

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

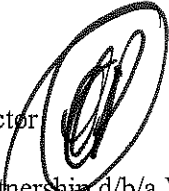
Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

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

March 19, 2009

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director 

RE: **DOCKET NO. 360** - 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 188 Route 7 South, Falls Village (Canaan), Connecticut.

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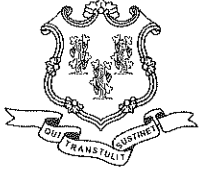
By its Decision and Order dated March 12, 2009, the Connecticut Siting Council granted a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut.

Enclosed are the Council's Findings of Fact, Conclusions of Law, Opinion, and Decision and Order.

SDP/CMW/cm

Enclosures (4)

c: Kenneth C. Baldwin, Robinson & Cole, LLP  
State Documents Librarian



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March 19, 2009

TO: Classified/Legal Supervisor  
**360080527**  
The Hartford Courant  
285 Broad St.  
Hartford, CT 06115

Classified/Legal Supervisor  
**360080527**  
Register Citizen  
P.O. Box 58  
Torrington, CT 06790-0058

FROM: Carriann Mulcahy, Secretary II

RE: **DOCKET NO. 360** - Celco 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 188 Route 7 South, Falls Village (Canaan), Connecticut.

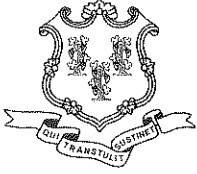
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Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

Please send an affidavit of publication and invoice to my attention.

Thank you.

CM



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

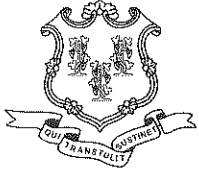
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[www.ct.gov/csc](http://www.ct.gov/csc)

### NOTICE

Pursuant to General Statutes § 16-50p (d), the Connecticut Siting Council (Council) announces that, on March 12, 2009, the Council issued Findings of Fact, Conclusions of Law, an Opinion, and a Decision and Order approving an application from Celco Partnership d/b/a Verizon Wireless for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut



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

March 19, 2009

Kenneth C. Baldwin, Esq.  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103-3597

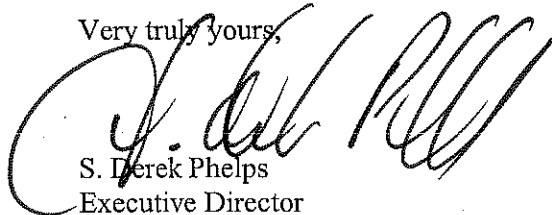
RE: **DOCKET NO. 360** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut.

Dear Attorney Baldwin:

By its Decision and Order dated March 12, 2009, the Connecticut Siting Council granted a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut.

Enclosed are the Council's Certificate, Findings of Fact, Conclusions of Law, Opinion, and Decision and Order.

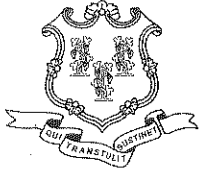
Very truly yours,



S. Derek Phelps  
Executive Director

SDP/CMW/cm

Enclosures (5)



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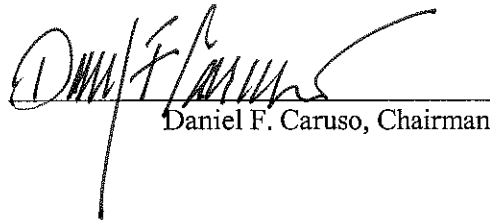
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**CERTIFICATE**  
**OF**  
**ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**  
**DOCKET NO. 360**

Pursuant to General Statutes § 16-50k, as amended, the Connecticut Siting Council hereby issues a Certificate of Environmental Compatibility and Public Need to Celco Partnership d/b/a Verizon Wireless for the construction, maintenance and operation of a telecommunications facility located at 188 Route 7 South, Falls Village (Canaan), Connecticut. This Certificate is issued in accordance with and subject to the terms and conditions set forth in the Decision and Order of the Council on March 12, 2009.

By order of the Council,



Daniel F. Caruso, Chairman

March 12, 2009

**DOCKET NO. 360** - Verizon 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 188 Route 7 South, Falls Village (Canaan), }  
Connecticut.

Connecticut

Siting

Council

March 12, 2009

## Conclusions of Law

### 1. The applicant has presented the Council with sufficient evidence of “public need.”

C.G.S. §16-50p(a)(3) states, in part, “...the Council shall not grant a certificate {for a telecommunications facility}... unless it shall find and determine: ... a public need for the facility and the basis for the need.” However, “public need” is only defined under C.G.S. §16-50p(h) as it applies to energy facilities, such as electric transmission lines, but is otherwise not defined in the general statutes. The Council has consistently defined “need” as a gap in service for which the applicant seeks to provide coverage and not according to the existence of service in the subject area provided by another carrier consistent with federal regulation. To hold otherwise would create a monopoly for the first carrier, which would be anti-competitive and detrimental to Connecticut residents in terms of rates and service. It is the well established practice of the court to accord great deference to the construction given a statute by the agency charged with its enforcement. *State Board of Labor Relations v. Freedom of Information Commission*, 244 Conn. 487 (1998). An agency’s practical construction and “time-tested” interpretation of a statute is “high evidence of what the law is.” *Anderson v. Ludgin*, 175 Conn. 545 (1978). The applicant has presented credible evidence that there is a significant gap in service that cannot be remedied by less intrusive means. (Findings of Fact Nos. 86-97). Therefore, there is a public need for the proposed facility.

The Telecommunications Act (TCA) states, in part, “The regulation of the placement, construction and modification of personal wireless service facilities by any State or local government or instrumentality thereof— shall not unreasonably discriminate among providers of functionally equivalent services; and shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. §332(c)(7)(B)(i). The purpose of the TCA is to promote competition, encourage technical innovations and foster lower prices for telecommunications services. (Findings of Fact No. 26). Generally, under the TCA, Congress has clearly expressed a “need” for wireless communications. Therefore, granting the application would be consistent with the TCA. However, denial of an application on the basis of adequate coverage that is provided by a different carrier would in effect be anti-competitive and violate the purpose of the TCA. The Third Circuit court held that 47 U.S.C. §332 (c)(7)(B)(i) is violated when the area the new facility will serve is not already served by another provider, which is unpersuasive. *APT Pittsburgh Limited Partnership v. Penn Township*, 196 F.3d 449 (3<sup>rd</sup> Cir. 1999). Alternatively, the First Circuit court held that 47 U.S.C. §332 (c)(7)(B)(i) is violated when a town prohibits a carrier from providing service based on the fact that another carrier already provides service in that area, which is consistent with the purpose of the TCA. *Second Generation Properties, L.P. v. Town of Pelham*, 313 F.3d 620 (1<sup>st</sup> Cir. 2002). The Second Circuit held that 47 U.S.C. §332 (c)(7)(B)(i) only allows a state to deny an application to construct a new facility if (1) the area in which the facility is proposed is already sufficiently serviced by a wireless service

provider, and (2) the proposed facility is substantially more intrusive than existing cell sites by virtue of its structure, placement or cumulative impact. *Sprint Spectrum, L.P. v. Willoth*, 176 F.3d 630 (2<sup>nd</sup> Cir. 1999). Therefore, the applicant's submission of credible evidence that it has a significant gap in service that cannot be remedied by less intrusive means demonstrates that there is a "public need" for the proposed wireless telecommunications facility.

**2. The applicant has complied with the municipal consultation requirements under C.G.S. §16-50l.**

C.G.S. §16-50l states, in part, "... at least sixty days prior to the filing of an application with the council, the applicant *shall* consult with the municipality in which the facility may be located... Such consultation with the municipality *shall* include, but not be limited to, good faith efforts to meet with the *chief elected official* of the municipality..." (Emphasis added). "The municipality *may* conduct public hearings and meetings as it deems necessary for it to advise the applicant of its recommendations concerning the facility." (Emphasis added). Under C.G.S. §7-12a, entitled "First selectman to be chief executive officer and ex-officio member of town boards, commissions and committees" states: "Unless otherwise provided by law, the first selectman, in each town for which its board of selectmen is the executive authority, shall be the chief executive officer of such town and shall be an ex-officio member, without vote, of all town boards, commissions and committees; provided nothing herein shall be construed to affect any special act which gives the first selectman the power to vote on such boards, commissions and committees."

According to the 2008 Connecticut State Register and Manual, the Town of Canaan and the Town of Salisbury hold elections biennially and each rank their "town officers" beginning with the First Selectman. The applicant met with the Town of Canaan's chief elected official, First Selectman, Patricia Allyn Mechare, on October 23, 2007 (Findings of Fact No. 18). The applicant also provided copies of the technical information regarding the proposed project to the Town of Salisbury's chief elected official, First Selectman, Curtis G. Rand, on October 23, 2007. (Findings of Fact No. 19). Therefore, the applicant met the municipal consultation requirements under C.G.S. § 16-50l.

**3. The TCA preempts the Council from considering thermal and non-thermal effects of radio frequency (RF) emissions on human health when those emissions comply with the levels established by the FCC.**

Under the TCA, 47 U.S.C. § 332 (c)(7)(B)(iv) states, "No state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless facilities on the basis of the *environmental effects* of radio frequency emissions to the extent that such facilities comply with the {Federal Communications} Commission's (FCC) regulations concerning such emissions." (Emphasis added). "Environmental effect" is defined under the FCC's regulations, 47 C.F.R. § 1.1307, in subsection (b), as including human exposure to radio frequency emissions above certain levels. Therefore, according to the FCC regulation, the term "environmental effect" as used in 47 U.S.C. § 332 (c)(7)(B)(iv) includes, but is not limited to, effects on human health, without distinction between thermal or non-thermal.

Neither the TCA nor the cases interpreting it distinguish between thermal and non-thermal effects of RF emissions. The Second Circuit court held that 47 U.S.C. §332(c)(7)(iv) preempts state and local governments from regulating the placement, construction or modification of personal wireless service facilities on the basis of health effects of RF radiation where the facilities would operate within levels determined by the FCC to be safe. *Sprint Spectrum L.P. v. Mills*, 283 F. 3d 404 (2<sup>nd</sup> Cir. 2003). The Supreme Court stated that the purpose of the TCA was “to promote competition and higher quality in American telecommunications services” and to reduce the impediments imposed by local governments upon the installation of facilities for wireless communications towers.” *City of Rancho Palos Verdes v. Abrams*, 544 U.S.113 (2005). Therefore, the plain meaning of 47 U.S.C. §332(c)(7)(iv) preempts the Council from assessing the safety and environmental concerns of thermal and non-thermal effects of RF emissions on human health when those emissions are in compliance with the permissible limits set forth in the FCC regulations and this interpretation comports with the express intent of Congress.

**4. The TCA preempts the Council from considering effects of radio frequency (RF) emissions on wildlife when those emissions comply with the levels established by the FCC.**

Under the TCA, 47 U.S.C. § 332 (c)(7)(B)(iv) states, “No state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless facilities on the basis of the *environmental effects* of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.” (Emphasis added). “Environmental effect” is defined under FCC’s regulations, 47 C.F.R. § 1.1307(a)(3) as “an effect on threatened or endangered species or designated critical habitats.” Therefore, according to the FCC regulation, the term “environmental effect” as used in 47 U.S.C. § 332 (c)(7)(B)(iv) includes, but is not limited to, threatened or endangered species or designated critical habitats. The Supreme Court stated that the purpose of the TCA was “to promote competition and higher quality in American telecommunications services” and to reduce the impediments imposed by local governments upon the installation of facilities for wireless communications towers. *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113 (2005). Therefore, the plain meaning of 47 U.S.C. §332(c)(7)(iv) also preempts the Council from assessing the safety and environmental concerns of the effects of RF emissions on wildlife when those emissions are in compliance with the permissible limits set forth in the FCC regulations and this interpretation comports with the express intent of Congress.

**5. The TCA, when read together with the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA), preempts the Council from considering effects of RF emissions and other harmful effects of telecommunications towers on birds covered by these acts.**

The MBTA states, “...it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture or kill... any migratory bird.” The BGEPA states, “Whoever... without being permitted to do so as hereinafter provided, shall knowingly, or with wanton disregard for the consequences of his act take, possess... any bald eagle commonly known as the American eagle, or any golden eagle... shall be fined not more



than \$5000 or imprisoned not more than one year or both..." The U.S. Fish and Wildlife Service (FWS) Division of Migratory Bird Management maintains guidelines in accordance with the MBTA as to recommendations for the siting of telecommunications facilities. (Findings of Fact No. 65).

The Eighth Circuit court held that the MBTA's prohibition applies only to direct conduct that takes or kills birds rather than indirect or incidental takes or kills. *Newton County Wildlife Association v. U.S. FWS*, 113 F.3d 110 (8<sup>th</sup> Cir. 1997). However, the Second Circuit court held that MBTA's prohibition applies to incidental killings, such as bird deaths due to ingestion of toxic chemicals pumped into a pond adjacent to a pesticide plant. *U.S. v. FMC Corp.*, 572 F. 2d 902 (2<sup>nd</sup> Cir. 1978). Bird deaths associated with RF emissions from telecommunications towers are incidental and it is well established that the FCC regulates RF emissions levels through the TCA, which is silent as to its application to migratory birds and bald and golden eagles. There is, however, a provision of the TCA, Title VI, Section 601(c) of P.L. 104-104 that states that the TCA "shall not be construed to modify, impair or supersede Federal, State or local law unless expressly so provided..."

The MBTA was promulgated in 1918; the TCA was promulgated in 1996. "If a treaty and a federal statute conflict, the one last in date will control the other." *Breard v. Greene*, 523 U.S. 371 (1998). "An Act of Congress is on full parity with a treaty and a subsequent statute renders the treaty null to the extent of the conflict." *Safety National Casualty Corp. v. Certain Underwriters at Lloyd's*, 543 F.3d 744 (5<sup>th</sup> Cir. 2008); *Stephens v. Am. Int'l Ins. Co.*, 66 F.3d 41 (2<sup>nd</sup> Cir. 1995). Federal case law demands that, whenever possible, statutes are to be construed harmoniously and not to produce conflict. *Morton v. Mancari*, 417 U.S. 535 (1974). Extending the holding of *FMC Corp.* produces a conflict between the bird protection statutes and the TCA that could circumvent the purpose of the TCA's preemptive provisions. Harmonizing these statutes requires the Council to limit the *FMC Corp.* holding to the specific type of situation described in that case. Therefore, neither the MBTA nor the BGEPA apply to the approval of telecommunications facilities.

#### **6. State law permits the use of hands-free mobile telephones on the state's highways.**

The proposed facility would provide reliable cellular coverage along 3.45 miles of Route 7, 1.25 miles along Route 112 and 1.3 miles along Route 126. (Findings of Fact No. 91). Route 7, Route 112 and Route 126 meet the definition of "highway" under C.G.S. §14-1, which includes, "any state or other public highway, road, street, avenue, alley, driveway, parkway or place, under the control of the state or any political subdivision of the state, dedicated, appropriated or opened to public travel or other use." C.G.S. §14-296aa provides when the use of hand-held mobile telephones by motor vehicle operators is prohibited or restricted. Subsection (b)(1) states, "Except as otherwise provided in this subsection... no person shall operate a motor vehicle upon a highway... while using a hand-held mobile telephone to engage in a call... while such vehicle is in motion." However, subdivision (4)(C) states that subdivision (1) does not apply to the use of a hands-free mobile telephone. A "hands-free mobile telephone" is defined in C.G.S. §14-296aa(a)(5) as "a hand-held mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not

Docket No. 360  
Conclusions of Law  
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the use of either hand is necessary to activate, deactivate or initiate a function of such telephone.”  
Therefore, state law permits the use of a hands-free mobile telephone by motor vehicle operators upon the state’s highways, including Route 7, Route 112 and Route 126.

<p><b>DOCKET NO. 360</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 188 Route 7 South, Falls Village (Canaan), Connecticut.</p>	<p>} Connecticut } Siting } Council } March 12, 2009</p>
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**Findings of Fact**

**Introduction**

1. On March 28, 2008, Cellco Partnership d/b/a Verizon Wireless (Verizon), in accordance with provisions of Connecticut General Statutes (CGS) § 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) for the construction, operation, and maintenance of a wireless telecommunications facility at 188 Route 7 South in the Falls Village section of Canaan, Connecticut. The proposed site would be located on property that would be the future home of the Falls Village Fire Department (FVFD). (Verizon 1, p. 1)
2. Verizon is a Delaware Partnership with an administrative office in Connecticut. The Federal Communications Commission (FCC) has licensed Verizon to operate a wireless telecommunications system in the State of Connecticut. Operation of the wireless telecommunications systems and related activities are Verizon's sole business in the State of Connecticut. (Verizon 1, p. 4)
3. Verizon is licensed by the FCC to provide 1900 MHz personal communications service (PCS) to Litchfield County, Connecticut. On May 30, 2008, Verizon acquired Alltel Communication's 850 MHz cellular license for Litchfield County, Connecticut. Verizon has also acquired a license to provide service in the 700 MHz frequency band, which will be used to provide 4<sup>th</sup> Generation (4G) wireless service. (Verizon 1, p. 7, Tab 6; Verizon 6, Verizon 7, p. 1)
4. The party in this proceeding is the applicant. The intervenor is Dina Jaeger. (Transcript 1 – 3:00 p.m. [Tr. 1], p. 6)
5. The purpose of the proposed facility is to provide service along Route 7 and portions of Route 112 and Route 126, as well as local roads in the southwest portion of the Town of Canaan. (Verizon 1, pp. 1, 2)
6. Pursuant to CGS § 16-50l (b), public notice of the application was published in the Register Citizen, which serves Litchfield County, on March 24 and 25, 2008. (Verizon 1, p. 5)
7. Pursuant to CGS § 16-50l(b), notice of the application was provided to all abutting property owners by certified mail. All adjacent landowners signed return receipts upon receipt of the notice. (Verizon 1, p. 5, Tab 5; Verizon 6, R. 1)
8. Pursuant to CGS § 16-50l (b), Verizon provided notice to all federal, state and local officials and agencies listed therein. (Verizon 1, p. 5, Tab 3)
9. On June 11, 2008, Verizon installed a sign in the front of the property of the proposed site, adjacent to Route 7, which notified the public of the proposed project and the July 1, 2008 public hearing. (Tr. 1, p. 51)

10. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on July 1, 2008, beginning at 3:00 p.m. and continuing at 7:00 p.m. at the Lee H. Kellogg School, 47 Main Street, Falls Village, Connecticut. (Tr. 1, p. 3; Transcript 2 – 7:10 p.m. [Tr. 2], p. 3)
11. The Council and its staff conducted an inspection of the proposed site on July 1, 2008, beginning at 2:00 p.m. with members of the public in attendance. Verizon flew a red balloon at the site to simulate the height at the top of the proposed tree branches, which would be 157 feet above ground level. Weather conditions were very good with no winds until approximately 12:00 p.m., after which the wind increased to between three and seven miles an hour. The balloon was tethered at 157 feet. The balloon was aloft from 7:15 a.m. to 5:00 p.m. (Council's Hearing Notice dated May 30, 2008, Tr. 1, pp. 50-51)
12. The public hearing was continued on July 31, 2008 beginning at 11:00 a.m. at the office of the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut. (Transcript 3 – 11:10 a.m. [Tr. 3], p. 3)

#### **United States Department of the Interior Comments**

13. The United States Department of the Interior, National Park Service, submitted a letter to the Council dated April 18, 2008. The National Park Service found that the proposed tower would not result in an adverse visual impact on the Appalachian National Scenic Trail, provided that the following mitigating measures be incorporated as recommended by representatives of the Appalachian Mountain Club, the Appalachian Trail Conservancy, and the National Park Service:
  - a. The Applicant purchases, delivers and plants approximately 25 white pine trees, with a minimum height of five feet, along the Appalachian Trail near Warren Turnpike as directed by the National Park Service representative.
  - b. The Applicant constructs a monopine, as proposed in the application.  
(Verizon 4, Letter from US Department of the Interior)
14. Verizon has agreed to comply with the recommendations of the Appalachian Mountain Club, the Appalachian Trail Conservancy and the National Park Service. (Verizon 5, Letter from Verizon)

#### **State Agency Comments**

15. Pursuant to CGS § 16-50j (h), on May 30, 2008, 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), and the Department of Transportation (DOT). On August 1, 2008, the previously mentioned state agencies as well as the Department of Agriculture (DOA) were solicited by the Council to submit written comments regarding the proposed facility. (Record)
16. The Council received responses from the DOT on June 24, 2008. DOT comments stated that any work within the Route 7 right-of-way would require an encroachment permit pursuant to Regulations of Connecticut State Agencies, § 13b-17-1. (Record)
17. The following agencies did not respond to the Council with comment on the application, as solicited by CGS § 16-50j (h): DEP, CEQ, DPUC, OPM, DPH, DOA, and DECD. (Record)

### Municipal Consultation

18. On October 23, 2007, Verizon notified the Town of Canaan and met with its Chief Elected Official, First Selectman Patricia Allyn Mechare, providing copies of technical information regarding the proposed project. (Verizon 1, p. 19) [Note: While First Selectman Mechare was only one member of the three-person Board of Selectmen, she was the Chief Elected Official of the Town and the full Board of Selectmen later made its position known to the Council. See Finding No. 22 below.]
19. Verizon provided copies of the technical information regarding the proposed project to the Town of Salisbury First Selectman, Chief Elected Official, Curtis G. Rand, on October 23, 2007. (Verizon 1, p. 19)
20. Upon filing the application with the Council, Verizon mailed copies of the application and attachments via certified mail, return receipt requested, to Town of Canaan Officials including First Selectman Mechare; Mary M. Palmer, Town Clerk; Frederick J. Laser, Chairman of the Planning and Zoning Commission; John Holland, Chairman of the Zoning Board of Appeals; Michael O'Neil, Zoning Enforcement Officer; and Ellery W. Sinclair, Chairman of the Inland Wetland Commission. (Verizon 1, Tab 3)
21. In a letter dated April 22, 2008, the Town of Canaan Planning & Zoning Commission (P&Z) provided comments regarding the proposed facility. The P&Z stated that:
  - a. Any new tower or antenna that is regulated and approved by the Council is permitted by right. The tower setbacks for the proposed tower would be greater than 200 feet from each property boundary. In addition, the town's Zoning Regulations do not contain siting preferences for telecommunication facilities.
  - b. The town's Plan of Conservation and Development does not specifically reference telecommunications towers as a land use consistent or inconsistent with the general planning or conservation policies of the town. The Plan of Conservation and Development does recognize the need for a new firehouse to enhance public safety. The proposed telecommunications facility would further enhance public safety for the town.
  - c. Verizon indicated that the proposed facility would have no significant environmental impacts. (Council Admin. Notice, Municipal comments, 4)
22. On April 28, 2008, the Town of Canaan Board of Selectmen (Board) sent a letter to the Council regarding the proposed project. The letter expressed that the Board strongly supported Verizon's application due to the proposed facility's minimum impact on the surrounding area. The proposed facility would be in accordance with the general objectives of the town's Plan of Conservation and Development. The Board stated that the proposed facility would begin to close the gaps in wireless service where it is essential, along the Route 7 corridor. Verizon would provide space for the FVFD to locate on the tower, which the Board considers a benefit to public safety for the area. (Council Admin. Notice, Municipal comments, 1)
23. In a letter received by the Council on May 30, 2008, the town P&Z recommended the proposed telecommunications tower be constructed as a monopole at 150 feet agl, rather than an artificial tree at 157 feet agl based on a consensus that the artificial tree tower would not be in keeping with the rural character and integrity of the town. (Council Admin. Notice, Municipal comments, 2)
24. The Town of Canaan Inland Wetlands/Conservation Commission (Commission) submitted comments to the Council in a letter dated June 5, 2008. The Commission found that there would be no intrusion upon any wetland or watercourse due to the construction or operation of the proposed project. (Council Admin. Notice, Municipal comments, 3)

25. Town and FVFD antennas would be installed at the top of the tower and extend upward. The town and the FVFD have not yet provided information regarding their antenna needs to Verizon. (Verizon 1, p. 2; Verizon 6, R. 3)

#### **General Public Need for Service**

26. 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)
27. 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)
28. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)
29. 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)
30. In an effort to ensure the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999 (the 911 Act). The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (Verizon 6, R. 5)
31. Through the enhanced 911 Act of 2004 (E-911 Act), the FCC requires carriers to provide public safety facilities with information including the latitude and longitude of the caller. The development of new technologies must support E-911 services. (Verizon 6, R. 5)
32. Verizon has incorporated the E-911 requirements into all existing Verizon facilities in Connecticut and the appropriate equipment would be installed at the proposed facility. (Verizon 6, R. 5)

#### **Site Selection**

33. Verizon established a search ring for the target service area in May of 2006. The search ring consists of an oval area immediately west of Route 7 near the intersection with Six Rod Road in the Falls Village section of Canaan. (Verizon 1, Tab 9)
34. In the fall of 2006, Verizon representatives contacted First Selectman Mechare to discuss the availability of town-owned property for the construction of a telecommunications facility. First Selectman Mechare requested that Verizon investigate the potential use of the town-owned parcel immediately south of the FVFD, which the Canaan Highway Department uses for truck and material storage. Verizon's investigation of the Highway Department parcel resulted in rejection of that site because elevation declines to the south and west and would, therefore, require a taller tower. (Verizon 1, Tab 9)

35. Verizon met with the First Selectman again regarding the use of the FVFD property. Cellco then negotiated a lease with the FVFD. (Verizon 1, Tab 9)
36. There is one existing tower located within two-miles of the search area. That facility is a monopine, owned by SBA Communications, located at 477 Route 7 in Sharon. Verizon has antennas located at the 130-foot level of this 130-foot tower. (Verizon 1, Tab 9)
37. The Connecticut Light and Power Company (CL&P) transmission line structures along Beebe Hill Road are approximately 85 feet tall and the nearest are located approximately 2,000 feet north of the proposed site. Although the CL&P poles are outside of the designated search ring, installation of Verizon antennas at a height of 150 feet agl and a ground elevation of 655 feet above mean sea level would likely provide comparable coverage to the proposed site. (Verizon 6, R. 6, 7, 8)
38. The potential use of the CL&P poles for wireless telecommunications antennas was rejected because:
  - a. Access to some utility structures may be difficult due to topography or remoteness of the location.
  - b. Carriers may need to obtain certain legal/property rights from the underlying landowner for access to the structure and installation of equipment at the base of the structure.
  - c. CL&P may impose access restrictions on carriers regarding the use of these structures due to operating requirements of the transmission line, including limiting the ability to allow access to the structure for construction and/or maintenance of its cell site due to, amongst other things, reliability of the electric transmission grid in accordance with the North American Reliability Council, Northeast Power Coordinating Council and Northeast Utilities criteria.
  - d. CL&P's access restrictions would affect municipal and emergency service providers, which require access to their antennas and equipment on a continuous basis.  
(Verizon 6, R. 6)
39. Microcells and repeaters are not viable technological alternatives for providing coverage to the identified coverage gap due to the size of the existing coverage gaps along Route 7, and portions of Route 126 and Route 112. (Verizon 6, R. 9)

#### Site Description

40. The proposed site is located on a 7.15-acre parcel at 188 Route 7 South in Falls Village. The property is owned by the Falls Village Volunteer Fire Department, Inc. and is the future home of the FVFD firehouse. Figure 1 of this document is an aerial photograph depicting the location of the proposed site. Figure 2 of this document is a site plan for the proposed site. (Verizon 1, p. 2, Tab 1)
41. The parcel is zoned Residential/Agricultural. The Canaan Zoning Regulations do not contain preferences for siting telecommunications facilities. (Verizon 1, pp. 2, 17, 18)
42. The proposed site is within the Housatonic River Overlay Zone-Outer Corridor. The Housatonic River Overlay Zone, as defined by the Housatonic River Commission's Housatonic River Management Plan, is a flood-prone corridor of land adjacent to the Housatonic River. The land is environmentally sensitive, and contains valuable natural resources. The Outer Corridor of the Housatonic River Overlay Zone is the area essentially between the limit of the 100-year flood zone and the top of the valley ridge. (Verizon 1c, Zoning Regulations, p. 29)

43. The proposed tower would be located in the center portion of the property at an elevation of approximately 655 feet above mean sea level. The site is wooded with an area cleared for a future fire department building and associated parking areas. The proposed tower would be northwest of and behind the future fire department building and approximately 290 feet west of Route 7. (Verizon 1, Tab 1, Tab 10)
44. The proposed facility would include a 150-foot monopole, disguised as a pine tree, within a 100-foot by 100-foot leased area. The top of the simulated branches would extend to 157 feet agl. The proposed tower would accommodate the antennas of four carriers as well as town and FVFD antennas. Verizon would construct the tower in accordance with the American National Standards Institute TIA/EIA-222-F "Structural Standards for Steel Antenna Towers and Antenna Support Structures." (Verizon 1, p. 2, 10, Tab 1; Verizon 6, R. 11)
45. The diameter at the base of the proposed tower would range from 50 to 72 inches, tapering to a diameter of 24 inches at the top of the tower. Branches on the proposed monopine tree would start at approximately 85 feet agl. The bottom branches would total approximately 45 feet in width and taper to approximately 5 feet in width at the top of the monopine. (Verizon 1, Tab 1; Tr. 1, p. 48)
46. Verizon would install six PCS antennas and six cellular antennas with a centerline height of 150 feet agl. The top of Verizon's antennas would be approximately 153 feet agl. (Verizon 1, Tab 1, Tab 8; Verizon 7, p. 1)
47. A 50-foot by 75-foot compound, enclosed by an eight-foot tall security fence, would be established at the base of the tower. Verizon would install equipment within a 12-foot by 30-foot shelter within the compound. Verizon proposes to install a diesel-fueled generator within a separate generator room inside the shelter for use during power outages and for maintenance. Refer to Figure 2 of this document. (Verizon 1, p. 3, Tab 1)
48. Construction of the access drive would include 20 cubic yards of cut and 75 cubic yards of fill, and the compound would require 50 cubic yards of cut and 350 cubic yards of fill. The combined total would be 355 cubic yards of fill. (Verizon 6, R. 12)
49. Rather than bringing fill in for the proposed site, Verizon would be willing to investigate the potential to increase the amount of cut at the site and move it to the area that would need fill. Increasing the amount of cut at the proposed site may require rock removal and an increased removal of trees. If any rock removal were necessary, Verizon would use a hoe ram for this process. (Tr. 3, pp. 151-152)
50. Construction of the proposed site is not expected to require blasting. (Verizon 6, R. 13)
51. Verizon would apply for an encroachment permit with the DOT for access to the proposed site from Route 7. (Tr. 1, p. 54)
52. Access to the proposed site would extend from Route 7 over a new gravel driveway for a distance of approximately 308 feet. Following construction of the FVFD firehouse, the same access road to the site would extend through the firehouse parking area. (Verizon 1, p. 2, Tab 1)
53. Utilities would be installed underground from Route 7 to the proposed site along the access drive. (Verizon 1, Tab 1)



54. The proposed tower would be approximately 90 feet northwest of the nearest corner of the future FVFD building. Verizon could design a yield point into the proposed tower, if ordered by the Council. (Verizon 6, R. 14, 15)
55. The tower setback radius would remain within the host property boundaries. Distance from the proposed tower to all property lines exceeds 157 feet. (Verizon 1, Tab 1)
56. There are six residences within a 1,000-foot radius of the proposed site. The nearest residence, owned by Ralph and Dorothy Marshall, is located at 202 Route 7 South, approximately 635 feet to south of the proposed site. (Verizon 1, p. 13; Verizon 6, R. 16)
57. Intervenor Dina Jaeger's residence is located approximately 1,290 feet east of the proposed tower. Intervenor Jaeger also co-owns an undeveloped parcel of property directly across Route 7 South from the proposed site at 167 Beebe Hill Road, approximately 380 feet east of the proposed tower. (Verizon 1, Tab 1; Verizon 10, p. 2)
58. Land use surrounding the proposed site consists of undeveloped woodlands and agricultural land to the west; agricultural and low-density residential areas to the east; the Town Highway Department property and low-density residential areas to the south; and commercial and light industrial uses to the north. (Verizon 1, Tab 1)
59. The estimated construction cost of the proposed facility, including Verizon's antennas and radio equipment, is:

Cell site radio equipment	\$450,000
Tower, coax and antenna	150,000
Power systems	20,000
Equipment building	50,000
Miscellaneous	95,000
<b>Total</b>	<b>765,000</b>

(Verizon 1, p. 21)

### Environmental Considerations

60. According to the State Historic Preservation Office, the proposed project would have no adverse effect on cultural resources eligible for or listed on the National Register of Historic Places with the condition that:
- Verizon continue coordination with the National Park Service regarding views of the tower from portions of the Appalachian Trail.
  - "If antennas on the tower are not in use for six consecutive months, antennas and equipment shall be removed by the facility owner" within 90 days of such six-month period. Upon removal, the property shall be restored to its original state. (Verizon 1, Tab 11)
61. No known federally listed or proposed, threatened or endangered species or critical habitat occur on the host property. (Verizon 1, p. 14)
62. Federal or State Endangered or Threatened or State Special Concern species that are known to occur outside of the host property but within a 984 foot (300 meter) radius of the proposed site include the Endangered plant species *Ribes triste* (Swamp Red Currant), the Threatened plant species *Petasites frigidus var. palmatus* (Sweet Coltsfoot) and the *Passerculus sandwichensis* (Savannah Sparrow), a state Special Concern bird species. (Jaeger 15)

63. The State-listed Special Concern Species *Passerculus sandwichensis* (savannah sparrow) has been known to occur in this portion of Canaan; however, the proposed site is unlikely to affect this bird species due to the primarily wooded vegetation on the property. The savannah sparrow uses grassland areas. The DEP recommended the minimization of tower lighting and lighting of equipment shelters and metering areas to the greatest extent possible. (Verizon 1, Tab 11)
  
64. The State-listed Endangered species *Lota Lota* (burbot) is a fish species that has been recorded at the Hollenbeck River, which is greater than two miles from the proposed site. The proposed facility would not affect this endangered species. (Verizon 1, Tab 11)

Continued on next page.

65. The United States Department of Interior, Fish and Wildlife Service (FWS), Division of Migratory Bird Management provides “Guidance on the Siting, Construction, Operation and Decommissioning of Communications Towers” in accordance with the Migratory Bird Treaty Act. The following are the FWS’s recommendations for the siting of telecommunications facilities.

<b>Recommendation</b>	<b>Verizon’s proposed facility</b>
Encourage collocation <sup>1</sup> on existing communications towers or other structures.	Verizon seeks collocation wherever possible but it is not an option as an alternative to the proposed facility.
New towers encouraged to be no more than 199 feet agl, use construction techniques that do not include guy wires and be unlighted if FAA regulations permit.	Proposed tower would be less than 199 feet agl and would not include the use of guy wires. The tower would not be lit per FAA regulations.
If multiple towers, consider cumulative impacts to migratory birds and threatened and endangered species, as well as the impact of each individual tower.	Not Applicable
If possible, site new towers within clusters of towers. Discourage the siting of towers near wetlands, other known bird concentration areas, in known migratory or daily movement flyways, or in habitat of threatened or endangered species. Also, towers should not be sited within areas of high incidence of fog, mist and low ceilings.	Intervenor Jaeger identified a “Beebe Hill Flyway,” which was identified as the full summit of Beebe Hill. The proposed tower is located approximately 3,500 feet from the Beebe Hill Flyway.
If a tower in excess of 199 feet agl must be constructed, the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA should be installed.	The proposed tower would be less than 199 feet agl. The proposed tower would not be lit, per FAA regulations.
Towers using guy wires that are proposed within known raptor or waterbird concentration areas or daily movement routes, or in major daytime migratory bird movement routes or stopover sites should have visual markers on the wires to prevent collisions.	The proposed tower is a monopole and no guy wires are proposed.
Towers should be sited, designed and constructed to avoid or minimize habitat loss within and adjacent to the tower footprint. Access roads and fencing should be minimized to reduce or prevent habitat fragmentation and disturbance.	The site footprint would be 50 feet by 75 feet. The removal of six trees would be required for construction of the site and an additional tree for construction of the access road, for a total of seven trees.
An alternative site should be sought if significant numbers of breeding, feeding or roosting birds are known to inhabit the proposed construction area. If this is not possible, seasonal restrictions on construction may be advisable.	Not Applicable
Towers should be designed to accommodate at least two additional carriers’ antennas	The proposed tower is designed to support three additional carriers as well as town and FVFD antennas.
Security lighting for on-ground equipment should be down-shielded.	Security lighting would be down-shielded.
Service personnel from the Communication Tower Working Group should be allowed access to the tower site under construction or proposed for construction.	Not Applicable
Towers no longer in use should be removed within 12 months of cessation of use.	May be ordered by the Council

(Verizon 8, R. 10; Verizon 11; Tr. 1, p. 92; Tr. 3, pp. 158-160, 162)

<sup>1</sup> Additionally, it is the Council’s policy to strongly encourage co-location for future carriers in the area in accordance with CGS 16-50aa.

66. The first paragraph of the “Briefing Paper on the Need for Research into the Cumulative Impacts of Communication Towers on Migratory Birds and Other Wildlife in the United States” (Briefing Paper) by the Division of Migratory Bird Management, U.S. Fish & Wildlife Service states “Virtually unknown,... are the potential effects of non-ionizing, non-thermal tower radiation on avifauna, including at extremely low radiation levels, far below maximum safe exposure levels previously determined for humans.” The Briefing Paper also “addresses the need to cumulatively assess the impacts of communication towers on migratory birds both from collisions and radiation....” (Jaeger 51, p. 1)
67. “In 2000, the Communications Tower Working Group (chaired by Division of Migratory Bird Management/Manville) developed a nationwide tower research protocol that would assess cumulative impacts from tower collisions nationwide, suggesting the use of some 250 towers of different height, lighting, and support categories....No funding was ever acquired and the collision study has not yet been conducted.” (Jaeger 51, p. 3)
68. Vegetation at the proposed site consists of post-agricultural mid to late-succession growth with the exception of areas previously cleared by the property owner for the development of a fire department and ambulance service center and a gravel pit. Trees existing on the host property consist predominantly of pine and oak. Approximately seven trees would be removed for the construction of the proposed site and access road. (Verizon 1, Tab 1; Verizon 6, R. 10)
69. Properties surrounding the host property include oak forest, sawmill yard and business development, residential, upland meadow and cultivated field. (Verizon 6, R. 10)
70. No wetlands are located within 200 feet of the proposed site. An intermittent watercourse was identified approximately 240 feet south of the proposed compound. An additional intermittent watercourse was identified approximately 260 feet north of the proposed compound. Construction of the proposed site is not expected to adversely affect either intermittent watercourse. (Verizon 1, p. 18)
71. The closest aviation facility to the proposed site is a heliport at the Sharon Hospital approximately 6.6 miles southwest of the proposed site. The nearest airport is privately-owned and located in Great Barrington, Massachusetts, approximately 14.5 miles north of the proposed site. (Verizon 1, Tab 13; Verizon 6, R. 17)
72. The maximum power density from the radio frequency emissions of Verizon’s proposed antennas would be 18.8% 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. (Verizon 1, p. 15; Verizon 7, p. 2)
73. At a distance of 1,290 feet from the proposed antennas, the worst-case total radio frequency emissions of Verizon’s proposed antennas would be 0.25% of the standard for Maximum Permissible Exposure, as adopted by the FCC. (Verizon 10, p. 2, attachment 2; Tr. 3, pp. 113-114)

74. The Council has reviewed the studies introduced by the Intervenor. Exhibit 51 is the U.S. FWS Briefing Paper, which has been discussed in Finding Nos. 66 and 67. Exhibit 7 is a study on mice: the Council finds it does not provide credible evidence that radiofrequency (RF) emissions kill mice, birds or other wildlife. Exhibit 6 regarding White Storks does not establish that RF emissions proximately kill such storks. Exhibit 5 is a study regarding House Sparrows and does not demonstrate that RF emissions proximately kill such birds. The same is true of Exhibit 4. Exhibits 1, 2 and 3 do not demonstrate that RF emissions proximately kill the studied birds. In summary, the Council does not believe that the submitted studies clearly demonstrate that RF emissions from wireless telecommunications towers, that are in compliance with FCC regulations, proximately cause the deaths of protected birds or their eggs. (Jaeger 1; Jaeger 2; Jaeger 3; Jaeger 4; Jaeger 5; Jaeger 6; Jaeger 7; Jaeger 51)
75. The Council notes that the Intervenor has introduced numerous exhibits alleging health risks to human beings from RF emissions. The Council notes, however, that the RF emissions from the proposed tower would be fully in compliance with FCC regulations. (See Finding Nos. 72-73). Consequently, the Council would be barred under Federal law, 47 U.S.C. § 332 (c)(7)(B)(i), from basing any rejection of the pending application on these human health concerns. Further, the binding case law interpreting this statutory provision has been explicit. See *Cellular Telephone Company v. Town of Oyster Bay*, 166 F.3d 490, 495 (2<sup>nd</sup> Cir. 1999); *Cellular Phone Taskforce v. FCC*, 205 F.3d 82, 88 (2<sup>nd</sup> Cir. 2000), *cert. denied*, 531 U.S. 1070 (2001); *Sprint Spectrum v. Mills*, 283 F.3d 404, 416 (2<sup>nd</sup> Cir. 2003). Therefore, the Council declines to make findings on these exhibits. (Jaeger 34-44; Ex. E to EMPRI, August 25, 2008 statement)

#### Visibility

76. The proposed tower would be visible year-round from approximately 24 acres within a two-mile radius of the site (refer to Figure 3 of this document). The tower would be seasonally visible from an additional approximately 46 acres within a two-mile radius of the site. (Verizon 1, Tab 10)

77. Visibility of the proposed tower from specific locations within a two-mile radius of the site is presented in the table below:

Location	Visible	Approx. Portion of Tower Visible	Approx. Distance from Tower
1. Intersection of Six Rod Road and Route 7	Yes	65 to 75 feet – above trees	0.07 miles southeast
2. Intersection of Beebe Hill Road and Six Rod Road	Yes	70 to 75 feet – above trees	0.23 miles northeast
3. Beebe Hill Road (north of Six Rod Road)	Yes	75 to 80 feet – above trees	0.23 miles northeast
4. Route 112 (adjacent to #531)	Yes	50 to 60 feet – above trees	1.12 miles southwest
5. Route 112 (west of Route 7)	Yes	80 to 90 feet – above trees	1.03 miles southwest
6. Traffic triangle at Route 112 and Route 7	Yes	65 to 75 feet – above trees	0.96 miles southwest
7. Route 7 (north of Route 112) paralleling the Appalachian Trail	Yes	40 to 50 feet – above trees	0.82 miles southwest
8. Outcrop along Mohawk Trail	Yes	10 to 20 feet – through trees	0.65 miles southeast
9. Beebe Hill Road	Yes	20 to 25 feet – above trees (with trees as background)	0.35 miles southeast
10. Appalachian Trail over Sharon Mountain	No	-	2.11 miles southwest
11. Appalachian Trail on northern shoulder of Sharon Mountain	No	-	1.93 miles southwest
12. Warren Turnpike/Appalachian Trail at Housatonic Valley Regional High School	No	-	0.53 miles southwest
13. Appalachian Trail east of Warren Turnpike	No	-	0.2 miles southwest

(Verizon 1, Tab 10; Verizon 6, R. 18)

78. The proposed tower would be visible year-round from portions of Six Rod Road and Beebe Hill Road, an approximately 0.5 mile segment of Route 112 west of Route 7, and a portion of Route 7 north of Route 112. (Verizon 1, Tab 10)

79. The proposed tower would be visible year-round from approximately five residential properties, including three residences in the Beebe Hill Road/Six Rod Road area and two residences along Route 112. (Verizon 1, Tab 10)

80. Seasonal views of the proposed tower are expected from four additional properties along portions of Route 7, Beebe Hill Road and Six Rod Road within ¼ mile of the proposed site. (Verizon 1, Tab 10; Verizon 6, R. 20)

81. The proposed tower would be seasonally visible from an outcrop along Mohawk Trail west of Lookout Point, as shown in view # 8 in the table above.

82. A segment of the Appalachian Trail that parallels Route 7, north of Route 112, would have a year-round view of the proposed tower, as shown in view # 7 in the table above. (Verizon 1, Tab 10)

83. Visual impact of the tower on the Appalachian National Scenic Trail would be mitigated with measures recommended by the United States Department of the Interior, National Park Service, as stated in Finding of Fact number 13. (Verizon 4, Letter from US Department of the Interior)
84. The upper 25% of the proposed tower would be visible from portions of the Housatonic Valley Regional High School athletic fields, as shown in the "Regional High Sch." area in Figure 3 of this document. (Verizon 1, Tab 10)
85. The proposed monopine design of the proposed tower could minimize visual impact to the surrounding community. (Verizon 1, Tab 10)

**Existing and Proposed Wireless Coverage – Verizon**  
**Public Need for the proposed site**

86. Verizon operates in the FCC's Block F, which is associated with PCS frequencies of 1890 to 1895 MHz and 1970 and 1975 MHz. Verizon recently acquired Alltel Communication's cellular license (for the 850 MHz frequency range) and would install equipment and antennas at the proposed site that would provide service in both cellular and PCS frequency bands. The signal level service design for the Falls Village section of Canaan is -85 dBm and -75 dBm for in-vehicle and in-building coverage, respectively. (Verizon 1, Tab 6, Tab 7; Verizon 6; Tr. 1, p. 54)
87. Verizon uses both PCS and cellular frequencies to provide both voice and data services, in general. In Litchfield County, Verizon proposes to use both PCS and cellular frequencies for voice services and PCS frequencies for data services. (Tr. 1, pp. 56-57)
88. The existing signal level in the area of the proposed site ranges from -86 dBm to -104 dBm, at both PCS and cellular frequencies. (Verizon 6, R. 22)
89. A coverage gap exists in Verizon's PCS and cellular coverage between the existing 130-foot tree tower at 477 Route 7 in Sharon and the 195-foot tower off Lower Road in North Canaan. Figure 4 of this document depicts existing PCS coverage and Figure 6 depicts existing cellular coverage. (Verizon 1, p. 2)
90. The proposed facility would provide approximately 2.6 miles of reliable PCS coverage to Route 7, 1.1 miles to Route 112, and 1.2 miles to Route 126. The overall PCS footprint of coverage from the proposed tower would be 2.92 square miles. Figure 5 of this document depicts existing and proposed PCS coverage from the proposed site. (Verizon 1, p. 2)
91. The proposed facility would provide approximately 3.45 miles of reliable cellular coverage along Route 7, 1.25 miles along Route 112, and 1.3 miles along Route 126. The overall cellular footprint of coverage from the proposed tower would be 10.6 square miles. Figure 7 of this document depicts existing and proposed cellular coverage from the proposed site. (Verizon 7, p. 2)
92. Verizon's coverage footprint from a telecommunications facility increases and decreases in size based on the number of users on a particular site at a particular time. Figures 4 through 7 of this document show coverage at 50% loading, meaning Verizon assumed, for the purpose of these coverage plots, that the number of users is 50% of the total capacity of the towers depicted. (Tr. 1, pp. 63-65; Tr. 3, p. 87)

93. Verizon antennas on the proposed tower would hand-off to:

Address	Tower Height	Verizon Antenna Height	Distance & Direction
477 Route 7, Sharon	130 feet	130 feet	2.4 miles south
38 Lower Road, North Canaan	195 feet	168 feet	5.13 miles northeast

(Verizon 6, R. 23)

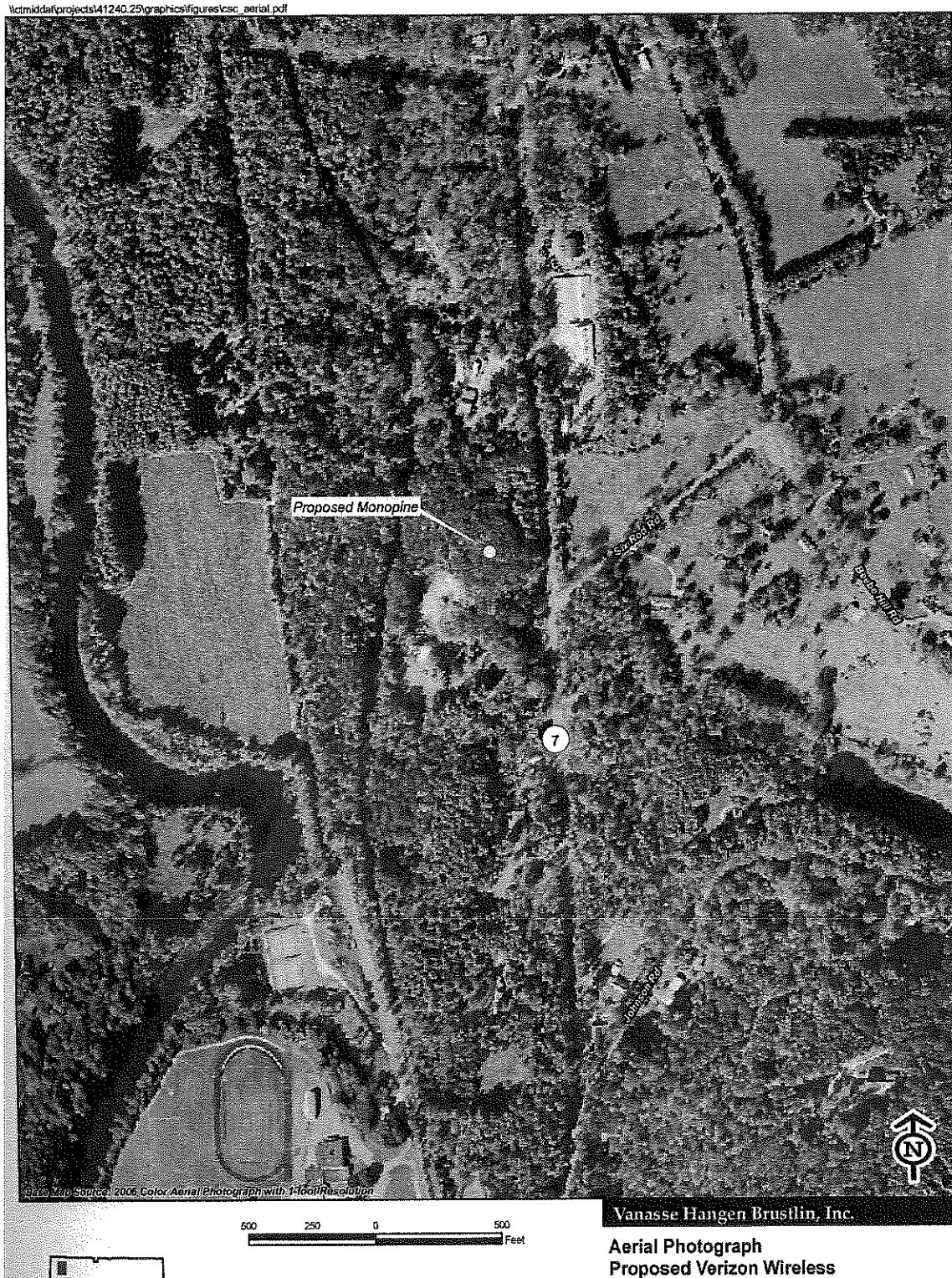
94. At the Council's July 1, 2008 public hearing, a public comment session was held, providing an opportunity for limited appearance statements. Such statements are not made under oath or subject to cross-examination. During the public hearing in Falls Village, three of the people who provided comments stated that they have cell phone coverage within Falls Village, but none of them indicated what carrier they used and none were called as a witness in this proceeding. Consequently, the Council cannot make a finding that any particular carrier has existing coverage over the area to be served by the proposed facility. (Tr. 2, pp. 13, 15-17)

95. Verizon determines public need for a facility based upon factors including dropped calls and ineffective attempts data, customer complaints and marketing input. An ineffective attempt occurs when a call, either initiated or received by a customer, fails due to unreliable signal strength. On the Verizon system, a call may be lost due to less than reliable signal strength within, or at the edge of, a coverage footprint from a facility. Facilities without hand-off capability typically will have higher lost call rates. (Tr. 3, pp. 138, 139, 144, 146; Verizon, Late-filed exhibit dated August 11, 2008)

96. Verizon monitors dropped call and ineffective attempt data with the goal of maintaining a standard of less than 1% for dropped calls and ineffective attempts from each cell site. The two sites nearest to the proposed site experience a dropped call rate of 5.6% and an ineffective attempt rate of 2.7%. An ineffective call rate is always an undercount in areas with no coverage or severely limited capacity, since any attempted calls that do not have sufficient signal strength to reach a tower cannot be counted. (Tr. 3, pp. 144, 146; Verizon, Late-filed Exhibit dated August 11, 2008)

97. In the future, Verizon would require a site to the north to fill a coverage gap along Route 7 between the proposed site and Verizon's existing North Canaan antenna site. (Verizon 6, R. 2)





**Figure 1.** Aerial photograph of the proposed site and surrounding area in Falls Village, CT. (Verizon 1, Tab 1)

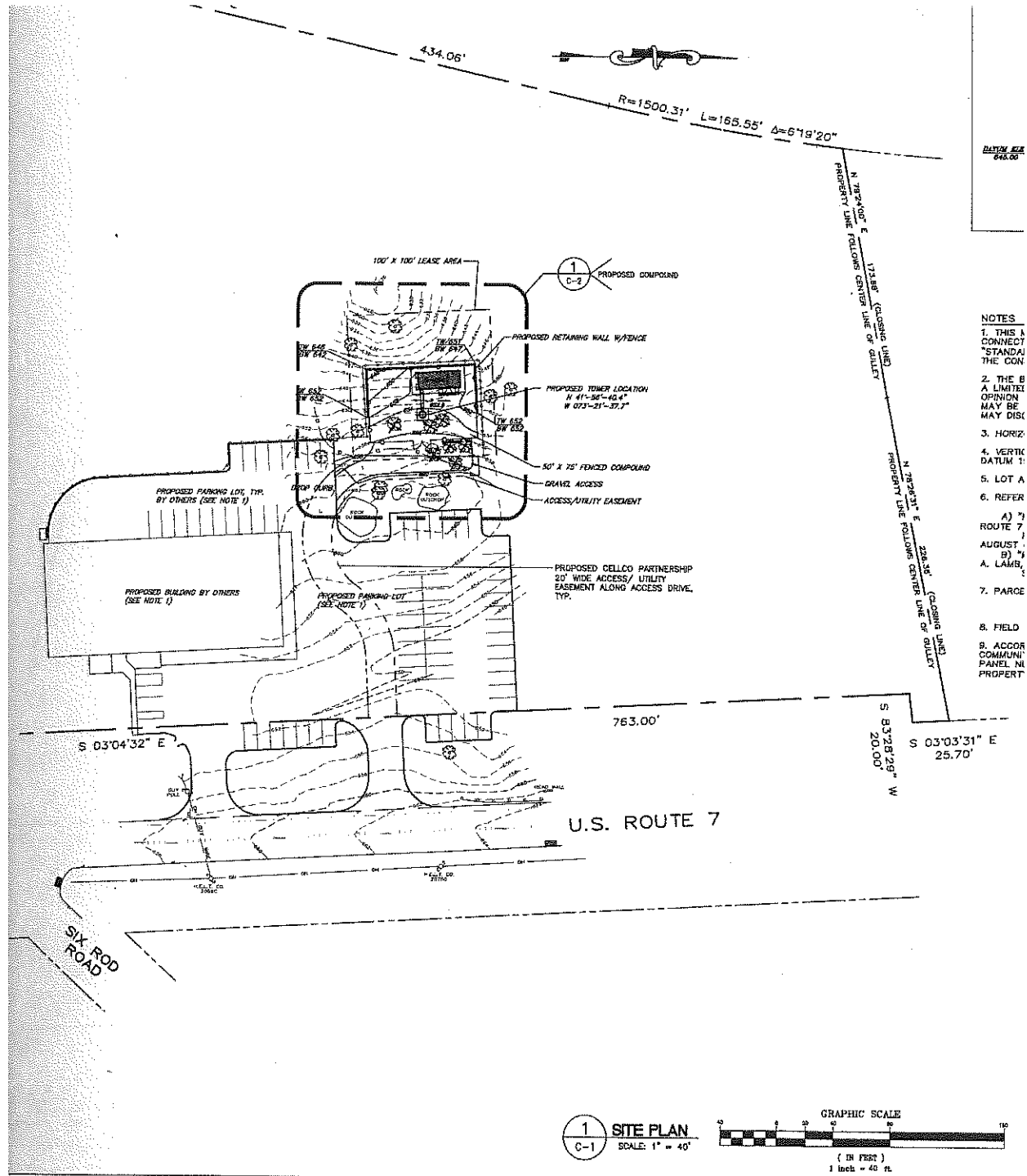


Figure 2. Site plan for proposed site. (Verizon 1, Tab 1)

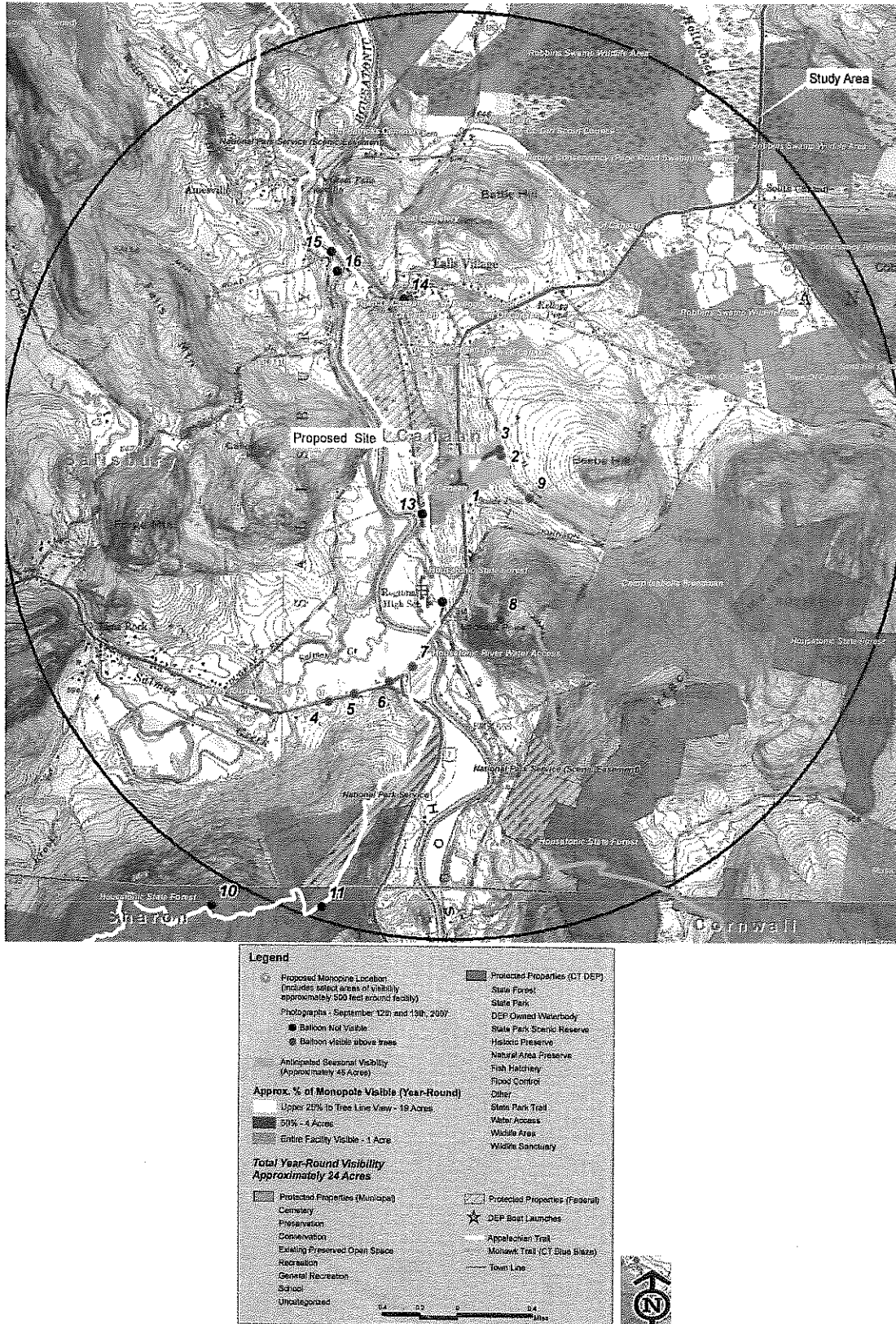


Figure 3. Viewshed analysis of a 157-foot monopine at the proposed site. (Verizon 1, Tab 10)

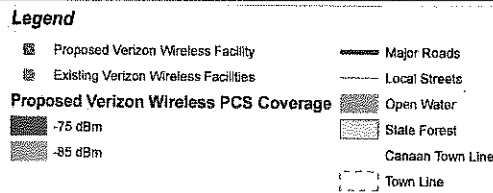
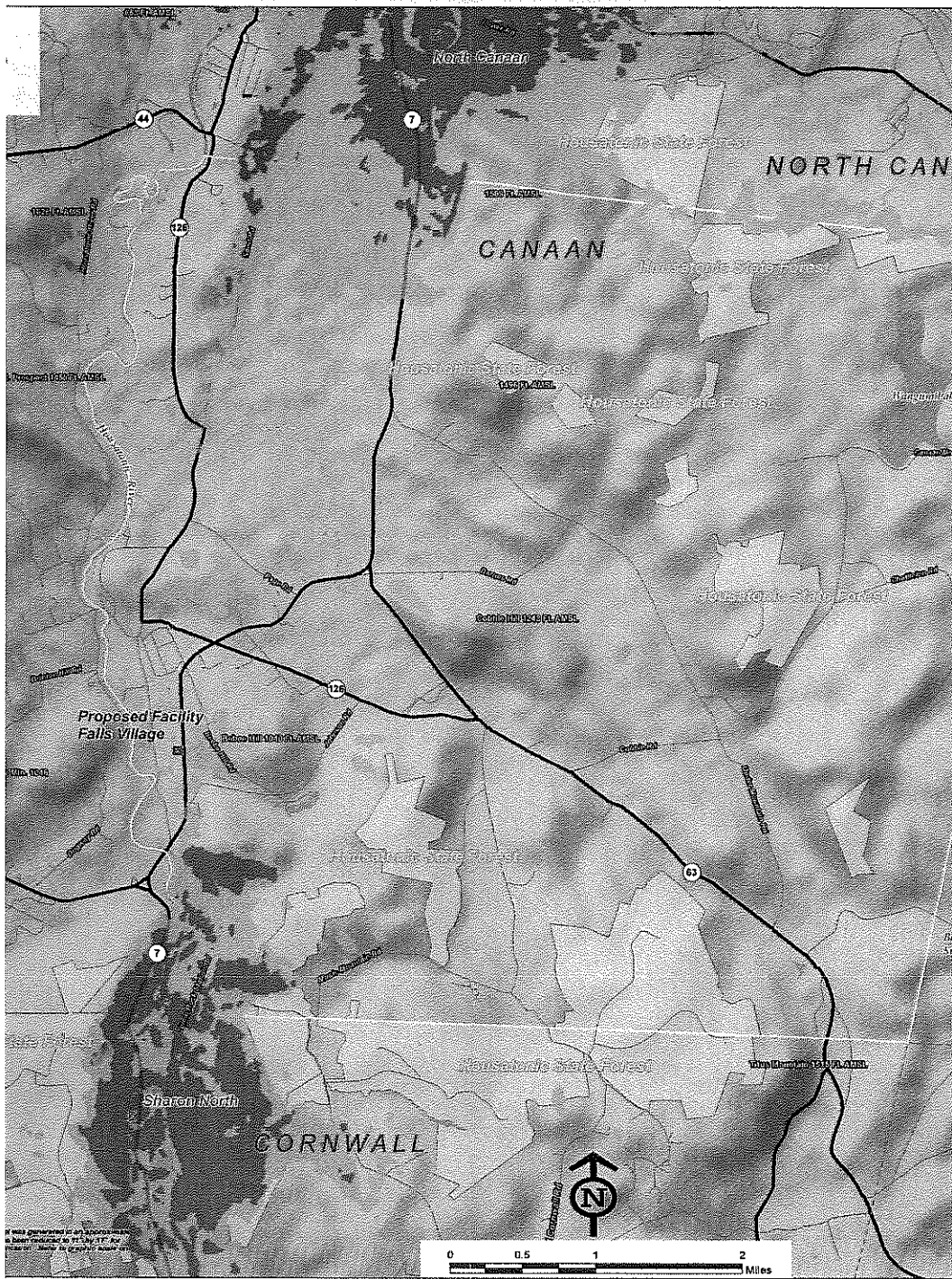
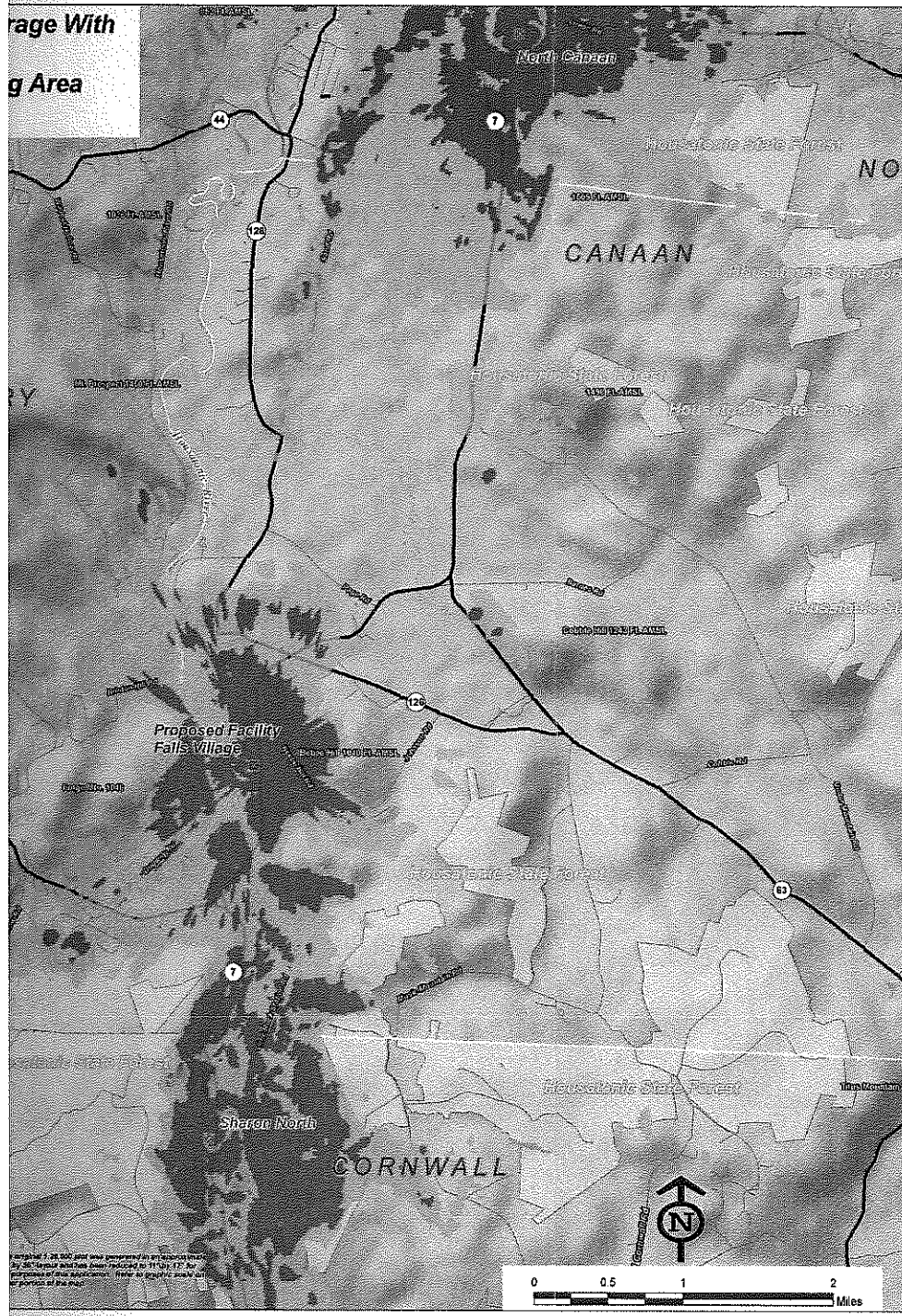


Figure 4. Verizon's existing PCS coverage in the area surrounding the proposed site. (Verizon 1, Tab 7)



- Legend**
- Proposed Verizon Wireless Facility
  - Existing Verizon Wireless Facilities
  - Proposed Verizon Wireless PCS Coverage**
    - 75 dBm
    - 85 dBm
  - Major Roads
  - Local Streets
  - Open Water
  - State Forest
  - Canaan Town Line
  - Town Line

**Figure 5.** Verizon’s existing PCS coverage and PCS coverage from the proposed site at 150 feet agl. (Verizon 1, Tab 7)

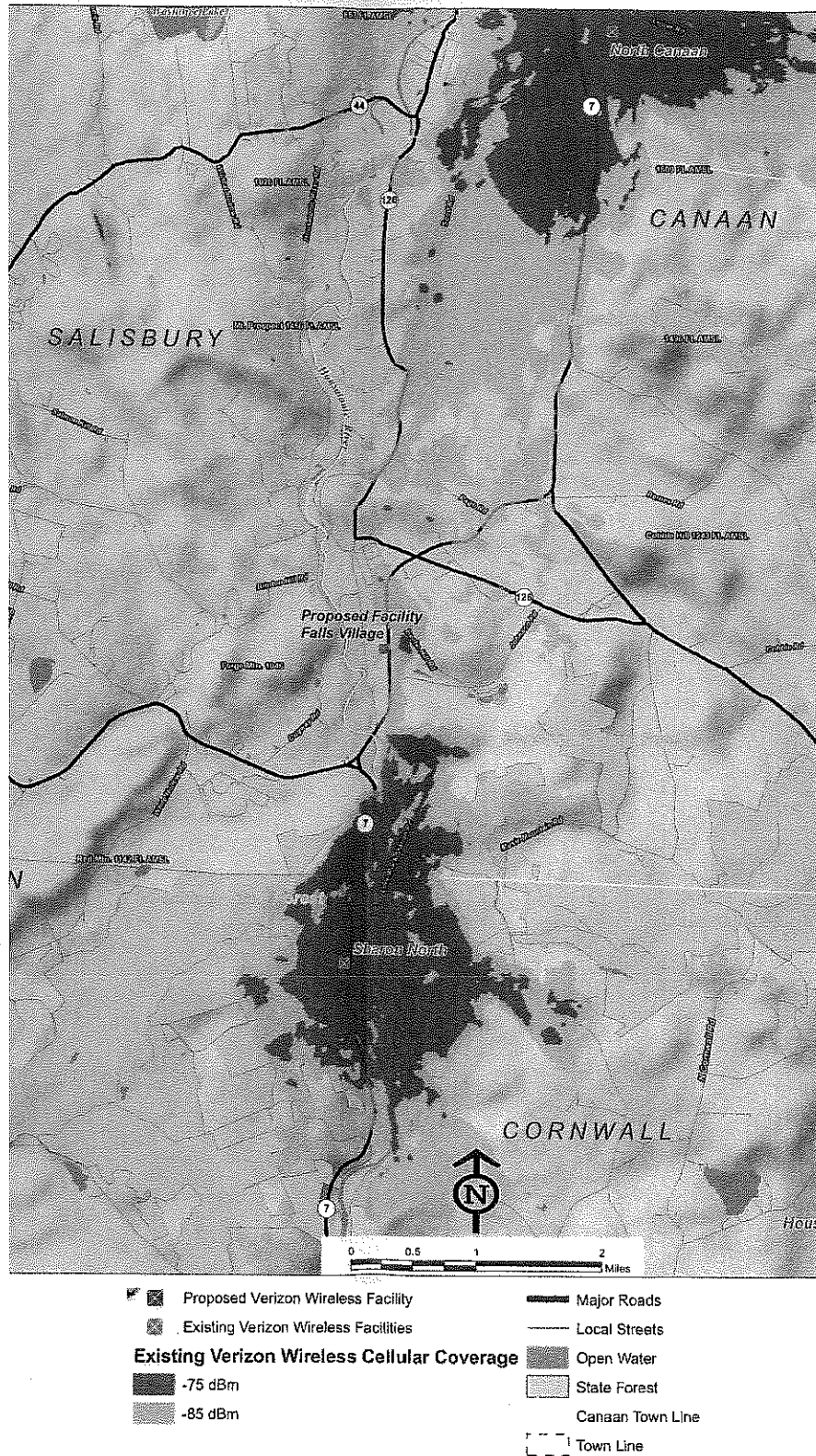


Figure 6. Verizon's existing cellular coverage in the area surrounding the proposed site. (Verizon 7, Tab 2)

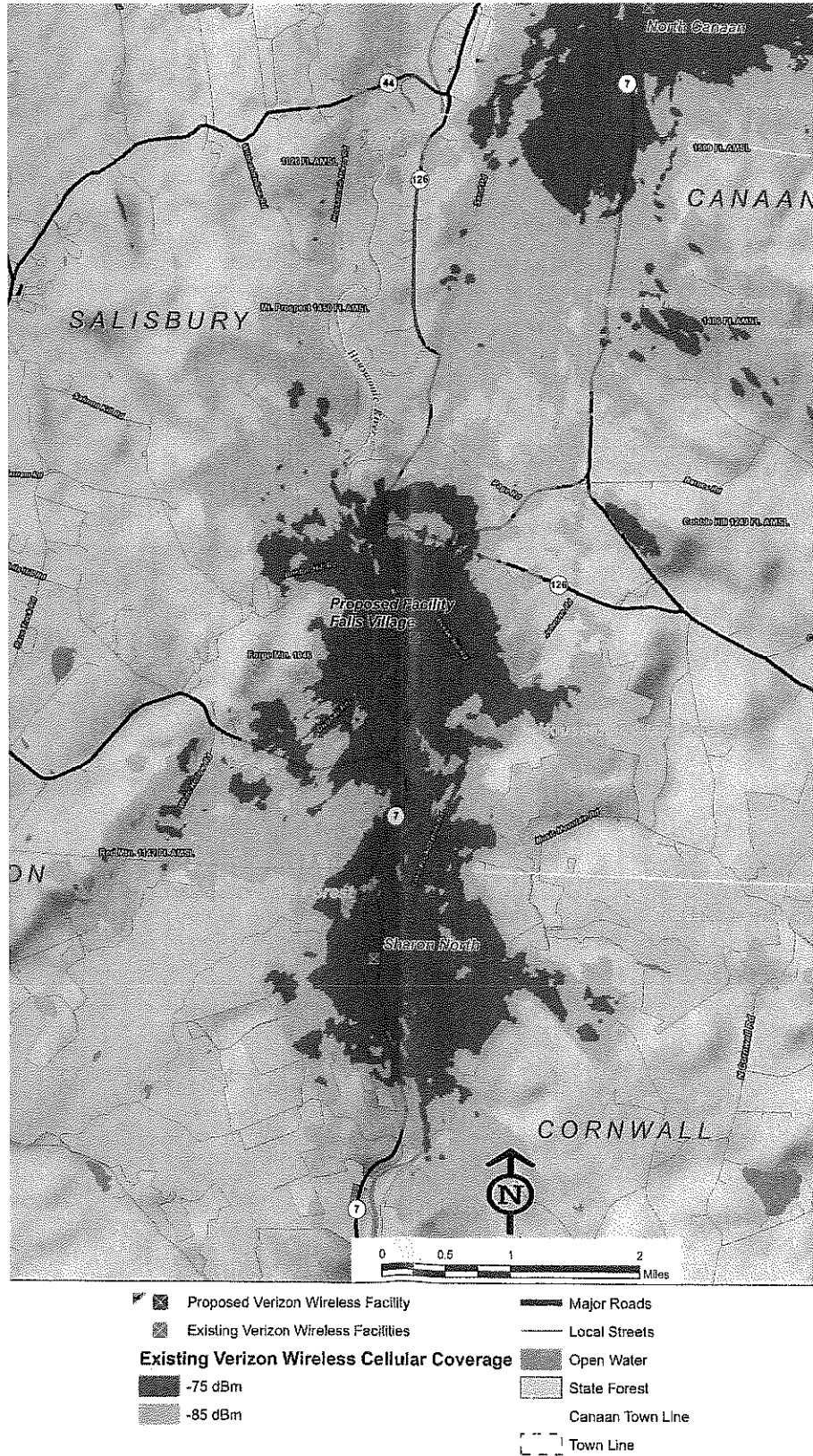


Figure 7. Verizon's existing cellular coverage and cellular coverage from the proposed site at 150 feet agl. (Verizon 7, Tab 2)

**DOCKET NO. 360** - Cellco Partnership d/b/a Verizon Wireless } Connecticut  
application for a Certificate of Environmental Compatibility and }  
Public Need for the construction, maintenance and operation of a } Siting  
telecommunications facility located at 188 Route 7 South, Falls }  
Village (Canaan), Connecticut. } Council

March 12, 2009

### Opinion

On March 28, 2008, Cellco Partnership d/b/a Verizon Wireless (Verizon) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a wireless telecommunications facility to be located in the Falls Village section of Canaan, Connecticut. Verizon is seeking to develop a facility on property owned by the Falls Village Volunteer Fire Department, Inc. and is the future home of the Falls Village Volunteer Fire Department (FVFD) firehouse. The proposed facility would provide coverage to Route 7 and portions of Route 112 and Route 126, as well as local roads in the southwest portion of the Town of Canaan.

The intervenor in this proceeding is Dina Jaeger. Ms. Jaeger owns a residence approximately 1,290 feet east of the proposed tower and is a co-owner of an undeveloped parcel of property at 167 Beebe Hill Road, which is approximately 380 feet east of the proposed tower.

On October 23, 2007, Verizon notified the Town of Canaan and met with its Chief Elected Official, First Selectman Patricia Allyn Mechare, providing copies of the technical information regarding the proposed project. The Council finds that Verizon complied with the municipal consultation requirements of Connecticut General Statute (CGS) § 16-50~~l~~ through its meeting with Canaan's Chief Elected Official.

The Town of Salisbury is within 2,500 feet of the proposed tower, and in accordance with CGS § 16-50~~l~~ Verizon provided copies of the technical information regarding the proposed project to the Town of Salisbury Chief Elected Official, First Selectman Curtis G. Rand, on October 23, 2007.

Verizon proposes to construct a 150-foot monopine tower. The top of the simulated branches would extend to 157 feet above ground level (agl). The tower and associated equipment compound would be located within the center portion of the parcel, northwest of and behind the future fire department building. The compound would be located approximately 290 feet west of Route 7. Access to the site would extend from Route 7 over a new gravel driveway. Following the construction of the FVFD firehouse, the same access road to the site would extend through the firehouse parking area. Utilities would extend underground along the access road from Route 7.

The proposed tower would be designed to accommodate the antennas of four carriers as well as town and FVFD antennas. Verizon would locate antennas at a centerline height of 150 feet agl with antennas extending to approximately 153 feet agl.

The tower setback radius would remain within the host property boundaries; however the nearest corner of the future FVFD firehouse would be approximately 90 feet to the northwest. Verizon would design a yield point into the proposed tower to mitigate encroachment upon the firehouse if the tower were to fail.



There are no wetlands or watercourses within 200 feet of the proposed site. The site has been previously disturbed, likely by the property owner. Trees on the host property consist predominantly of pine and oak. Approximately seven trees would be removed for the construction of the proposed site and access road. The removal of this number of trees would not have a significant adverse impact on the environment.

The proposed tower would be visible year-round from approximately 24 acres and seasonally from an additional approximately 46 acres, a total of less than one percent within a two-mile radius of the proposed site. This radius comprises about 81 percent tree cover. The proposed tower would be visible year-round from approximately five residential properties including three residences in the Beebe Hill Road/Six Rod Road area and two residences along Route 112. Seasonal views of the tower are expected from four additional properties along portions of Route 7, Beebe Hill Road and Six Rod Road within ¼ mile of the proposed site.

The tower would be seasonally visible from an outcrop along Mohawk Trail west of Lookout Point and would be visible year-round from the portion of the Appalachian Trail (AT) that parallels and shares the Route 7 corridor a short distance to Warren Turnpike. Verizon would mitigate views of the tower from the AT by planting approximately 25 white pine trees in proximity of the trail east of Warren Turnpike. Since the only expected view of the proposed tower from the AT would be at a roadway, as evidenced by several photo simulations included in the application, this Council is not convinced that a monopine is required.

The United States Department of the Interior, National Park Service (NPS) found that the proposed tower would not result in an adverse visual impact on the Appalachian National Scenic Trail provided approximately 25 white pine trees, with a minimum height of five feet, be planted along the AT near Warren Turnpike as directed by the NPS representative; and a monopine is constructed, as proposed in the application.

The Town of Canaan Planning and Zoning Commission (P&Z), however, recommended that the facility be constructed as a monopole due to a consensus that the artificial tree tower would not be in keeping with the rural character and integrity of the town. Acknowledging the strength of this consensus, the Council further opines that, even though the firehouse is not yet built, a monopole and firehouse are infrastructure that would not be out of character seen together.

According to the State Historic Preservation Office, the proposed project would not have a significant adverse effect on the cultural resources eligible for or listed on the National Register of Historic Places as long as the following conditions are met:

- a. Verizon continues coordination with the National Park Service regarding views of the tower from portions of the Appalachian Trail; and
- b. "If antennas on the tower are not in use for six consecutive months, antennas and equipment shall be removed by the facility owner" within 90 days of such six-month period. Upon removal, the property shall be restored to its original state.

There are conflicting opinions as to whether the proposed tower should be a "monopine" or a typical steel monopole. Therefore, the Council will consider the tower design in a Development and Management Plan.

No known federally listed or proposed, threatened or endangered species or critical habitats occur on the host property. The state-listed Special Concern Species *Passerculus sandwichensis* (savannah sparrow) has been known to occur in this portion of Canaan; however the proposed site is unlikely to affect the bird species since the savannah sparrow uses grassland areas, while the host property consists primarily of wooded vegetation.

To further minimize any potential impact to the state-listed savannah sparrow, the Connecticut Department of Environmental Protection recommended the minimization of tower lighting of equipment shelters and metering areas to the greatest extent possible. Verizon agrees to do so.

Furthermore, Verizon has met all applicable recommendations of the United States Department of Interior, Fish and Wildlife Service, Division of Migratory Bird Management in its "Guidance on Siting, Construction, Operation and Decommissioning of Communications Towers" issued in accordance with the Migratory Bird Treaty Act. Specifically, Verizon's proposed tower would be:

1. designed for collocation by other carriers;
2. less than 199 feet agl in height with no guy wires or lighting;
3. located approximately 3,500 feet from the avian flyway at Beebe Hill identified by the intervenor;
4. designed and constructed to avoid or minimize habitat loss; and
5. constructed with down-shielded security lighting on ground equipment.

The federal Telecommunications Act, even when read together with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act, preempts the Council from considering effects of radiofrequency emissions and other harmful effects of telecommunications towers on birds covered by these acts. The Council has reviewed the avian and wildlife studies introduced by the Intervenor and does not believe the submitted studies clearly demonstrate that RF emissions from wireless telecommunications towers complying with Federal Communications Commission (FCC) regulations proximately cause the deaths of protected birds or their eggs.

The Council also reviewed studies introduced by the Intervenor alleging health risks to humans from radiofrequency emissions. The Council notes, however, that the radiofrequency emissions from the proposed tower would be in full compliance with FCC regulations. Consequently, the Council would be barred under Federal law, 47 U.S.C. § 332 (c)(7)(B)(i), from basing any rejection of the pending application on these human health concerns. Further, the binding case law interpreting this statutory provision has been explicit. See *Cellular Telephone Company v. Town of Oyster Bay*, 166 F.3d 490, 495 (2<sup>nd</sup> Cir. 1999); *Cellular Phone Taskforce v. FCC*, 205 F.3d 82, 88 (2<sup>nd</sup> Cir. 2000), cert. denied, 531 U.S. 1070 (2001); *Sprint Spectrum v. Mills*, 283 F.3d 404, 416 (2<sup>nd</sup> Cir. 2003). Therefore, the Council declines to make findings on these studies.

Verizon currently lacks coverage extending about 5.5-miles between the existing tower at 477 Route 7 in Sharon and the tower off Lower Road in North Canaan. Route 7 is a well-traveled two-lane highway and the public has come to expect wireless service along such transportation corridors. Verizon's existing signal level in the area of the proposed site ranges from -86 dBm to -104 dBm at both Personal Communications Service (PCS) and cellular frequencies. The applicant has designed their system in the Falls Village area for a signal level of -85 dBm for in-vehicle coverage and -75 dBm for in-building coverage. The proposed facility would provide a footprint of approximately 2.92 square miles of PCS coverage and 10.6 square miles of cellular coverage to the area.

After reviewing the record in this proceeding, we find that the proposed tower at this site is needed, as it would provide cellular and PCS telecommunications coverage to a significant gap within the Falls Village section of Canaan, and that the design of the tower and site would minimize adverse environmental impact to the area. A portion of the host property has been previously disturbed in preparation for the construction of the future firehouse and associated parking areas. Access to the proposed site would also be used for access to the firehouse parking area, thereby minimizing disturbance to the property. Also, although Verizon proposed a monopine in this application, in accordance with the National Park Service recommendation, the Council will order the applicant to confer again with the NPS, SHPO, and the Board of Selectmen and Planning and Zoning Commission of the Town of Canaan on the preference for a tower design.

It is the Council's policy to strongly encourage collocation for future carriers in the area, in accordance with CGS § 16-50aa. The proposed tower would afford full opportunity for collocation. While Council-issued Certificates for electric power and fuel transmission lines permit the transmission company Certificate Holder the ability to exercise the right of eminent domain, Certificate Holders for telecommunications towers do not acquire such rights. While the Council is not limited by any lease, or the terms of such lease, or the acquisition of any other interest in land by an applicant (and has no authority to adjudicate conflicts over leases or other interests in land), the Council may consider the availability or non-availability of a site in deciding whether to consider alternative sites to those proposed by the applicant. Thus, the Council cannot force a landowner to accept a telecommunications facility, no matter how desirable the site. See CGS § 16-50z, CGS § 16-50p(g); *Corcoran v. Connecticut Siting Council*, 50 Conn. Supp. 443 (2006), *affirmed*, 284 Conn. 455 (2007).

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined radio frequency power density levels of the antennas proposed to be installed on the tower have been calculated by Council staff to amount to 18.8% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. If federal or state standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. 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.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the telecommunications facility at the proposed site, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, operation, and maintenance of a monopole telecommunications facility no taller than 150 feet, or in the case of a monopine no taller than 157 feet, at the proposed site, 188 Route 7 South, Falls Village (Canaan), Connecticut.

<p><b>DOCKET NO. 360</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 188 Route 7 South, Falls Village (Canaan), Connecticut.</p>	<p>} Connecticut } Siting } Council</p>
	<p>March 12, 2009</p>

**Decision and Order**

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, operation, and maintenance of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to Cellco Partnership d/b/a Verizon Wireless, hereinafter referred to as the Certificate Holder, for a telecommunications facility at 188 Route 7 South, Falls Village (Canaan), Connecticut.

The facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and subject to the following conditions:

1. The Certificate Holder shall confer with the National Park Service, State Historic Preservation Office, and the Town of Canaan (Board of Selectmen and Planning and Zoning Commission) as to the appropriate design of the tower structure. Documentation of discussion and justification of a recommended tower design shall be submitted as part of the Development and Management Plan.
2. The tower shall be constructed, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of Verizon Wireless and other entities, both public and private, but such tower shall not exceed a height of 150 feet above ground level, or in the case of a monopine no taller than 157 feet. The height at the top of the antennas shall not exceed 153 feet above ground level.
3. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Canaan for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
  - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line, and landscaping; and
  - b) construction plans for site clearing, grading, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

4. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
5. Upon the establishment of any new state or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
6. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
7. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of Canaan public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
8. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
9. Any request for extension of the time period referred to in Condition 8 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of Canaan. Any proposed modifications to this Decision and Order shall likewise be so served.
10. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
11. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.
12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction and the commencement of site operation

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in The Hartford Courant and the Register Citizen.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

**Applicant**

Cellco Partnership d/b/a Verizon Wireless

**Intervenor**

Dina Jaeger  
167 Beebe Hill Road  
Falls Village, CT 06031

**Representative**

Sandy Carter, Regulatory Manager  
Verizon Wireless  
99 East River Drive  
East Hartford, CT 06108

Kenneth C. Baldwin, Esq.  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103-3597

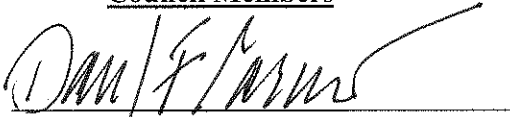
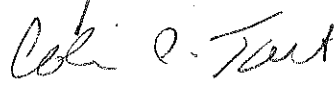
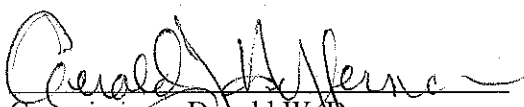

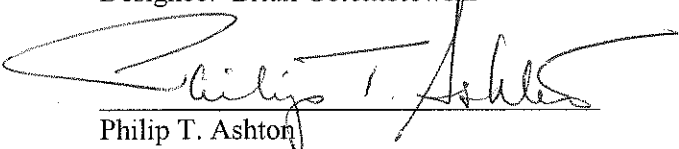
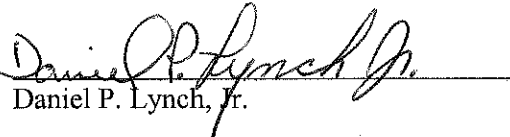
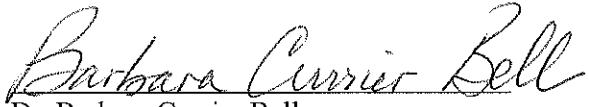
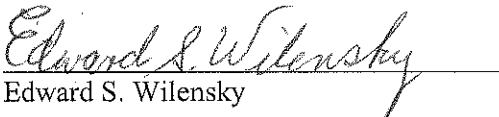
**Representative**

Gabriel North Seymour P.C.  
200 Route 126  
Falls Village, CT 06031

Whitney North Seymour, Jr.  
425 Lexington Avenue, Room 1721  
New York, NY 10017

**CERTIFICATION**

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **Docket No. 360 - 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 188 Route 7 South, Falls Village (Canaan), Connecticut, and voted as follows to approve the proposed site, located at 188 Route 7 South, Falls Village (Canaan), Connecticut:

<u>Council Members</u>	<u>Vote Cast</u>
 Daniel F. Caruso, Chairman	Yes
 Colin C. Tait, Vice Chairman	Yes
 Commissioner Donald W. Downes Designee: Gerald J. Heffernan	Yes
 Commissioner Gina McCarthy Designee: Brian Golembiewski	Yes
 Philip T. Ashton	Yes
 Daniel P. Lynch, Jr.	Yes
 James J. Murphy, Jr.	Absent
 Dr. Barbara Currier Bell	Yes
 Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, March 12, 2009.

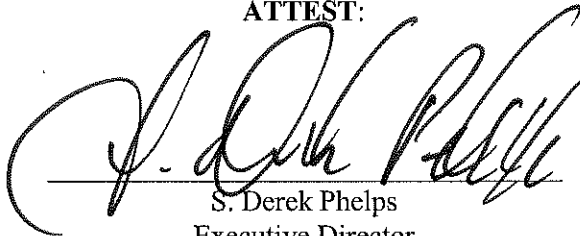
STATE OF CONNECTICUT )

ss. New Britain, Connecticut :

COUNTY OF HARTFORD )

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Conclusions of Law, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

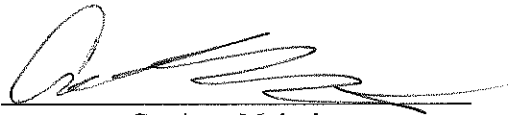
ATTEST:



S. Derek Phelps  
Executive Director  
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Conclusions of Law, Opinion, and Decision and Order in Docket No. 360 has been forwarded by Certified First Class Return Receipt Requested mail, on March 19, 2009, to all parties and intervenors of record as listed on the attached service list, dated July 3, 2008.

ATTEST:



Carriann Mulcahy  
Secretary II  
Connecticut Siting Council



**LIST OF PARTIES AND INTERVENORS  
SERVICE LIST**

<b>Status Granted</b>	<b>Status Holder (name, address &amp; phone number)</b>	<b>Representative (name, address &amp; phone number)</b>
<b>Applicant</b>	Cellco Partnership d/b/a Verizon Wireless	<p>Sandy Carter, Regulatory Manager Verizon Wireless 99 East River Drive East Hartford, CT 06108</p> <p>Kenneth C. Baldwin, Esq. Robinson &amp; Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 (860) 275-8200</p>
<b>Intervenor (Approved on June 19, 2008)</b>	Dina Jaeger 167 Beebe Hill Road Falls Village, CT 06031 860-824-7930 <a href="mailto:dinajaeger@comcast.net">dinajaeger@comcast.net</a>	<p>Gabriel North Seymour P.C. 200 Route 126 Falls Village, CT 06031 860-824-1411 860-824-1412 <a href="mailto:certiorari@earthlink.net">certiorari@earthlink.net</a></p> <p>Whitney North Seymour, Jr. 425 Lexington Avenue, Room 1721 New York, NY 10017 212-455-7640 212-455-2502 <a href="mailto:wseymour@stblaw.com">wseymour@stblaw.com</a></p>