
|-----------------------------------|----------------|
| Design and Engineering | \$ 33,675 |
| <u>Materials and Construction</u> | <u>245,433</u> |
| Total Costs | \$279,108 |

(Wireless *EDGE* 1, p. 20)

Environmental Considerations

45. There are no wetlands on or adjacent to the proposed site. (Wireless *EDGE* 1, p. 11)
46. Wireless *EDGE* would install erosion and sedimentation control measures in accordance with the *Connecticut Guidelines for Soil Erosion and Sediment Control* (Revised 2002). (Wireless *EDGE* 1, p. 12)
47. Council staff calculated that the maximum power density from the radio frequency emissions of the antennas of New Cingular, the Salisbury ambulance service, and Litchfield County Dispatch would be 0.0716 mW/cm² or 16.58% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on a 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. (FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01, August 1997)
48. The proposed tower would not be a hazard to air navigation. No markings or lighting would be required. (Wireless *EDGE* 1, Exhibit R)
49. Partial views of the proposed tower from the Salisbury Historic District should be limited to primarily seasonal views, based on the results of two balloon flights, one during foliage season and one when the foliage was down. These views would have minimal visual impact on the district. (Tr. 1, p. 26)
50. The proposed facility would have no effect on the State of Connecticut's cultural resources. (Wireless *EDGE* 1, Exhibit L)
51. There are no known extant populations of Federal or State Endangered, Threatened or Special Concern Species that occur at the site of the proposed facility. (Wireless *EDGE* 1, Exhibit L)
52. No trees would be removed to build this facility. (Wireless *EDGE* 2, Response 9)
53. No blasting would be required to develop this facility. (Wireless *EDGE* 2, Response 10)

Visibility

54. The proposed 150-foot tower would be visible from portions of Railroad Street, Indian Cave Road, Fowler Street, Salmon Kill Road, and Library Street. Views of the tower would be limited to primarily within 0.5 miles of the proposed facility. (Wireless *EDGE* 1, p. 14)
55. The proposed tower would be visible year round from approximately 56 acres in the surrounding vicinity. (Wireless *EDGE* 1, Exhibit I – p. 4)
56. The proposed tower would be seasonally visible from an approximate 50 additional acres in the surrounding vicinity. (Wireless *EDGE* 1, Exhibit I – p. 4)
57. The visibility of the proposed site from different vantage points in the surrounding vicinity is summarized in the following table. The locations of the vantage points listed are identified by their corresponding number on the Photolog Documentation Map included as part of the Visual Resource Evaluation Report in Wireless *EDGE*'s application.

| <u>Location</u> | <u>Visible</u> | <u>Approx. Portion of (150') Tower Visible (ft.)</u> | <u>Approx. Distance and Direction to Tower</u> |
|---|-----------------------|---|---|
| | Site | | Site |
| 1 – Railroad Street | Yes | 30 | 845 feet; SE |
| 2 – Indian Cave Road | Yes | 140 | 210 feet; SE |
| 3 – Fowler Street | Yes | 140 | 690 feet; S |
| 4 – Salmon Kill Road | Yes | 80 | 1690 feet; NE |
| 5 – Salisbury Public Works area entrance | Yes | 130 | 370 feet; NE |
| 6 – Library Street at Railroad Street | Yes | 10 | 790 feet; E |
| 7 – Railroad Street at Indian Cave Road | Yes | 30 | 790 feet; SE |
| 8 – Main Street at Library Street | Yes | 20 | 1215 feet; E |
| 9 – Main Street at Salisbury Bank & Trust | Yes | 10 | 1215 feet; SE |
| 10 – Salisbury Market | Yes | 10 | 1055 feet; SE |
| 11 – Route 44 at Conklin Street | Yes | 70 | 1850 feet; SE |
| 12 – Lion's Head | Yes | 120 | 2.29 miles; SE |

(Wireless *EDGE* 1, Exhibit I)

58. There may be limited visibility of the tower from Lion's Head, an exposed rock outcropping on the Appalachian Trail. But the distance of this location (2.29 miles) from the proposed facility and the aspect of the available views may make the tower difficult to discern from this vantage point. (Wireless *EDGE* 1, p. 14)
59. There would be no significant views of the proposed tower from the Appalachian Trail at Wetauwanchu, or Lion's Head Mountains, according to the Appalachian Trail Conference. (Wireless *EDGE* 1, p. 14; Exhibit J)

60. The Appalachian Trail Conference suggested that the proposed monopole tower be painted a dark brown color to blend in with existing trees in the vicinity and to reduce the overall visibility of the tower. Wireless *EDGE* has indicated it will accommodate this suggestion. (Wireless *EDGE* 1, p. 14; Exhibit K)

Existing and Proposed Wireless Coverage

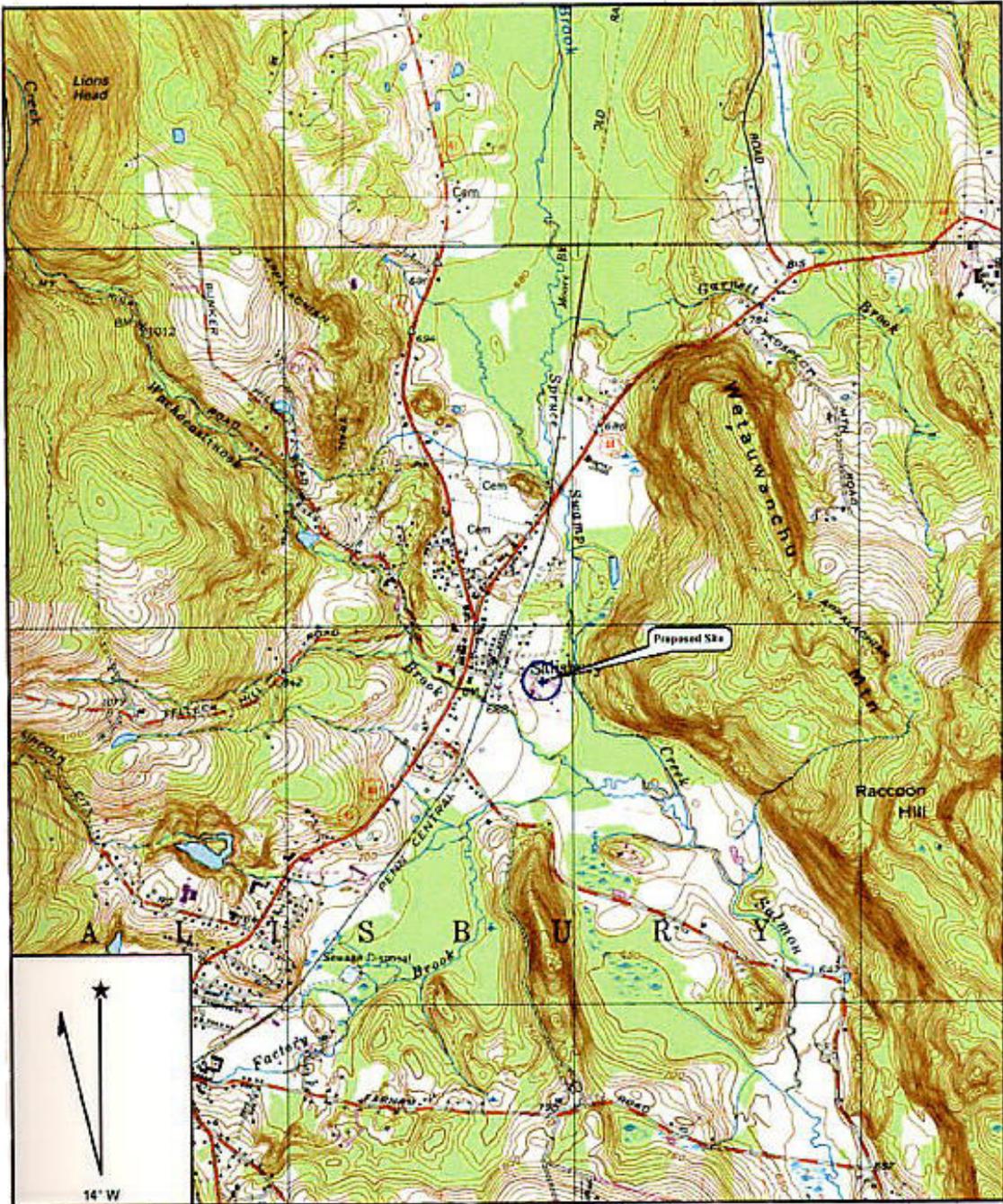
61. Emergency services antennas for the Salisbury ambulance service and Litchfield County Dispatch would be located on the proposed tower at 149 feet above ground level (AGL) and extend to 169 feet AGL. (Wireless *EDGE* 1, p. 5; Wireless *EDGE* 2, Response 6)
62. The Connecticut State Police were evaluating the site as a potential location for antennas at the time of the public hearing on this application. (Tr. 1, p. 22)

Cingular

63. Cingular experiences significant coverage gaps in Salisbury and along Routes 41 and 44. (Wireless *EDGE* 1, p. 9)
64. Cingular's primary objective in locating antennas at this proposed location is to cover Routes 41 and 44. (Tr. 1, p. 76)
65. Cingular designs its system at -75 dBm for reliable in-building service. (Cingular 1, Response 2)
66. Cingular would install six dual band Powerwave 7770 panel antennas on a T-arm mount. Each antenna is 55 inches tall, 11 inches wide, and 5 inches deep. (Cingular 1, Response 3)
67. Cingular's antennas would be installed at a centerline height of 143 feet AGL. (Wireless *EDGE* 1, p. 5)
68. The minimum height at which Cingular could achieve its coverage objectives from this location would be 140 feet. (Cingular 1, Response 8)
69. Cingular's antennas would cover approximately 2.5 miles along Route 44 and 1.3 miles along Route 41 from this location. (Cingular 1, Response 10)
70. Cingular's antennas would cover approximately 6.9 square miles with in-building and in-car service from this location. (Cingular 1, Response 7)
71. Cingular's antennas would comply with E911 requirements. (Cingular 1, Response 3)
72. Cingular uses large storage batteries for back up power. These batteries are capable of providing four to eight hours of power, depending on site usage. Cingular would bring a portable generator (probably one fueled by propane gas) to the site for longer outages. (Tr. 1, pp. 74, 87)
73. Cingular's battery systems use gel encased within a material to prevent offsite migration of the gel. (Tr. 1, p. 87)

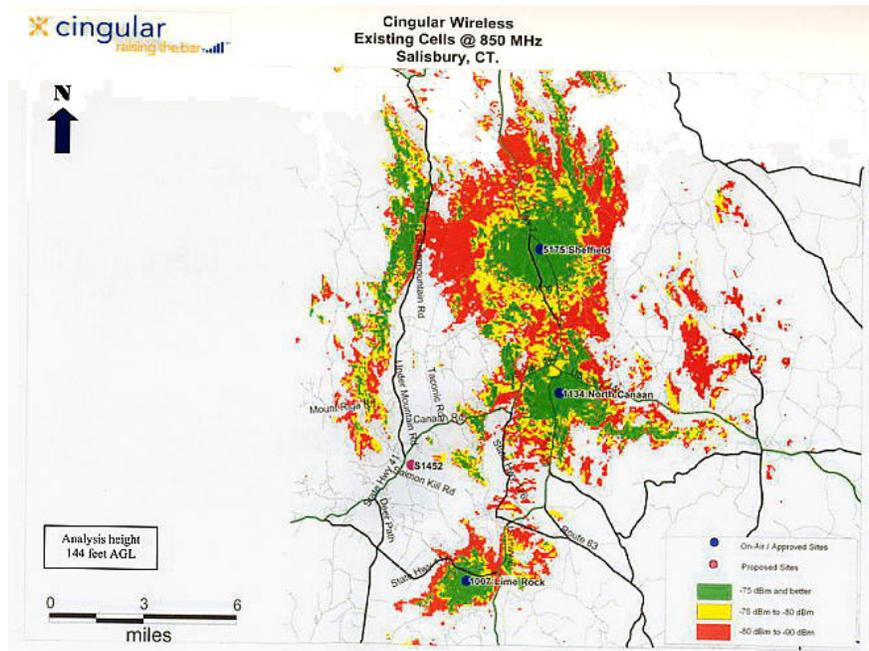
74. Cingular currently has no sites close enough to which this proposed site could hand off signals. (Cingular 1, Response 9)
75. Cingular has three active search rings in the area that could augment the service that would be available from the proposed site. (Cingular 1, Response 12)

Map 1: Location Map



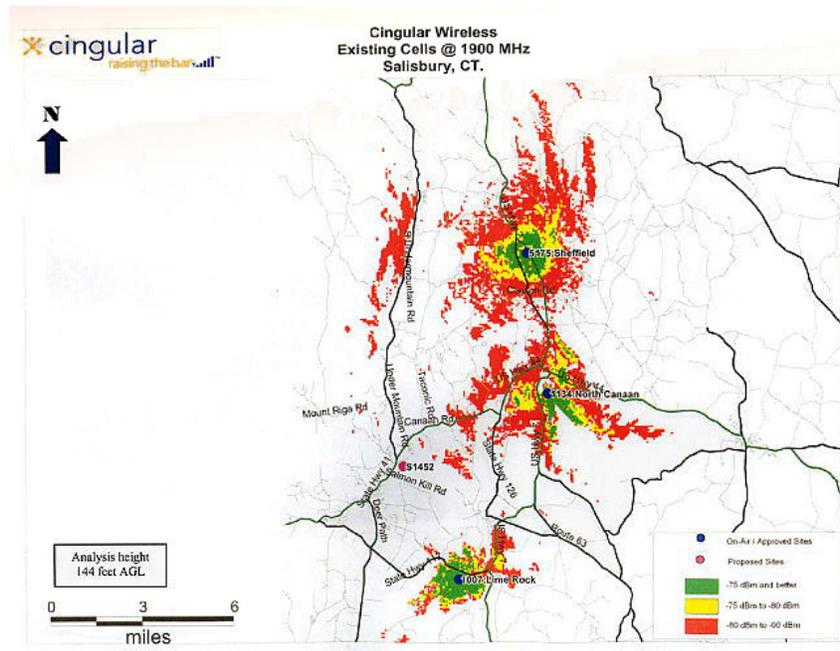
(Wireless EDGE 1; Exhibit H)

Map 2: Cingular's Existing Cellular Coverage



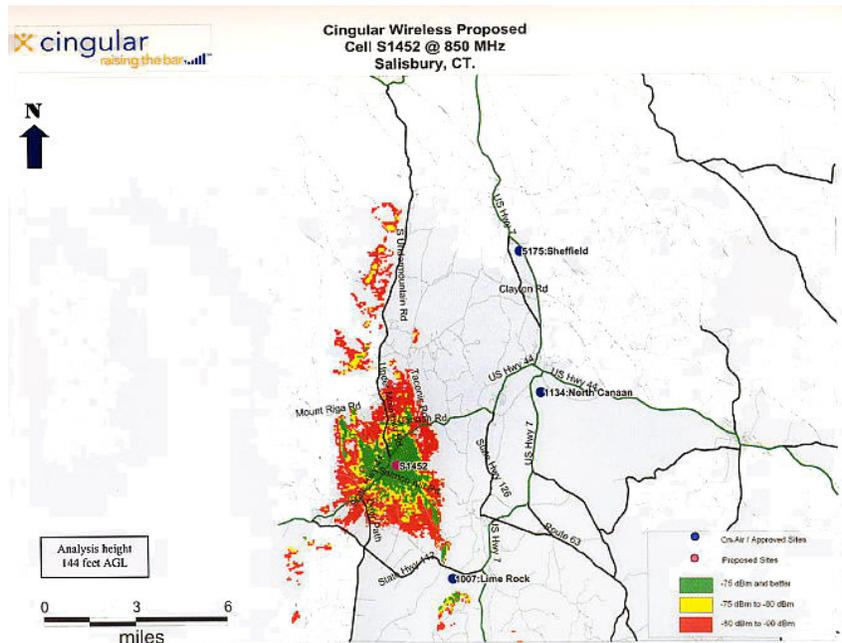
(Wireless *EDGE* 1, Exhibit G)

Map 3: Cingular's Existing PCS Coverage



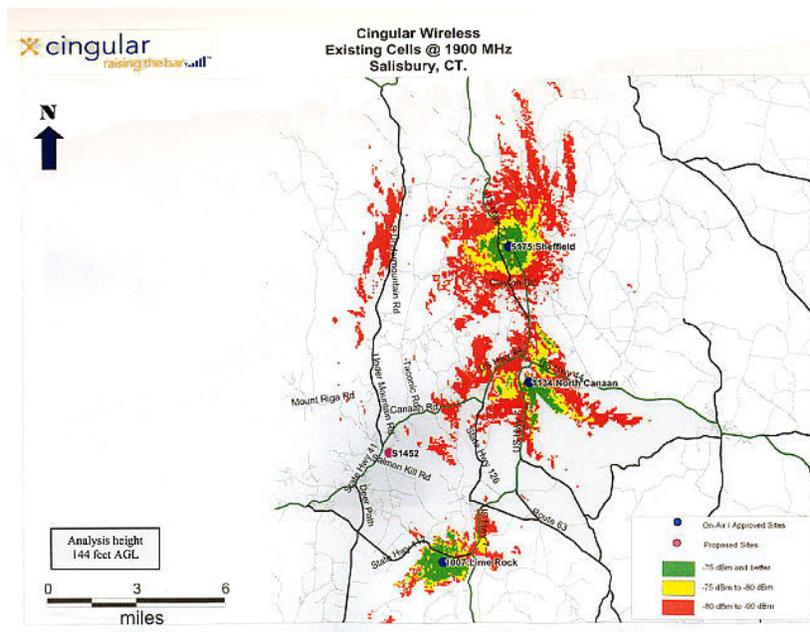
(Wireless *EDGE* 1; Exhibit G)

Map 4: Cingular Cellular Coverage from Proposed Site



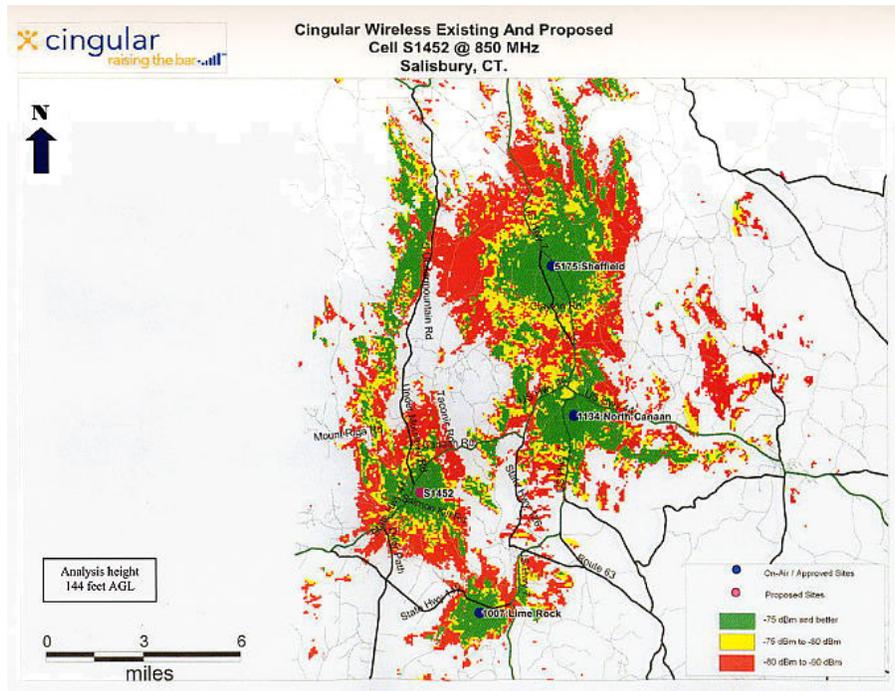
(Wireless *EDGE* 1, Exhibit G)

Map 5: Cingular PCS Coverage from Proposed Site



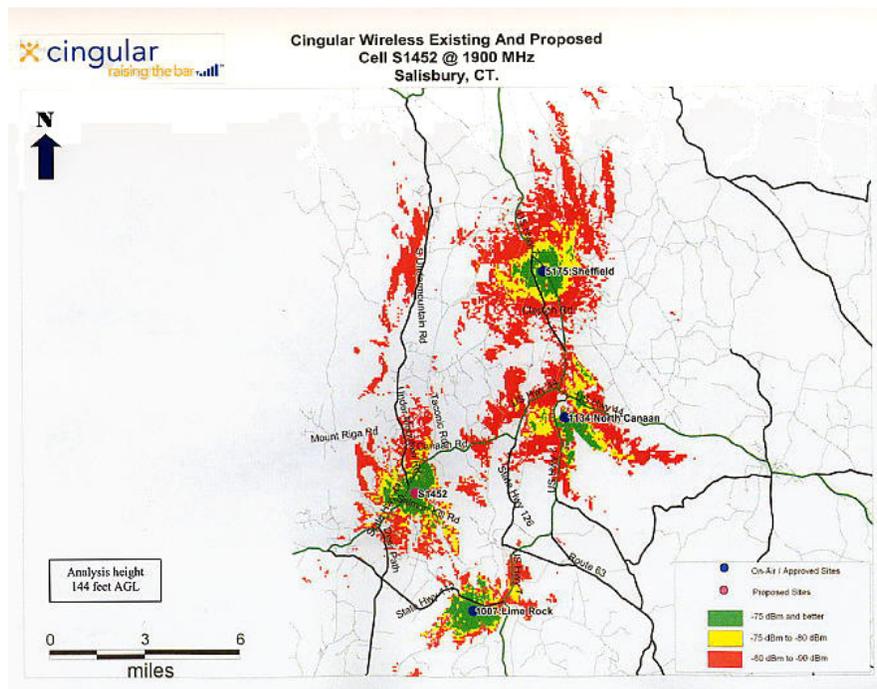
(Wireless *EDGE* 1, Exhibit G)

Map 6: Cingular Composite Cellular Coverage



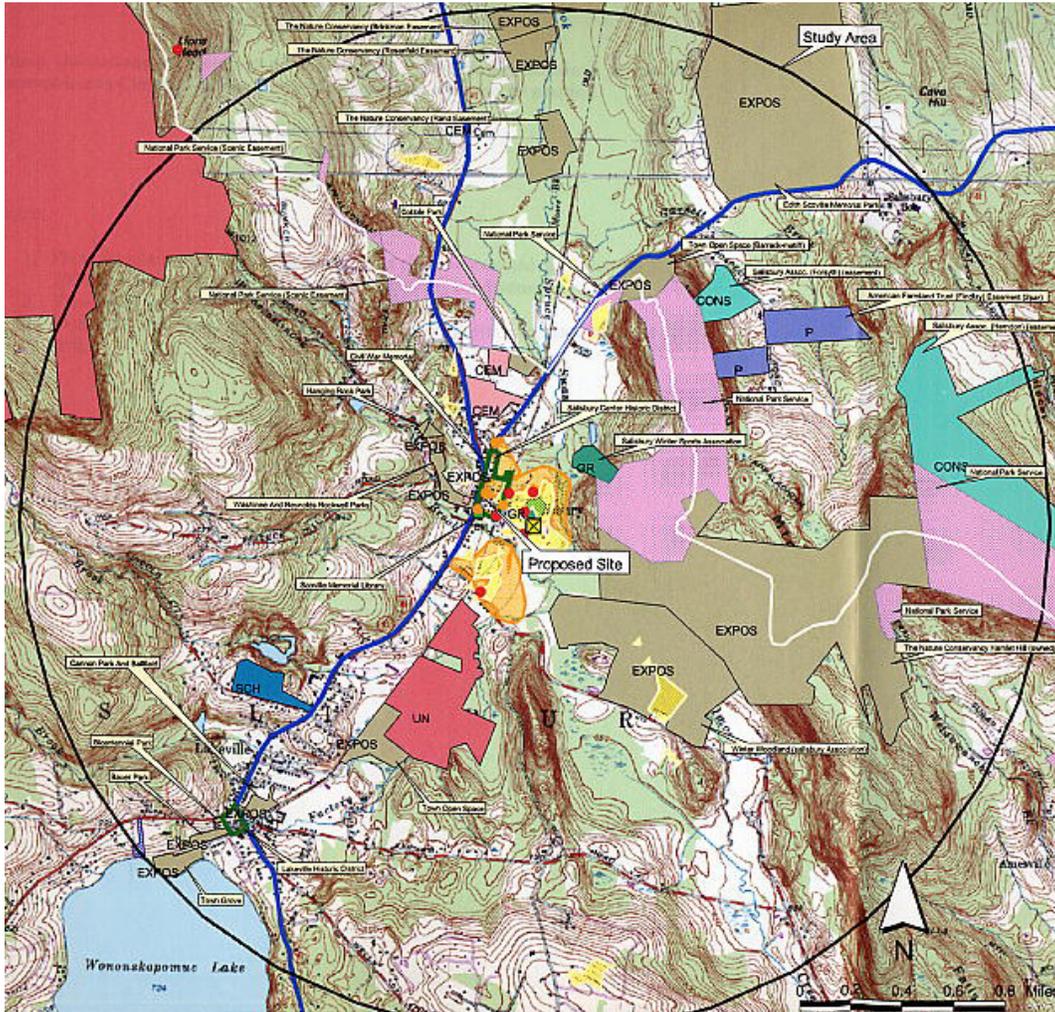
(Wireless *EDGE* 1, Exhibit G)

Map 7: Cingular Composite PCS Coverage



(Wireless *EDGE* 1, Exhibit G)

Map 8: Visibility Map



LEGEND

- Proposed Tower Location (Includes area of visibility approximately 500 feet around facility)
- Photopoint Locations - November 30, 2004**
- Balloon visible above trees
- Balloon visible through trees
- Anticipated seasonal visibility (Approximately 50 acres)
- Year-round visibility (approximately 56 acres)
- Historic Structures
- Historic Districts (approximate boundaries)
- Appalachian Trail
- Scenic Roads (Local and/or State designated)
- DEP Boat Ramps
- Protected Properties (Municipal)**
- Cemetary (CEM)
- Conservation (CONS)
- Existing Preserved Open Space (EXPOS)
- General Recreation (GR)
- Preservation (P)
- Recreation (REC)
- School (SCH)
- Uncategorizd (UN)
- Protected Properties (Federal)
- Protected Properties (DEP)**
- State Forest (SF)
- State Park (SP)
- State Park Scenic Reserve (SPSR)
- State Park Trail (SPT)
- Natural Area Preserve (NAP)
- Wildlife Area (W)
- Wildlife Sanctuary (WS)
- Historic Preserve (HP)
- Flood Control (FC)
- Fish Hatchery (FH)
- DEP Owned Waterbody (DEPWS)
- Water Access (WA)
- Other (O)
- Town Line

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(Wireless EDGE 1, Exhibit I)