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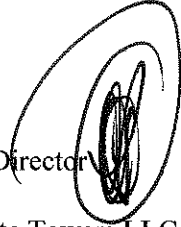
Internet: ct.gov/esc

November 6, 2007

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

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



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

Parties and Intervenors may file written comments with the Connecticut Siting Council on the Draft Findings of Fact issued on this docket by November 20, 2007.

SDP/cm

Enclosure

3

DOCKET NO. 342 - Optasite Towers LLC and Omnipoint } Connecticut
Communications, Inc. application for a Certificate of }
Environmental Compatibility and Public Need for the } Siting
construction, maintenance and operation of a telecommunications } Council
facility located at 425 Litchfield Road, New Milford, }
Connecticut. October 11, 2007

DRAFT Findings of Fact

Introduction

1. Optasite Towers LLC (Optasite) and Omnipoint Communications, Inc. (T-Mobile), collectively referred to as the "Applicant", in accordance with provisions of General Statutes §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on June 22, 2007 for the construction, operation, and maintenance of a wireless telecommunications facility at 425 Litchfield Road, New Milford, Connecticut. (Applicant 1, p. 1)
2. Optasite is a Delaware corporation with an administrative office in Westborough, Massachusetts. Optasite would construct and maintain the facility and would be the Certificate Holder. T-Mobile is a Delaware corporation with an administrative office in Bloomfield, Connecticut. T-Mobile would be a tenant on the Optasite tower. (Applicant 1, pp. 2-3)
3. The party in this proceeding is the Applicant. (Transcript 1 – 09/19/07, 4:00 p.m. [Tr. 1], p. 4)
4. The purpose of the proposed facility is to provide wireless service to Route 202 in the Northville area of New Milford. (Applicant 1, p. 1)
5. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on September 10, 2007, beginning at 4:00 p.m. and continuing at 7:00 p.m. at the New Milford High School, New Milford, Connecticut. (Council's Hearing Notice dated August 6, 2007; Tr. 1, p. 2; Transcript 2 – 09/10/07, 7:00 p.m. [Tr. 2], p. 2)
6. The Council and its staff conducted an inspection of the proposed site on September 10, 2007, beginning at 3:00 p.m. The applicant flew a balloon from 8:00 a.m. to 6:00 p.m. at the site to simulate the height of the proposed tower. The balloon reached the desired height of 140 feet above ground level (agl). (Council's Hearing Notice dated August 6, 2007; Applicant 10)
7. Notice of the application was sent to all abutting property owners by certified mail. Public notice of the application was published in the New Milford Spectrum on June 18, 2007 and The News-Times on June 18 and 20, 2007. (Applicant 2, Q. 1; Applicant 3)
8. The Applicant installed a four-foot by six-foot sign describing the proposed project at the beginning of the proposed access road on August 22, 2007. Contact information was also provided. (Applicant 9; Tr. 2, p. 9)
9. Pursuant to CGS § 16-50i (b), the Applicant provided notice to all federal, state and local officials and agencies listed therein. (Applicant 1, p. 4)

State Agency Comment

10. Pursuant to General Statutes § 16-50j (h), on August 6, 2007 and September 12, 2007, 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 (DECED), and the Department of Transportation (DOT). (Record)
11. The Council received a written response from the DOT's Bureau of Engineering and Highway Operations on January 17, 2007, stating that they have no comment. (Record)
12. No response was received from the DEP, DPH, CEQ, DPUC, OPM, or DECED. (Record)

Municipal Consultation

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

Public Need for Service

16. 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)
17. 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)
18. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)

19. 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)

Site Selection

20. The Applicant established a search ring for coverage in the Northville area in February 2006. (Applicant 1, Q. 2)
21. The nearest existing tower facility to the search ring is approximately 2.7 miles to the east at 399 Chestnut Lane in New Milford. T-Mobile is not located on this facility; however, coverage modeling concludes the site would not provide adequate coverage to the target service area. (Applicant 1, Tab G, Tab H; Applicant 8; Tr. 1, pp. 22-25, 28-33; Tr. 2, pp. 30-32)
22. T-Mobile examined potential coverage from the facility proposed in Docket 342, a Cellco Partnership d/b/a Verizon Wireless facility at 6 Mountain Road in New Milford. Coverage modeling indicates if T-Mobile located at the 140-foot level of this tower a two-mile coverage gap on Route 202 south of Northville would remain. (Applicant 11; Tr. 2, p. 28-30)
23. After determining there were no viable structures within the search area, the Applicant searched for properties suitable for tower development. The Applicant investigated seven parcels and selected one for site development. The six rejected parcels and reasons for their rejection are as follows:
- a) Wheaton Drive - Town parcel used as a park and within close proximity to area residences;
 - b) Upland Road - Town parcel with development restrictions;
 - c) 9 Little Bear Road - Insufficient site screening;
 - d) 333 Litchfield Road - owner decided not to pursue lease agreement.
 - e) 387 Litchfield Road - No response from owner, insufficient site screening;
 - f) Northville Fire Department - No response from owner. Property is under lease with Verizon and unavailable to the Applicant. Property is at a lower elevation, is smaller, and has less visual screening than the proposed site.
- (Applicant 1, Tab I; Tr. 2, pp. 35-48)

Site Description

24. The proposed site is located on a 28.86-acre parcel owned by the Estate of Edward J. Drazel and is located at 425 Litchfield Road (Route 202) in New Milford. The property is on the west side of Route 202 (refer to Figure 1). (Applicant 1, p. 2)
25. The property is zoned general business, B-1. (Applicant 1, p. 2)
26. The property is mostly wooded with cleared areas along Route 202 that contain several dilapidated structures and abandoned vehicles and equipment. The property slopes upward from Route 202. (Applicant 1, p. 17, Tab B)
27. The property owner is in the process of removing the all debris from the property in advance of future development plans. The removal of all visible debris would occur over the next year. (Tr. 2, p. 23)

28. The tower site is located on a hillside at an elevation of 640 feet above mean sea level (amsl). (Applicant 1, Tab B)
29. The Applicant proposes to construct a 140-foot monopole at the site. It would be designed to support four levels of antennas with a 10-foot center-to-center vertical separation. (Applicant 1, p. 9)
30. T-Mobile proposes to install six panel antennas on a platform at a centerline height of 137 feet agl. (Applicant 1, p. 9)
31. The Applicant proposes to construct a 70-foot by 70-foot equipment compound within an 100-foot by 100-foot lease area at the base of the tower (refer to Figure 2). An eight-foot high chain link fence would enclose the compound. Within the compound, T-Mobile proposes to install equipment cabinets on a concrete pad. A battery cabinet would provide emergency power. (Applicant 1, pp. 9-10, Tab B; Tr. 1, p. 19)
32. Access to the site would extend from Route 202 along an existing gravel road for 205 feet. The access road would then turn south, following an old woods road uphill for approximately 1,000 feet to the site. The old road would be resurfaced with gravel and cleared as necessary. (Applicant 1, Tab B; Tr. 1, pp. 16-17)
33. Utilities would be installed underground along the access road from a new pole near the access road entrance. (Tr. 1, pp. 18-19)
34. The nearest abutting property to the tower site is approximately 272 feet to the south, owned by Michael and Debra Foss. (Applicant 1, Tab B)
35. The nearest residence to the proposed tower site is approximately 590 feet to the west, owned by John Kuck. (Applicant 1, Tab B)
36. Surrounding land use is mainly residential although some small commercial use is present. The Town Conservation and Development Plan identified Route 202 as a heavily traveled corridor. (Applicant 1, pp. 15-18)
37. The estimated cost of construction, not including base station equipment and antennas, is:

a. Tower and foundation	74,000.
b. Site development	66,000.
c. Utilities	28,000.
d. Total estimated cost	\$168,000.

(Applicant 1, p. 21)

Environmental Concerns

38. The proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (Applicant 6)
39. The proposed site contains no known existing populations of Federal or State Endangered, Threatened or Special Concern Species. (Applicant 6)

40. Construction of the facility would require the removal of 42 trees with a diameter of six inches or greater, primarily in the compound area. Trees along the access road would be trimmed. (Applicant 1, Tab B; Applicant 2, Q. 16; Tr. 1, p. 16)
41. Site construction would not impact any wetlands or watercourses. No wetlands were identified on the property. (Applicant 1, p. 18)
42. The tower would not require aircraft hazard obstruction marking or lighting. (Applicant 6)
43. The cumulative maximum power density from the radio frequency emissions of the proposed Verizon and AT&T antennas is calculated to be 3.5 % of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of either proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously. (Applicant 1, Tab L)

Visibility

44. The tower would be visible year-round above the tree canopy from approximately 38-acres within a two mile radius of the site (refer to Figure 3). The tower would be seasonally visible from an additional 18-acres. (Applicant 1, Tab J)
45. The tower is on an east sloping ridge. To the west, the ridge rises steeply to an elevation of 800 feet amsl and then gradually rises to several summits. The tower would reach a height of 780 feet amsl. East of the tower, the ridge descends to Route 202 at an elevation of 500 feet amsl. East of Route 202 a ridge rises to an elevation of 900 feet. (Applicant 1, Tab J)
46. A majority of tower visibility is within a half-mile of the site, primarily in the valley to the east/northeast. Views from the west would be obscured by topography and vegetation except for two residences on McNulty Drive located on top of the ridgeline immediately west of the tower that may have views of the top of the tower. (Applicant 1, Tab J; Tr. 1, p. 45)
47. Approximately 25 residential properties would have partial, year-round views of the tower. This includes residences on Route 202, Sandpit Road, Sandy Acres Lane, Wheaton Road, Hillendale Drive, Hearthstone Terrace, and Upland Road. An additional 10 residences in these areas may have seasonal views of the tower. (Applicant 1, Tab J)
48. The tree canopy surrounding the site is 65 feet agl. (Applicant 1, Tab J)
49. Two locally designated scenic roads would have views of the tower, Sandpit Road and Old Mill Road. Year-round views from Sandpit Road would be of the upper portion of the tower for approximately a tenth of a mile. Views from Old Mill Road would be seasonal for approximately a quarter of a mile. (Applicant 1, Tab J)
50. There are no hiking trails maintained by the DEP or the Connecticut Forest and Parks Association within a two-mile radius of the site. (Applicant 1, Tab J)

51. Visibility of the tower from specific locations within a two-mile radius of the site is as follows:

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

(Applicant 1, Tab J)

T-Mobile - Existing and Proposed Wireless Coverage

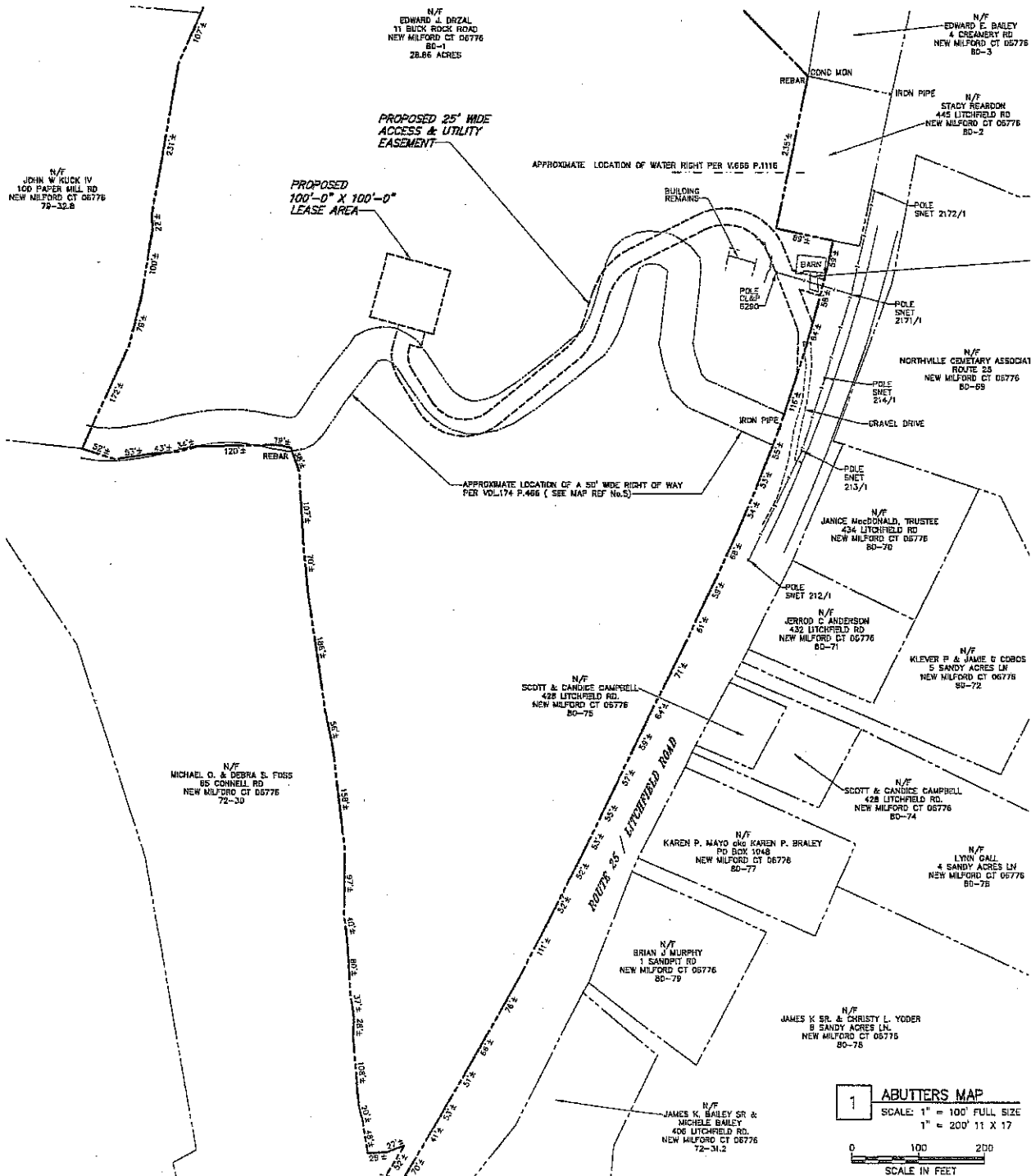
- 52. T-Mobile operates in the 1900 MHz frequency bands. T-Mobiles design thresholds for this area are -84 for in-vehicle coverage and -76 dBm for in-building coverage. (Applicant 2, Q. 9, Q. 10)
- 53. T-Mobile has no reliable, continuous coverage on Route 202 in the Northville area. Coverage from the site to the south, a facility on an electric transmission support structure, extends to Mill Road, just south of Northville (refer to Figure 4). (Applicant 1, Tab G, Applicant 2, Q. 3)
- 54. The proposed site with antennas at 137 feet agl would provide approximately six miles of coverage on Route 202, extending from Mill Road to approximately one mile south of New Preston village in Washington (refer to Figure 5). (Applicant 1, Tab G)
- 55. Installing antennas at 127 feet agl would cause a 0.3-mile gap in coverage on Route 202 south of the proposed site in the Mill Road area. (Tr. 1, pp. 49-50)

FIGURE 1
LOCATION OF SITE



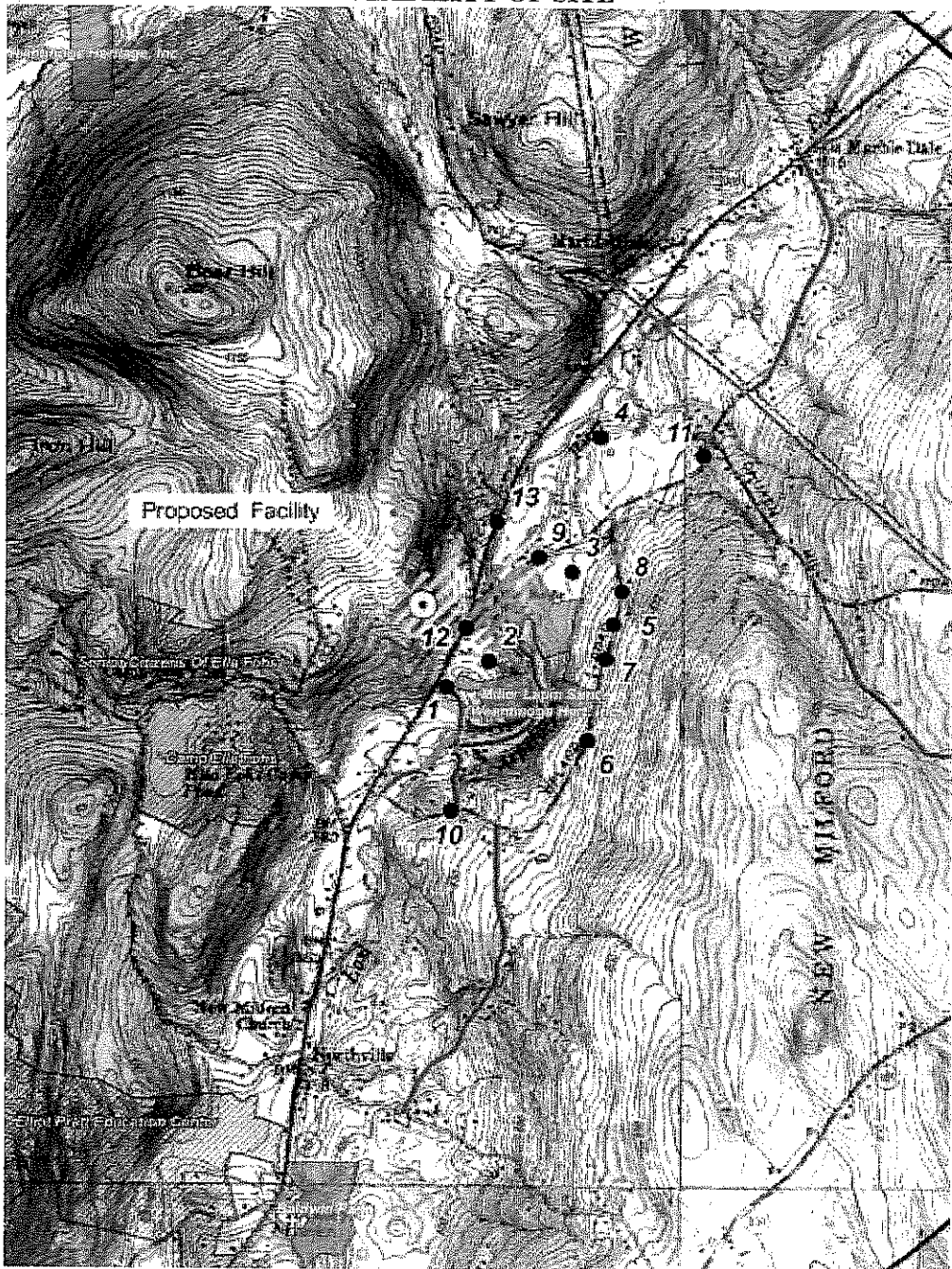
(Applicant 1, Tab B)

**FIGURE 2
 SITE PLAN**



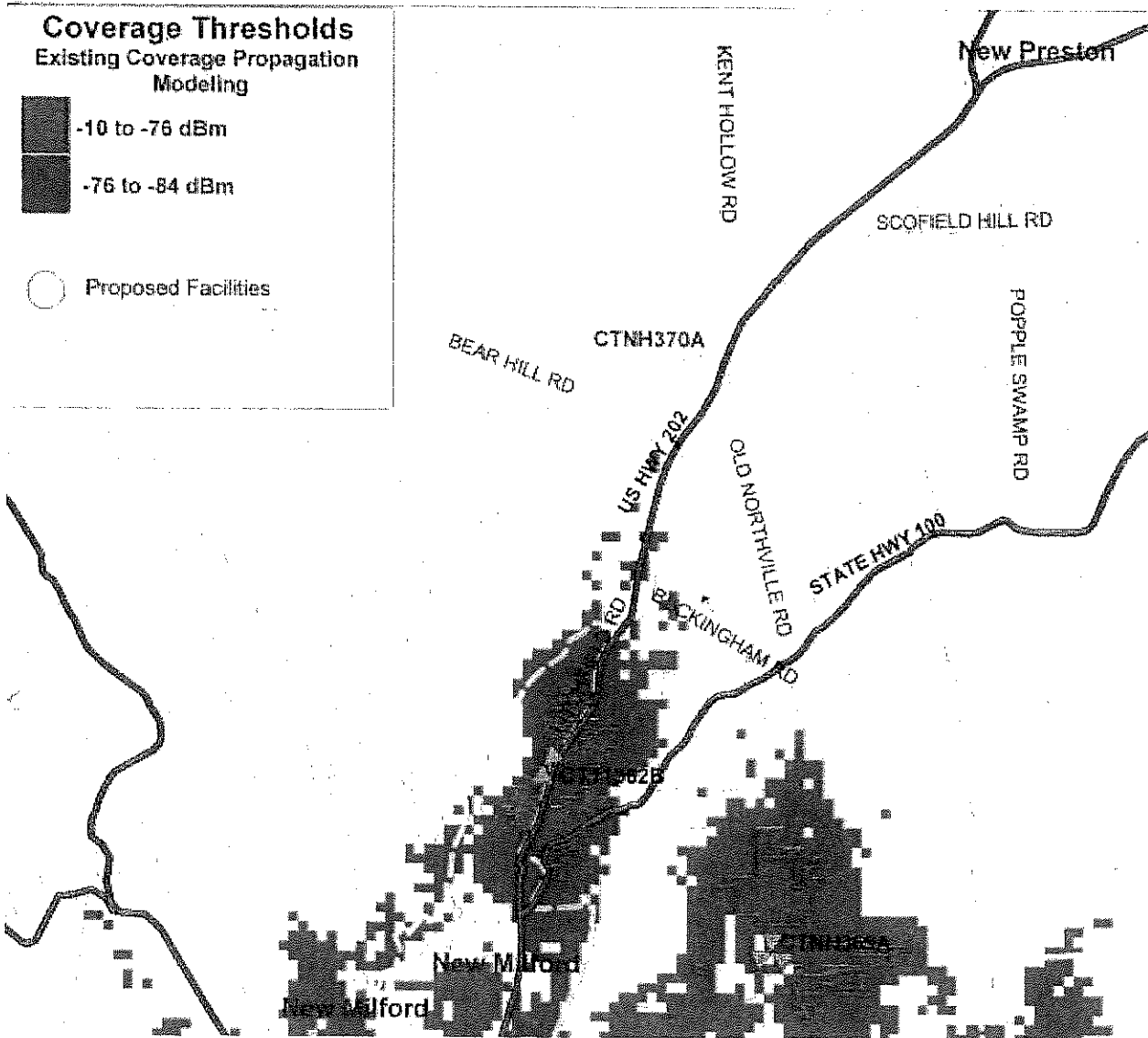
(Applicant 1, Tab B)

**FIGURE 3
VISIBILITY OF SITE**



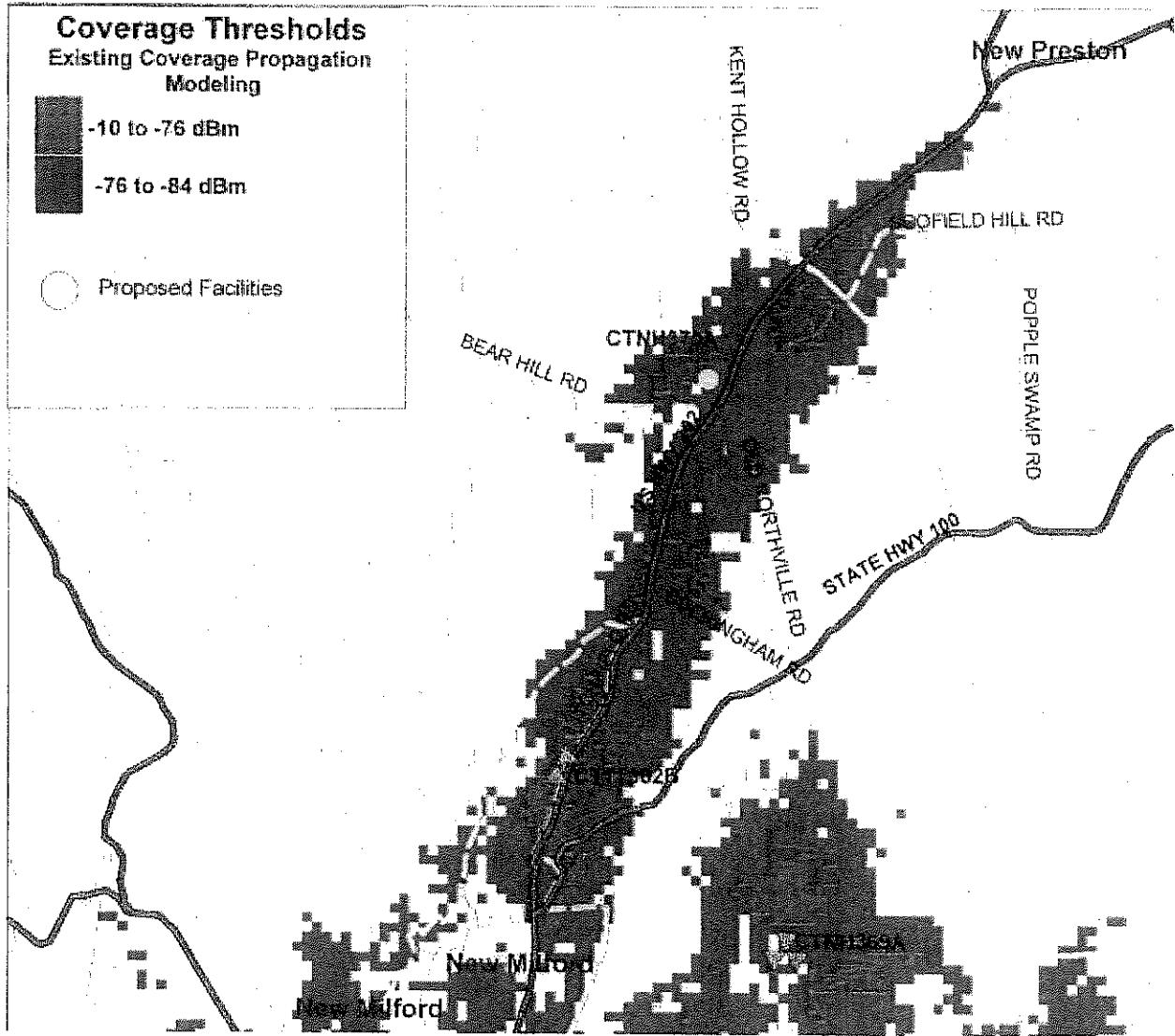
(Applicant 1, Tab J)

FIGURE 4
EXISTING T-MOBILE COVERAGE



(Applicant 1, Tab G)

**FIGURE 5
PROPOSED T-MOBILE COVERAGE**



(Applicant 1, Tab G)

