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May 9, 2008

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 355** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 359 Litchfield Road, New Milford, Connecticut.



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As stated at the hearing in New Milford on March 11, 2008, 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 May 16, 008.

SDP/cm

Enclosure

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<p><b>DOCKET NO. 355</b> - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 359 Litchfield Road, New Milford, Connecticut.</p>	<p>} Connecticut } Siting } Council</p>
	<p>April 30, 2008</p>

**DRAFT Findings of Fact**

**Introduction**

1. Cellco Partnership d/b/a Verizon Wireless (Verizon), in accordance with provisions of General Statutes §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on December 7, 2007 for the construction, operation, and maintenance of a wireless telecommunications facility at 359 Litchfield Road (Route 202), New Milford, Connecticut. (Verizon 1, p. 2)
2. The purpose of the proposed 150-foot tower is to provide wireless service to Route 202 and Route 109 in the Northville area of New Milford. (Verizon 1, p. 2)
3. On December 18, 2007, the Council, pursuant to Connecticut General Statute § 16-50m(d), voted to hold a common evidentiary hearing for the proposed site and a site proposed at 425 Litchfield Road in the Northville section of New Milford (D 342), to determine, in part, whether one tower could meet the mobile telecommunications needs of the area. The D 342 site is approximately 0.6 miles north of the proposed site. (Council meeting minutes of December 18, 2007)
4. The D 342 site is proposed by Optasite Towers LLC (Optasite) and Omnipoint Communications, Inc. (T-Mobile). (Council's Hearing Notice dated February 8, 2008)
5. Verizon is a Delaware Partnership with an administrative office located in East Hartford, Connecticut. Verizon, as the Certificate Holder, would construct and maintain the facility. (Verizon 1, p. 4)
6. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing regarding D 342 and D 355 on March 11, 2008, beginning at 3:00 p.m. and continuing at 7:00 p.m. at the New Milford High School, New Milford, Connecticut. The public hearing was continued on April 4, 2008 at the office of the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut. (Council's Hearing Notice dated February 8, 2008; Transcript 3 – 03/11/08, 3:00 p.m. [Tr. 4], p. 3; Transcript 4 – 03/11/08, 7:00 p.m. [Tr. 4], p. 3; Transcript 5 – 04/04/08, 10:00 a.m. [Tr. 5], p. 3)
7. The Council and its staff conducted an inspection of the proposed site on March 11, 2008, beginning at 3:00 p.m. Verizon flew a balloon at the site to simulate the height of the proposed tower during the field review. (Council's Hearing Notice dated February 8, 2008)
8. Notice of the application was sent to all abutting property owners by certified mail. Public notice of the application was published in the Danbury News-Times on December 4 and 5, 2007. (Verizon 1, p. 5)
9. On February 21, 2008, Verizon installed two four-foot by six-foot signs on the site property that described the proposed project and provided contact information. (Verizon 8)

10. Pursuant to CGS § 16-501 (b), Verizon provided notice to all federal, state and local officials and agencies listed therein. (Verizon 1, p. 5)

#### State Agency Comment

11. Pursuant to General Statutes § 16-50j(h), on February 8, and April 7 2008, 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), and the Department of Transportation (DOT). (Record)
12. The Council received written responses from the DPH on February 26 and March 27, 2008. (Record)
13. No response was received from the DEP, DOT, CEQ, DPUC, OPM, or DECD. (Record)

#### Municipal Consultation

14. Verizon submitted a technical report to the Town of New Milford on October 4, 2007 and met with Town officials shortly thereafter. (Verizon 1, p. 18)
15. Verizon appeared before the New Milford Zoning Commission (Commission) on February 19, 2008. The Commission issued Summary Findings and Recommendations on February 26, 2008 and recommended the following:
  - a. A yield point be designed into the tower;
  - b. Lifestar should be contacted to determine if they have concerns regarding the tower and any related precautions that should be undertaken;
  - c. The Commission prefers the proposed D 355 site rather than the D 342 site due to the benefits to the Northville Volunteer Fire Department.(Verizon 5)
16. The Mayor of New Milford, Patricia Murphy, provided written comments to the Council on March 10, 2008, stating that she supports whichever tower provides greater radio frequency coverage, increased safety response and increased emergency responder efficiencies. (Letter from Town of New Milford dated March 10, 2008)

#### Public Need for Service

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

20. The Telecommunications Act of 1996 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

21. Verizon established a search ring for coverage in the Northville area in June of 2006. (Verizon 4, Q. 2)
22. The nearest existing tower facility to the search ring is approximately 1.6 miles east of the proposed tower site at 399 Chestnut Lane in New Milford. Verizon is located at the 140-foot level of this tower. (Verizon 1, Tab 7, Tab 9)
23. After determining there were no viable structures within the search area, Verizon searched for properties suitable for tower development. Verizon investigated five parcels and selected one for site development. The four rejected parcels and reasons for their rejection are as follows:
  - a) 80 Upland Road – Excessive wetland impact;
  - b) Upland Road – Town parcel with development restrictions;
  - c) Geiger Road – Town parcel containing an 80-foot tower. The site has limited ground space, is adjacent to a recently developed residential area and is not within the search ring.
  - d) 9 Little Bear Hill Road – Church steeple installation would not provide adequate coverage.(Verizon 1, Tab 9)

#### Site Description

24. The proposed site is located on a 3.85-acre parcel owned by the Northville Volunteer Fire Department at 359 Litchfield Road (Route 202) in New Milford. The property is on the west side of Route 202; 3,000 feet north of Northville center (refer to Figure 1). (Verizon 1, Tab 1)
25. The property is zoned residential and is developed with a fire station that fronts Route 202. Big Bear Hill Road extends along the north property boundary. (Verizon 1, p. 16, Tab 1)
26. The tower site is located on a hillside at an elevation of 424 feet above mean sea level (amsl). The tower site is in a wooded area of the property, approximately 400 feet northwest of the firehouse. (Verizon 1, Tab 1)
27. Verizon proposes to construct a 150-foot monopole at the site. It would be designed to support four levels of antennas with a 10-foot center-to-center vertical separation. (Verizon 1, Tab 1)
28. Verizon proposes to install 12 panel antennas on a platform at a centerline height of 150 feet agl. (Verizon 1, Tab 1)
29. Verizon proposes to construct a 36-foot by 93-foot equipment compound within a 100-foot by 100-foot leased area at the base of the tower (refer to Figure 2). An eight-foot high chain link fence would enclose the compound. Verizon would install an equipment shelter within the compound. The compound could accommodate three additional carriers. (Verizon 1, Tab 1)

30. The compound and an associated parking area would be cut into the side of a hill and would require a 15-foot long, 140-foot long high retaining wall along the west side of the site. Two cheek walls that would follow the contour of the hillside would extend off the main retaining wall. The slope of the hill allows for a natural downslope away from the compound. (Verizon 1, Tab 1; Tr. 3, p. 63)
31. Access to the site would extend from Big Bear Hill Road on a new 12-foot wide, 160-foot long paved driveway. (Verizon 1, Tab 1; Tr. 5, pp. 19-20)
32. The road would have an average grade of 15%, with a maximum grade of 18%. (Verizon 1, Tab 1; Tr. 1, p. 63)
33. Utilities would be installed underground along the access road from Big Bear Hill Road. (Tr. 3, p. 65)
34. The site would contain a diesel-fueled emergency generator capable of providing at least eight hours of emergency power. (Verizon 1, p. 3; Tr. 3, pp. 85-86)
35. The nearest abutting property to the tower site is approximately 63 feet to the west. (Verizon 4, Tab 2; Tr. 3, pp. 81-82)
36. The tower would be designed with an engineered yield point to ensure that the tower "fall zone" would remain on the site parcel. (Cellco 4, Q. 8)
37. The nearest residence to the proposed tower site is approximately 200 feet to the northeast. (Verizon 4, Tab 2)
38. The site property is surrounded by low density residential to the west, business uses to the south, and a mix of low density residential and agriculture to the east and south. (Verizon 1, Tab 1)
39. The estimated cost of site construction is:

a. Radio equipment	\$450,000.
b. Tower, coax, and antennas	\$150,000.
c. Utilities	\$20,000.
d. Equipment building	\$50,000.
e. Site preparation, installation and other miscellaneous costs	<u>\$165,000.</u>
 Total estimated cost	 \$835,000.

(Verizon 1, p. 20, Tr. 3, pp. 22-23)

#### Environmental Concerns

40. The proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (Verizon 1, p. 19)
41. The proposed site contains no known existing populations State endangered, threatened or special concern species. (Verizon 1, Tab 11)

42. The proposed site contains no known federally listed or proposed, threatened or endangered species or critical habitat. (Verizon 1, Tab 11)
43. Construction of the facility would require the removal of 24 trees with a diameter of six inches or greater. (Verizon 1, Tab 1)
44. Construction of the site would require the removal of 1,000 yards of cut material. (Tr. 5, p. 24)
45. Site construction activities would occur approximately 50 feet from a deeply incised intermittent watercourse and bordering wetlands. The watercourse is northeast of the site, adjacent to Big Bear Hill Road. (Verizon 1, p. 17)
46. The intermittent watercourse receives stormwater runoff from Big Bear Hill Road. The Town's Wetlands Enforcement Officer provided written correspondence to the Council regarding his concerns over the potential for increased runoff or water diversion from site construction that could exacerbate flooding or drainage pipe failure downhill from the site. (Town of New Milford letter, dated February 15, 2008; Tr. 5, pp. 20-21)
47. The site would not result in an increase of run-off due to the gravel surface in the compound and the installation of riprap drainage swales at the top of the retention walls that would retain water on-site. The paved driveway would not create significant runoff. (Verizon 4, Q. 10; Tr. 5, pp. 20-21)
48. Verizon would submit site drainage calculations to the Town Engineer for review. If the calculations show an increase in run-off, Verizon would design additional retention, as necessary. (Tr. 5, pp. 17-21)
49. The tower would not require aircraft hazard obstruction marking or lighting. The site property is one of two Lifestar landing areas that serve the Town of New Milford. Lifestar would not require the lighting of the tower since ground personnel aid landings by relaying visual observations of nearby obstructions to Lifestar personnel. (Tr. 1, pp. 13-15, 18-19, 32)
50. The DPH commented that although the site is within close proximity to a public supply well, the well is inactive. (DPH comments of February 26, 2008 and March 27, 2008)
51. The cumulative maximum power density from radio frequency emissions from Verizon's proposed antennas is calculated to be 2.5 % 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. (Verizon 1, p. 15)

#### Visibility

52. The tower would be visible year-round above the tree canopy from approximately 23 acres within a two-mile radius of the site (refer to Figure 3). The tower would be seasonally visible from an additional 30 acres. (Verizon 1, Tab 10)
53. The tower is at the base of an east-sloping ridge. To the west, the ridge rises steeply to an elevation of 750 feet amsl. The tower would reach a height of 578 feet amsl. East of the tower and Route 202, a ridge rises to an elevation of 900 feet. (Verizon 1, Tab 10)

54. A majority of tower visibility is within a quarter-mile of the site, primarily from the valley east and south of the site. Views from the west would be obscured by topography and vegetation except for an abutting residence (approximately 450 feet to the west) that may have seasonal views of the tower. (Verizon 1, Tab 10; Tr. 3, pp. 44-45)
55. Approximately 10 residential properties would have partial, year-round views of the tower. This includes four residences on Route 202, three residences on Upton Road, one residence on Old Mill Road, and two residences on Big Bear Hill Road. An additional eight residences in this area would have seasonal views of the tower. (Applicant 1, Tab 10)
56. Two residences immediately east of the site property on Route 202 and two residences on Big Bear Hill Road immediately north of the site property would have year-round views of the upper 40 feet of the tower and seasonal views of the upper half of the tower. (Verizon 1, Tab 10; Tr. 3, pp. 40-44)
57. The tree canopy surrounding the site is approximately 65 feet agl. (Verizon 1, Tab.10)
58. Three locally designated scenic roads are within a half-mile of the site: Sandpit Road, Old Mill Road, and Crossman Road. Seasonal views of the tower may be possible from a 0.1-mile section of Old Mill Road. (Verizon 1, Tab 10)
59. Year-round 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
Route 202 north of Big Bear Hill Road	Yes	40 feet - unobstructed	0.1 mile southeast
Route 202 south of Big Bear Hill Road	Yes	25 feet - unobstructed.	0.1 mile south
Sandpit Road, adjacent to #1	Yes	10 feet - unobstructed with hillside as a backdrop.	0.4 mile northeast
Route 202, adjacent to #389	Yes	30 feet - unobstructed with hillside as a backdrop.	0.3 mile northeast
Route 202 south of Upland Road, adjacent to "Village Shops" plaza	Yes	30 feet - unobstructed with hillside as a backdrop.	0.1 mile east
Upland Road, east of Old Mill Road	Yes	15 feet - unobstructed with hillside as a backdrop.	0.2 mile east
Old Mill Road at Upland Road	Yes	50 feet - unobstructed with hillside as a backdrop.	0.1 mile east
Route 202, adjacent to #369	Yes	45 feet - unobstructed	0.1 mile south east
Big Bear Hill Road, adjacent to #16	Yes	45 feet - unobstructed	0.1 mile north

(Verizon 1, Tab 10; Tr. 3, pp. 40-44)

60. 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)
61. Visual mitigation by use of a stealth tree design at the proposed site would be effective for some views but not others, particularly in close proximity to the tower where it would rise above the treeline and be silhouetted against the sky. (Tr. 3, p. 47-51)



Verizon - Existing and Proposed Wireless Coverage

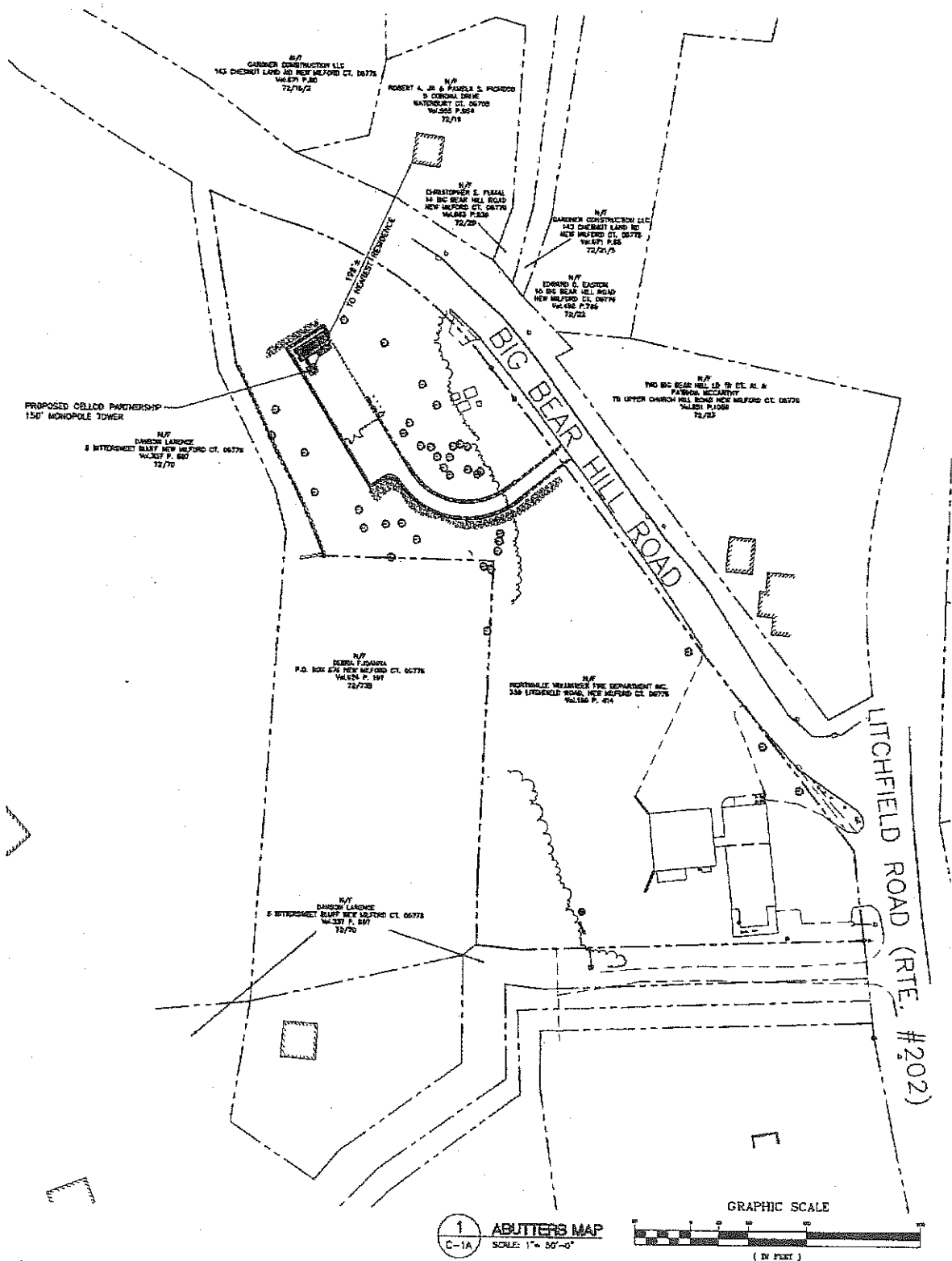
62. Verizon operates in the 1900 MHz frequency bands in Litchfield County. Verizon's design thresholds for this area are -85 for in-vehicle coverage and -75 dBm for in-building coverage. (Verizon 1, p. 7; Verizon 4, Q. 4)
63. Verizon has an approximate 1.5 mile gap of no reliable, continuous coverage on Route 202 between an existing Verizon site at 4 Elkington Farm Road in New Milford and an existing Verizon site at 6 Mountain Road in Washington (refer to Figure 4). (Verizon 1, Tab 8, Tab 10)
64. Verizon would meet coverage objectives by installing antennas at 150 feet agl. No areas of degraded coverage would exist on Route 202 within the target service area (refer to Figure 5). (Verizon 1, Tab 7; Tr. 3, pp. 53-54)
65. Installing antennas at 140 feet agl would result in degraded coverage for approximately a tenth of a mile on Route 202 south of the proposed site. Coverage would also be reduced from 3.2 square miles to 2.6 square miles, with the reduction occurring primarily along the sides of the Route 202 valley rather than along the valley floor. (Verizon 4, Q. 11; Tr. 1, pp. 52-53, 59-60)
66. Verizon could meet coverage objectives utilizing the D 342 site at a height of 117 feet agl (refer to Figure 6). (Tr. 1, pp. 55, 61-62)

FIGURE 1  
LOCATION OF SITE

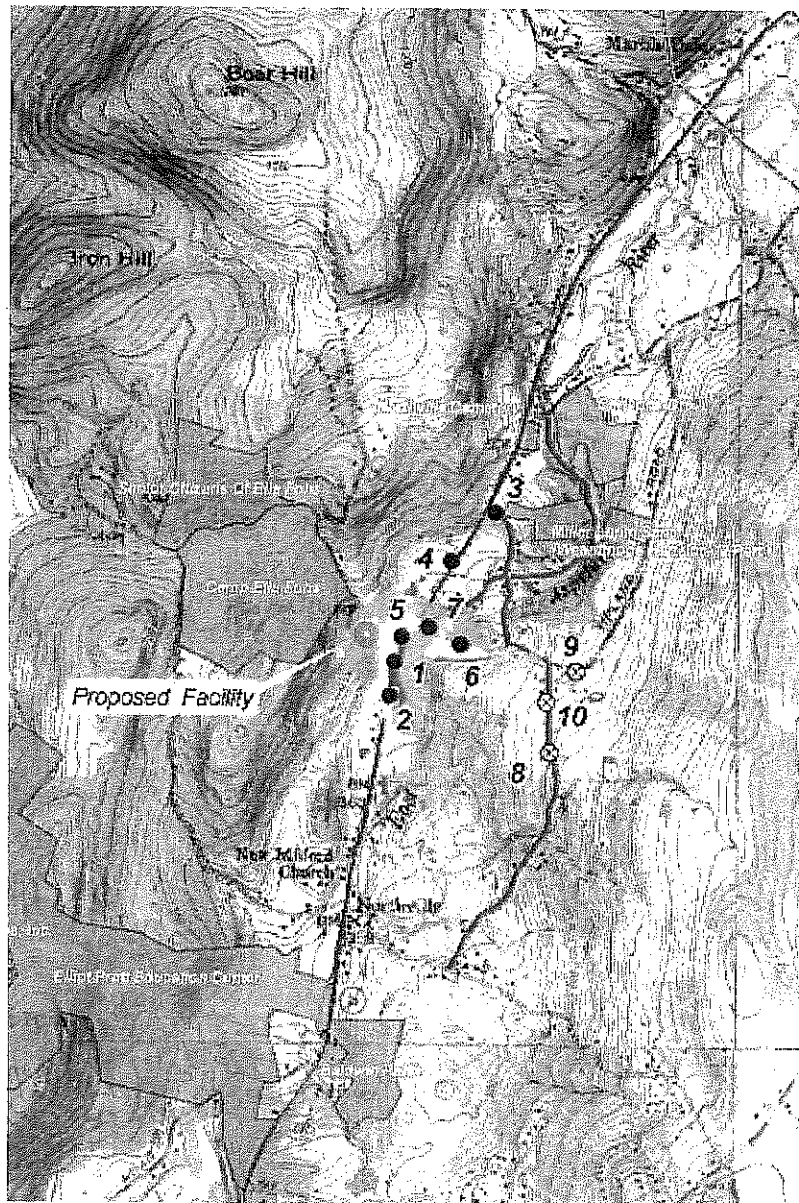


(Verizon 1, p. iii)

FIGURE 2  
SITE PLAN



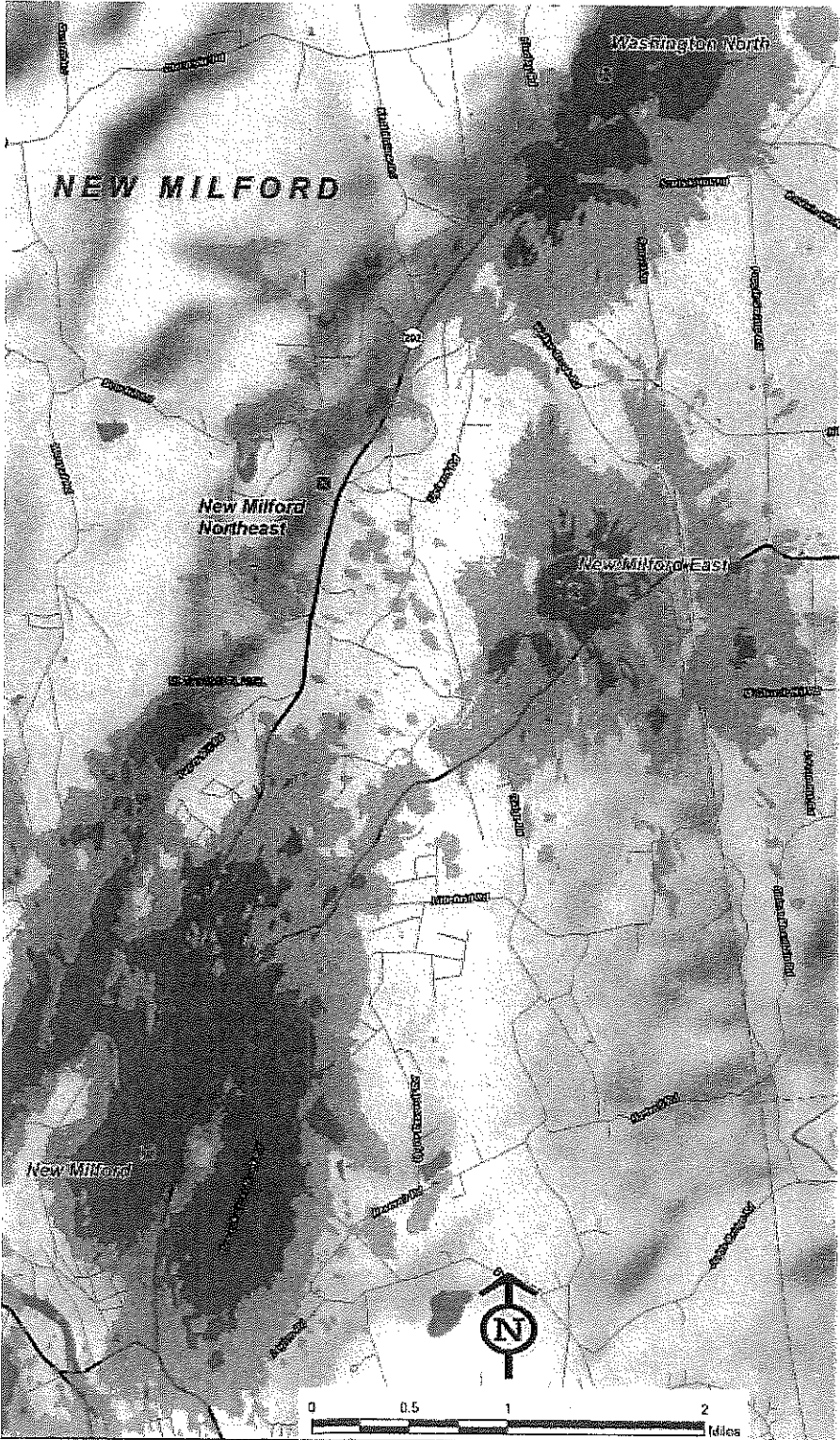
**FIGURE 3  
 VISIBILITY OF SITE**



- Legend**
- Proposed Monopole Location  
 (includes select areas of visibility approximately 500 feet around facility)
  - Photographs - November 8, 2007
  - Balcon visible above trees
  - Balcon visible through trees
  - ⊗ Balcon not visible
  - ▨ Anticipated Seasonal Visibility  
 (Approximately 30 Acres)
  - Approx. % Of Facility Visible (Year-Round)**
  - Tree Line View to Upper 25% - 17 Acres
  - 50% - 4 Acres
  - Entire Facility Visible - 2 Acres

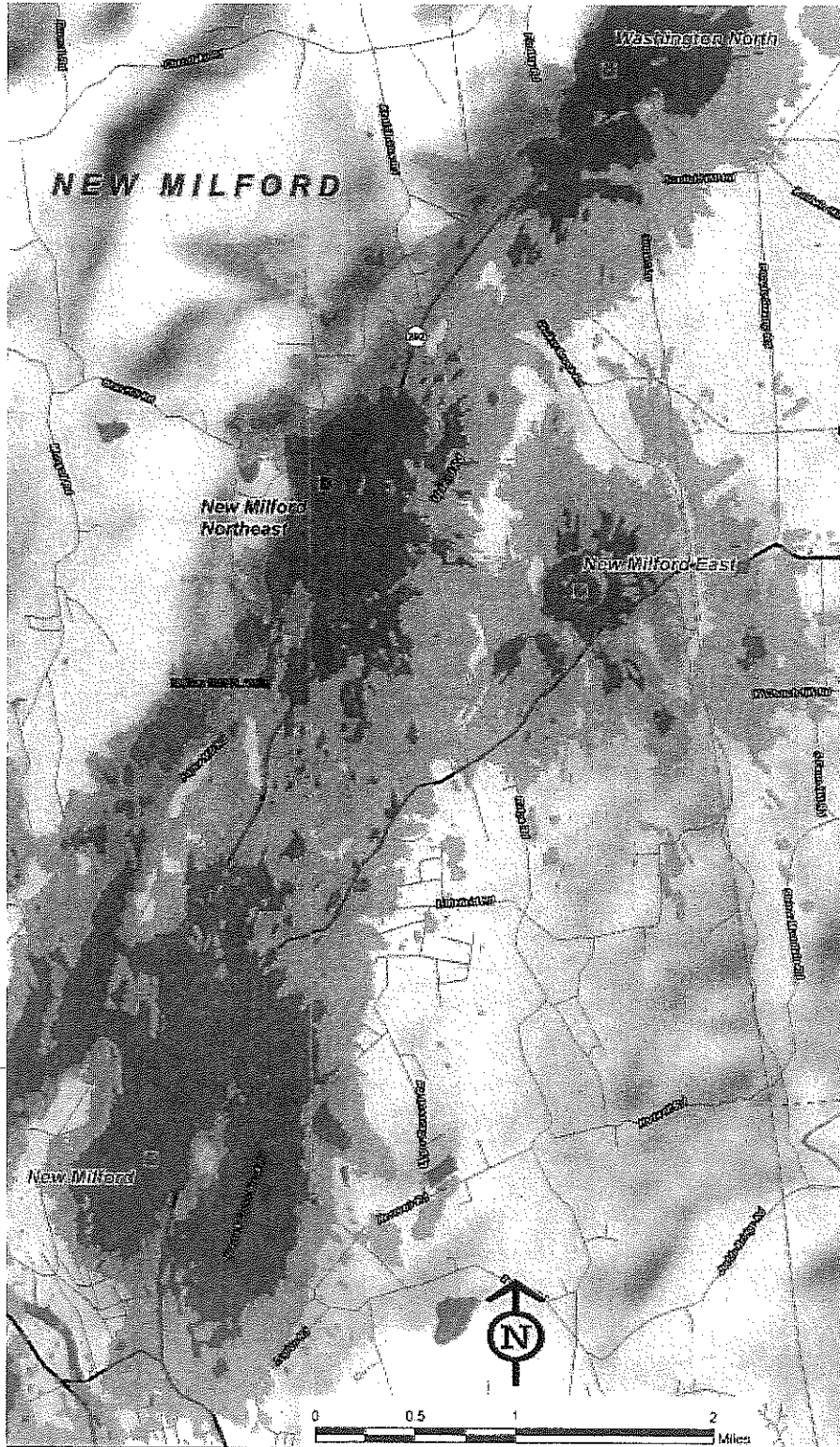
(Verizon 1, Tab 10)

FIGURE 4  
EXISTING VERIZON COVERAGE



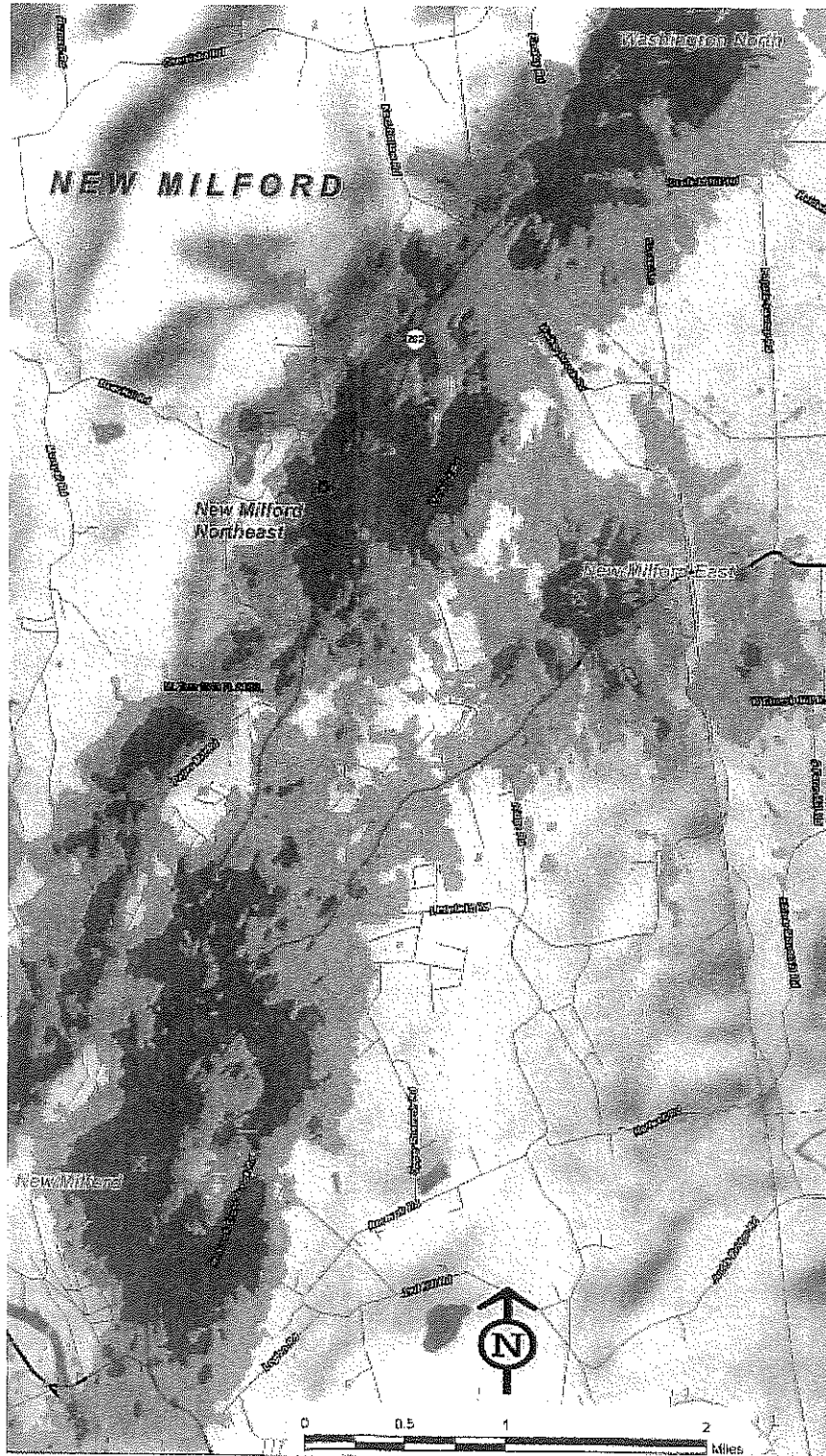
(Verizon 1, Tab 7)

FIGURE 5  
PROPOSED VERIZON COVERAGE FROM  
359 LITCHFIELD ROAD AT 150 FEET AGL



(Verizon 1, Tab 7)

FIGURE 6  
PROPOSED VERIZON COVERAGE FROM  
425 LITCHFIELD ROAD @ 117 FEET AGL



(Verizon 4, Q. 11)

