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Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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January 24, 2011

TO: Parties and Intervenors

FROM: Linda Roberts, Executive Director 

RE: **DOCKET NO. 406** – United Illuminating Company application for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut.

By its Decision and Order dated January 20, 2011, the Connecticut Siting Council granted a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut.

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

LR/CDM/laf

Enclosures (3)

c: State Documents Librarian

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, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

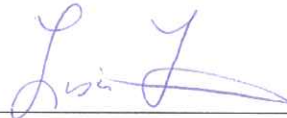
ATTEST:



Linda Roberts
Executive Director
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 406 has been forwarded by Certified First Class Return Receipt Requested mail, on January 25, 2011, to all parties and intervenors of record as listed on the attached service list, dated September 7, 2010.

ATTEST:



Lisa Fontaine
Fiscal Administrative Officer
Connecticut Siting Council

**LIST OF PARTIES AND INTERVENORS
SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input checked="" type="checkbox"/> E-mail	The United Illuminating Company	Bruce L. McDermott, Esq. Wiggin and Dana LLP One Century Tower New Haven, CT 06508-1832 (203) 498-4340/(203) 782-2889 fax bmcdermott@wiggin.com
	<input checked="" type="checkbox"/> U.S. Mail		Edward J. Drew Associate Vice President – Corporate Services The United Illuminating Company 157 Church Street P.O. Box 1564 New Haven, CT 06506-0901 (203) 499-2279/(203) 499-3512 fax Ed.drew@uinet.com
	<input checked="" type="checkbox"/> U.S. Mail		Kathleen M. Shanley Director – Environmental, Facilities & Real Estate The United Illuminating Company 801 Bridgeport Avenue Shelton, CT 06484 (203) 926-4695/(203) 926-4696 fax Kathleen.shanley@uinet.com
	<input checked="" type="checkbox"/> U.S. Mail		Linda L. Randell Senior Vice President, General Counsel and Corporate Secretary UIL Holdings Corporation 157 Church Street P.O. Box 1564 New Haven, CT 06506-0901 (203) 499-2575/(203) 499-3664 fax Linda.randell@uinet.com

<p>DOCKET NO. 406 – United Illuminating Company application for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut.</p>	<p>} Connecticut } Siting } Council</p>
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January 20, 2011

Findings of Fact

Introduction

1. The United Illuminating Company (UI), in accordance with provisions of Connecticut General Statutes (CGS) § 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on September 3, 2010 for the construction, operation and maintenance of a wireless telecommunications facility, which would include a 100-foot tall self-supporting lattice tower, at 100 Marsh Hill Road in the Town of Orange, Connecticut. (UI 1, pp. ES-1, 1)
2. UI is a specially chartered Connecticut corporation that provides electricity and energy-related services to customers in seventeen cities and towns in southern Connecticut. Its principal office is located at 157 Church Street, New Haven, Connecticut 06506. (UI 1, pp. 2-3)
3. The party in this proceeding is the applicant. (Transcript, November 16, 2010, 3:00 p.m. [Tr. 1], p. 3)
4. The purpose of the proposed facility is to facilitate operations and internal communications between UI's Operations Center to be located at 100 Marsh Hill Road in Orange and the company's field crews and remote electric system devices that are responsible for operating and maintaining the electric transmission and distribution system within UI's service territory. (UI 1, p. ES-1)
5. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on November 16, 2010, beginning at 3:00 p.m. and continuing at 7:00 p.m. in Orange, Connecticut. (Tr. 1, p. 2 ff.)
6. The Council and its staff conducted an inspection of the proposed site on November 16, 2010, beginning at 2:00 p.m. The applicant flew a balloon at the site from 7:30 a.m. until approximately 5:00 p.m. to simulate the height of the proposed tower. Winds were relatively calm until shortly before the field review. For most of the day, weather conditions afforded visibility of several miles. Weather conditions deteriorated later in the day with light drizzle and cloudy conditions. (Tr. 1, pp. 22 ff)
7. Pursuant to CGS § 16-50/(b), UI published public notice of its intent to submit this application on August 27 and 28, 2010 in The New Haven Register and on September 3 and 4, 2010 in The Connecticut Post. (UI 1, p. 4; UI 4, Attachment B – Affidavits of Publication)

8. Pursuant to CGS § 16-50(b), UI sent notices of its intent to file an application with the Council to each person appearing of record as owner of property abutting the property on which the proposed tower would be located. In addition to abutting property owners, UI sent notices to owners of property from which the proposed tower might be visible. (UI 1, pp. 4-5; Attachment 6; Tr. 1, pp. 29-30)
9. Of 33 letters sent to nearby property owners, UI received 30 certified mail receipts. UI resent its letter of notice to the three property owners from whom return receipts were not received via first class mail. (UI 2, Answer to Interrogatory CSC-1)
10. Pursuant to CGS § 16-50(b), UI provided copies of its application to all federal, state and local officials and agencies listed therein. (UI 1, p. 4; Attachment 6)
11. UI erected a four-foot by six-foot sign notifying the public of its pending certificate application with the Council near the entrance to the property on which its proposed facility would be located on November 1, 2010. The sign included the date and location of the public hearing and contact information for the Council. (UI 4, pp. 1-2)

State Agency Comment

12. Pursuant to CGS § 16-50/, on September 29, 2010 and November 17, 2010, the Council solicited comments on UI's application from the following state agencies: Department of Agriculture, Department of Environmental Protection (DEP), Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, the Department of Transportation (DOT), and the Department of Emergency Management and Homeland Security. (CSC Hearing Package dated September 29, 2010; CSC Letter to State Department Heads dated November 17, 2010)
13. The Council received a letter from the State Historic Preservation Office regarding the results of a Cultural Resources Assessment Survey report prepared in conjunction with UI's proposed facility. (Letter from State Historic Preservation Office dated August 30, 2010 — See Findings of Fact numbers 56 and 57)
14. The Council received correspondence from the Drinking Water Section of the Department of Public Health stating that it had no comments on UI's proposed facility. (Letter from Department of Public Health, Drinking Water Section, dated October 4, 2010)
15. The Council received correspondence from the DOT stating that the Department had no comments on UI's proposed facility. (Letter from Department of Transportation)
16. The Council received correspondence from the DEP's Office of Environmental Review regarding the possibility that monk parakeets could be attracted to the proposed tower as a nesting site. (Letter from DEP Office of Environmental Review, dated November 8, 2101 — See Finding of Fact number 61)
17. The Council did not receive correspondence from any other state agencies from which it solicited comments. (Record)

Municipal Consultation

18. On June 5, 2010, UI commenced the 60-day municipal consultation process required under CGS § 16-507(e) by filing a draft of its application and supplemental technical reports with the Town of Orange. (UI 1, p. 21)
19. UI also filed copies of its municipal consultation information with the Cities of Milford and West Haven as its proposed site is within 2,500 feet of both municipalities. (UI 1, pp. 21-22)
20. The Town of Orange did not identify any alternative sites or make any recommendations concerning the proposed site during the municipal consultation. (UI 1, p. 22)
21. UI did not receive any comments from the City of Milford or the City of West Haven during the municipal consultation period. (UI 1, p. 22)
22. At the Council's public hearing, the First Selectman of Orange expressed the town's support for UI's proposed facility. (Tr. 1, pp. 5-7; Tr. 2, pp. 3-5)
23. The Town of Orange has expressed a possible interest in placing public safety antennas on UI's proposed tower. (UI 1, p. 10; Tr. 1, p. 7)
24. If the Town of Orange were to put antennas on the proposed tower, it could do so at no rental charge. (Tr. 1, p. 18)

Public Need for Service

25. UI holds licenses from the Federal Communications Commission (FCC) authorizing it to provide wireless service for the purposes of internal communications and operations. (UI 1, p. 22)
26. UI owns and operates several radio systems that are necessary for the efficient, reliable, and safe operation of its electric system. Its mobile radio systems allow electric system dispatchers and emergency response personnel to communicate with UI's field crews, providing for quick response to emergency situations and enhancing the safety of UI's employees and the general public. (UI 1, p. 5)
27. The CONVEX radio system that would be part of UI's proposed facility allows for emergency communications to UI's substations and CONVEX (the Connecticut Valley Electric Exchange). (UI 1, p. 5)
28. UI's proposed facility would include power factor correction and recloser systems that control and optimize power flow throughout UI's electric system, thereby reducing costs and enhancing availability of energy supply to UI's customers. (UI 1, p. 5)
29. UI's customers would benefit from the proposed facility, which would enable UI to increase operational efficiencies and lower costs for consumers. (UI 1, p. 11)

Existing and Proposed Wireless Coverage

30. The proposed tower is designed to provide coverage comparable to that provided by UI antennas located at its existing Operations Center in Shelton. The existing antennas currently on UI's headquarters in Shelton would be removed when UI moves to its new headquarters under construction in Orange. (UI 2, Answer to Interrogatory CSC-8; Tr. 1, pp. 15-17)
31. The antennas on the proposed tower would provide communications between the Operations Center and employees in vehicles who are servicing the distribution system, between UI and CONVEX, and between power generators and other utilities in the state. One function of the communications system would be to facilitate black start operations. Antennas on the proposed tower would also allow communications with substations if wire line communication is lost. (Tr. 1, pp. 23-24, 54)
32. The antennas would not be part of UI's Supervisory Control and Data Acquisition (SCADA) system. (Tr. 1, pp. 23-24)
33. As part of a Business Continuity Plan, UI would have a backup site for its proposed facility in the event that it became inoperable. (Tr. 2, pp. 25-26)

Site Selection

34. UI did not consider any possible locations for its proposed facility other than at its new Operations Center at 100 Marsh Hill Road in Orange. (UI 1, pp. 9-10)
35. The location of the proposed tower on the Operations Center property was selected to avoid other properties or critical facility buildings in the unlikely event of a tower collapse. (UI 1, p. 9)
36. There are no equally effective feasible technological alternatives to UI's proposed tower that would meet UI's internal operations and communications needs. (UI 1, p. 9)

Facility Description

37. UI's proposed site is on a 35-acre tract of land, comprised of two contiguous parcels, at 100 Marsh Hill Road in Orange, Connecticut. The tract is owned by UI and is the future site of its Operations Center for its Central Facility. (UI 1, pp. ES-1, 6)
38. UI's tract is within a Light Industrial District 2 zoning district. Wireless telecommunications facilities are permitted in Light Industrial Districts with the granting of a special use permit. Light Industrial Districts are the most preferred location for wireless telecommunications facilities among the different zoning districts designated by the Town of Orange. (UI 1, p. 6; Bulk Filing – Orange Zoning, Sections 383-153 and 383-154)

39. The property on which UI's facility would be located was previously developed as a multiplex cinema, which was demolished by UI in June 2009. In October 2009, the Orange Town Plan and Zoning Commission approved an application from UI to construct its Operations Center on the former cinema site. UI's Operations Center would consist of a four-story office building, a parking garage and parking lot, a field crew training area, and a service and maintenance area comprised of a maintenance building, fueling station, covered truck parking, indoor storage and an outdoor storage area for utility equipment. (UI 1, pp. 6-7)
40. Access to the property on which UI's Operations Center will be located would be necessarily limited, according to requirements established by the Federal Energy Regulatory Commission (FERC), because the facility would be involved in managing the bulk transmission system. UI's property will be enclosed by a fence and secured by a guard system. The FERC requirement for restricted access is one reason UI would be reluctant to allow commercial wireless carriers to share its proposed tower. (Tr. 2, pp. 13-15)
41. To comply with FERC requirements, UI's property would be secured by an eight-foot perimeter fence on three sides and a six-foot high, decorative security fence along Marsh Hill Road and the main entrance drive. A small guard house would be located at a security checkpoint near the main entrance to the Operations Center. Access to the proposed facility would be through the Operations Center's main entrance drive off of Marsh Hill Road. (UI 1, pp. 2, 7)
42. The western portion of UI's property cannot be developed because it is protected by a conservation easement. This area is characterized by shrubs and woodland and wetland areas. The conservation area provides a forested buffer between what will be the developed portion of UI's property and nearby residences along Indian River Road to the west of the proposed facility's location. (UI 1, p. 6)
43. UI would erect a 100-foot tall, three-legged, self-supporting lattice tower. It would be located near the center of UI's property, next to the southwest corner of the parking garage. A 15-foot by 22-foot by 11-foot high equipment shelter would be installed next to the base of the tower. (UI 1, ES-1, Attachment 8)
44. UI chose a lattice design for its tower because of cost considerations and because with a lattice tower, it would be easier to install additional antennas onto the legs of the tower as opposed to drilling through the tower or using bands to attach additional antennas or welding attachments onto the pole as would be the case with a monopole tower. (Tr. 1, pp. 25-26; 35-36)
45. The proposed tower and its associated equipment shelter would not be enclosed by a separate fence but would be within the larger fence surrounding the entire UI property being developed as its Operations Center. (UI 2, Answer to Interrogatory CSC-4)
46. The proposed tower would be seven feet wide at its base and would taper to a width of five feet for most of its height, including at its top. The proposed tower would be engineered to comply with EIA/TIA-222-F "Structural Standards for Steel Antenna Towers and Antenna Support Structures." (UI 1, Attachment 1; UI 2, Answer to Interrogatory CSC-3)

47. The tower would be located at latitude 41° 15' 11" north and longitude 73° 0' 8.68" west. The ground elevation at the base of the tower is 104.9 feet above mean sea level. (UI 2, Answer to Interrogatory CSC-2)
48. UI would install up to ten antennas of various types—including dipole, omni-directional, and directional Yagi—on its proposed tower. The antennas to be installed would operate on UI's VHF-Low Band mobile radio system, its UHF Meter Services mobile radio system, the Power Factor Correction (capacitor) control system, the CONVEX wireless communication systems, and possibly the Distribution Recloser control system. (UI 1, pp. 1, 8, 10)
49. Power to the proposed facility would be provided from the Central Facility Operation Center. (UI 2, Answer to Interrogatory CSC-9)
50. Backup power would come from the five 600-kW generators UI would have on site to provide emergency power for its entire facility. (Tr. 1, p. 22)
51. No blasting would be required to develop the proposed facility. (UI 2, Answer to Interrogatory CSC-10)
52. The proposed tower's setback radius would be contained within UI's property. (UI 1, p. 16)
53. There are two residences within 1,000 feet and 30 residences within 2,000 feet of the proposed tower's location. (UI 1, Attachment 10; Tr. 1, p. 11)
54. The closest residence is located 942 feet to the west of the proposed tower's location at 85 Indian River Road. It is owned by George, Basile, and Olympia Tzovolos. (UI 1, Attachment 10; UI 2, Answer to Interrogatory CSC-11; Tr. 1, p. 11)
55. Land uses in the vicinity of the proposed facility consist primarily of industrial, commercial, and highway uses. The closest residences are located to the west of the proposed facility and are separated by the forested conservation area. (UI 1, p. 10)
56. The estimated costs of the proposed facility, including antennas, are:

Radio equipment	\$239,705
Tower, coax, and antennas costs	22,000
Antenna foundation	15,000
Equipment shelter	40,000
<u>Electric service for equipment shelter</u>	<u>15,000</u>
Total costs	\$331,705

(UI 1, p. 24)

Environmental Considerations

57. Based on recommendations from the State Archaeologist and the State Historic Preservation Office, UI had a Cultural Resources Assessment Survey report prepared for its property on which the proposed facility would be located. (Letter from State Historic Preservation Office dated August 30, 2010)
58. The Cultural Resources Assessment Survey did not identify any historic properties within the Area of Potential Effects for the proposed facility. (Letter from State Historic Preservation Office dated August 30, 2010)
59. UI's proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (Letter from State Historic Preservation Office dated August 30, 2010)
60. Although UI's proposed facility is located within the Coastal Area defined by the Connecticut Coastal Management Act (CCMA), it is not within the Coastal Boundary, and no coastal resources would be affected by the proposed facility. (UI 2, Answer to Interrogatory CSC-12; Transcript, November 16, 2010, 7:10 p.m. [Tr. 2], pp. 11-12)
61. According to DEP records, the Eastern Box Turtle (*Terrapene carolina carolina*) may occur in the vicinity of UI's proposed Office Building that would be located at 114 Marsh Hill Road—a separate parcel from the one on which the proposed tower would be located. (UI 1, Attachment 17 – Letter from DEP Bureau of Natural Resources, dated November 3, 2008)
62. DEP suggested that the lattice design of the proposed tower might attract monk parakeets, an invasive exotic species that builds very large stick nests that can weigh hundreds of pounds and create dangerous nuisances. DEP suggested that a monopole tower would be less attractive to the parakeets. (Letter from DEP Office of Environmental Review, dated November 8, 2010)
63. Because the proposed tower would be located at its Operations Center, manned by five to six hundred people, it would be under constant observation by UI personnel, who are very aware of the problems created by monk parakeet nests through its experience with the birds in its service area. (Tr. 1, pp. 19-21)
64. There are six wetland areas on UI's Operations Center property. All but one of these areas are located within a conservation easement that was established at the time the construction of the former cinema was approved in 1993. (UI 1, pp. 20-21)
65. The one wetland area that is not within the conservation easement is not located within the area that would be developed for UI's Operations Center. (UI 2, Answer to Interrogatory CSC-7)
66. The Town of Orange's Inland Wetlands and Watercourses Commission approved UI's application to build its Operations Center on the site of the former cinema on September 22, 2009. (UI 1, p. 20)

67. UI would establish and maintain appropriate soil erosion and sedimentation control measures, in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control established by the Connecticut Council for Soil and Water Conservation, in cooperation with the Connecticut Department of Environmental Protection, throughout the construction period of the proposed facility. (UI 1, p. 21)
68. UI's proposed facility would not adversely impact wetlands and watercourses either on or off of its property. (UI 1, p. 21)
69. UI's proposed facility is not located within an Important Bird Area as designated by the National Audubon Society. (UI 2, Answer to Interrogatory CSC-13)
70. UI's proposed facility would comply with the U.S. Fish and Wildlife Service's recommended guidelines for minimizing telecommunications towers' potential for impacting bird species. (UI 2, Answer to Interrogatory CSC-14)
71. The proposed tower would not constitute an obstruction or hazard to air navigation and, therefore, would not require any obstruction marking or lighting. (UI 1, p. 23; Attachment 16)
72. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of UI's proposed antennas is 0.33% 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, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (UI 1, p. 13; Attachment 12)

Visibility

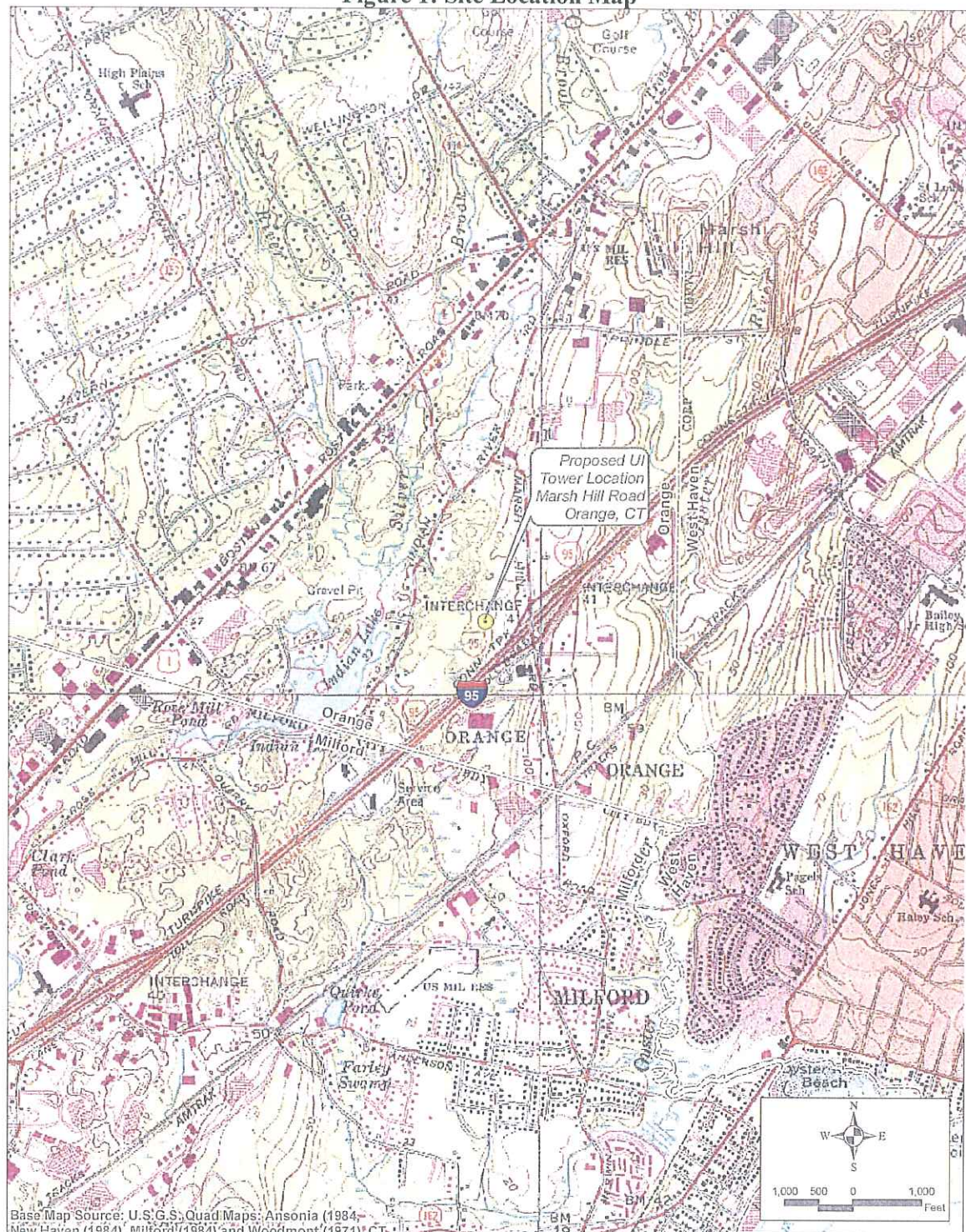
73. UI's proposed tower would be visible above the tree canopy on a year-round basis from approximately 48 acres in the surrounding vicinity. Most of this visibility would occur on UI's Operations Center property and its immediate vicinity (generally within .25 mile of the proposed tower's location), primarily to the north and east along Marsh Hill Road. Residential views of the proposed tower would be minimal due to distance and intervening vegetation. The nearest residences to the west, located on Heron Road and Indian River Road, would not have views of the proposed tower. (UI 1, Attachment 11 – Visual Resource Evaluation Report, p. 5)
74. The proposed tower would be visible from at least portions of an estimated ten residential properties. Two of these properties are located on Marsh Hill Road; one property is located on Ridge Hollow Road; three properties are located on Island Lane; one property is located on Salamme Road; and three properties are located on Sunflower Circle. Most of these views would be located approximately one mile from the proposed tower and would be of the upper portion of the tower. The properties on Marsh Hill Road and Salamme Road, however, are located approximately 0.25 mile from the location of the proposed tower. (UI 1, Attachment 11 – Visual Resource Evaluation Report, p. 5)

75. No views of the proposed tower would be anticipated from town open space properties, the Old Tavern Road Recreation Area, or Long Island Sound. (UI 1, Attachment 11 – Visual Resource Evaluation Report, p. 5)
76. The proposed tower would be seasonally visible from approximately 35 additional acres. The areas of seasonal visibility are generally located south and east of the proposed tower’s site, including portions of UI’s Operations Center property, Marsh Hill Road, and I-95. (UI 1, Attachment 11 – Visual Resource Evaluation Report, p. 5)
77. Portions of approximately three additional residential properties would have seasonal views of the proposed tower. These properties are located approximately 0.9 mile to the east on Ridge Hollow Road and 0.5 mile to the west along Margaret Lane. (UI 1, Attachment 11 – Visual Resource Evaluation Report, p. 5)
78. The visibility of UI’s proposed tower from different vantage points in the surrounding vicinity is summarized in the following table. The vantage points listed are identified by their corresponding number in the Visual Resource Evaluation Report contained in Attachment 11 of UI’s application (Figure 4).

<u>Location</u>	<u>Site Visible</u>	<u>Approx. Portion of (100') Tower Visible</u>	<u>Approx. Distance and Direction to Tower</u>
1 – Marsh Hill Road, at entrance to UI property	Yes	80'	1,000 feet; SW
2 – 65 Marsh Hill Road	Yes	60'	1,200 feet; NW
3 – 10 Salamme Road	Yes	60'	1,400 feet; NW
4 – Marsh Hill Road at Frontage Road	Yes	70'	850 feet; NW
5 – Across Marsh Hill Road	Yes	90'	800 feet; SW
6 – Marsh Hill Road	Yes	60'	1,600 feet; SW
7 – Morgan Lane I-95 Overpass	Yes	30'	5,400 feet; SW
8 – Route 1, southwest of Orange Center Road	Yes	20'	3,800 feet; NE
9 – 6 Ridge Hollow Road	Yes	50'	5,000 feet; W
10 – Toll Road and Island Lane	Yes	50'	5,000 feet; NW
11 – Perry Merrin Drive	No	n/a	4,800 feet; NW
12 – 6 Sunflower Circle	Yes	10'	5,400 feet; W
13 – 313 Benham Hill Road	No	n/a	5,600 feet; W
14 – Old Tavern Road Recreational Area	No	n/a	4,800 feet; SE
15 – 200 Margaret Lane	Seasonal	10'	2,400 feet; NW
16 – 266 Mallard Drive	No	n/a	3,100 feet; NE
17 – 535 Roses Mill Road	No	n/a	3,400 feet; NE
18 – Heron Drive at Indian River Road	No	n/a	1,100 feet; E
19 – 322 Saybrook Road	No	n/a	5,500 feet; SE
20 – Racebrook Road at Route 1	Yes	40'	5,700 feet; SW

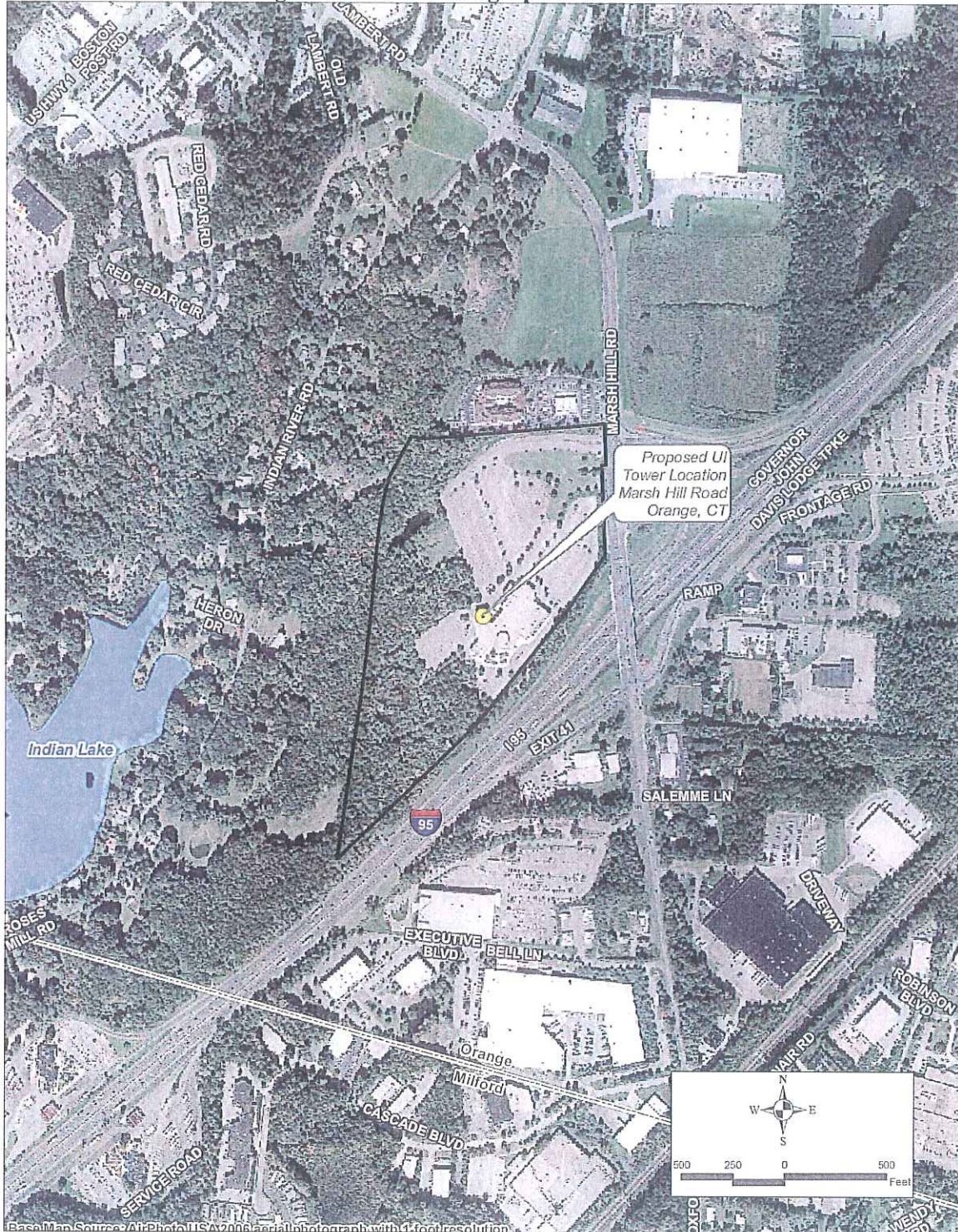
(UI 1, Attachment 11 – Visual Resource Evaluation Report, Photographic Simulations)

Figure 1: Site Location Map



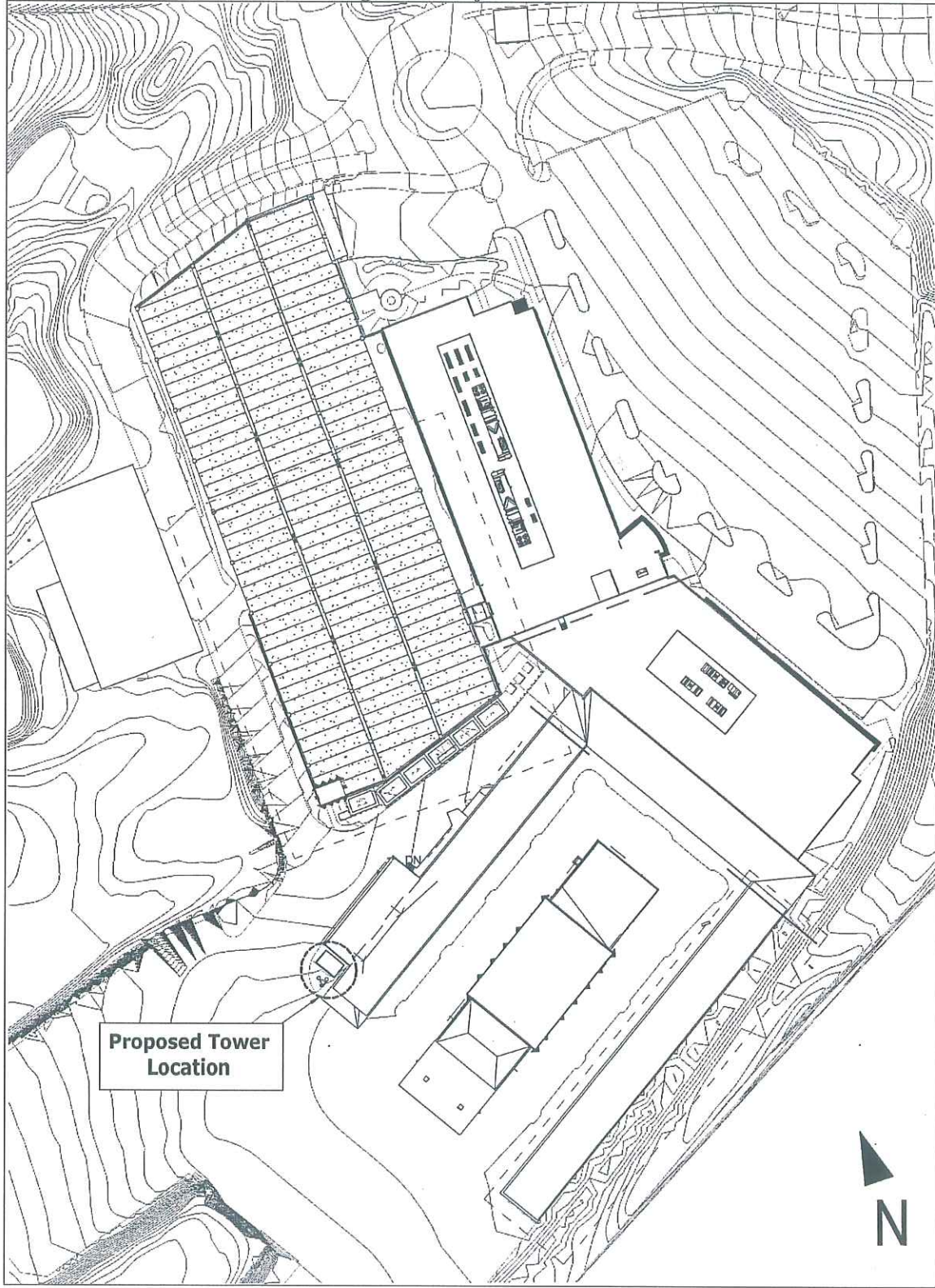
(UI 1, Attachment 3)

Figure 2: Aerial Photograph of Site Location



(UI 1, Attachment 4)

Figure 3: Project Site Plan



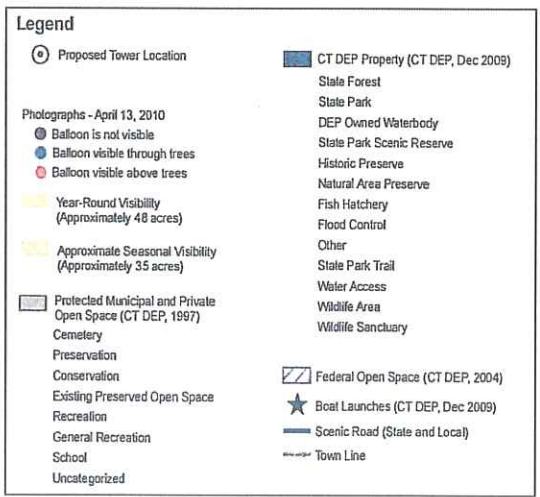
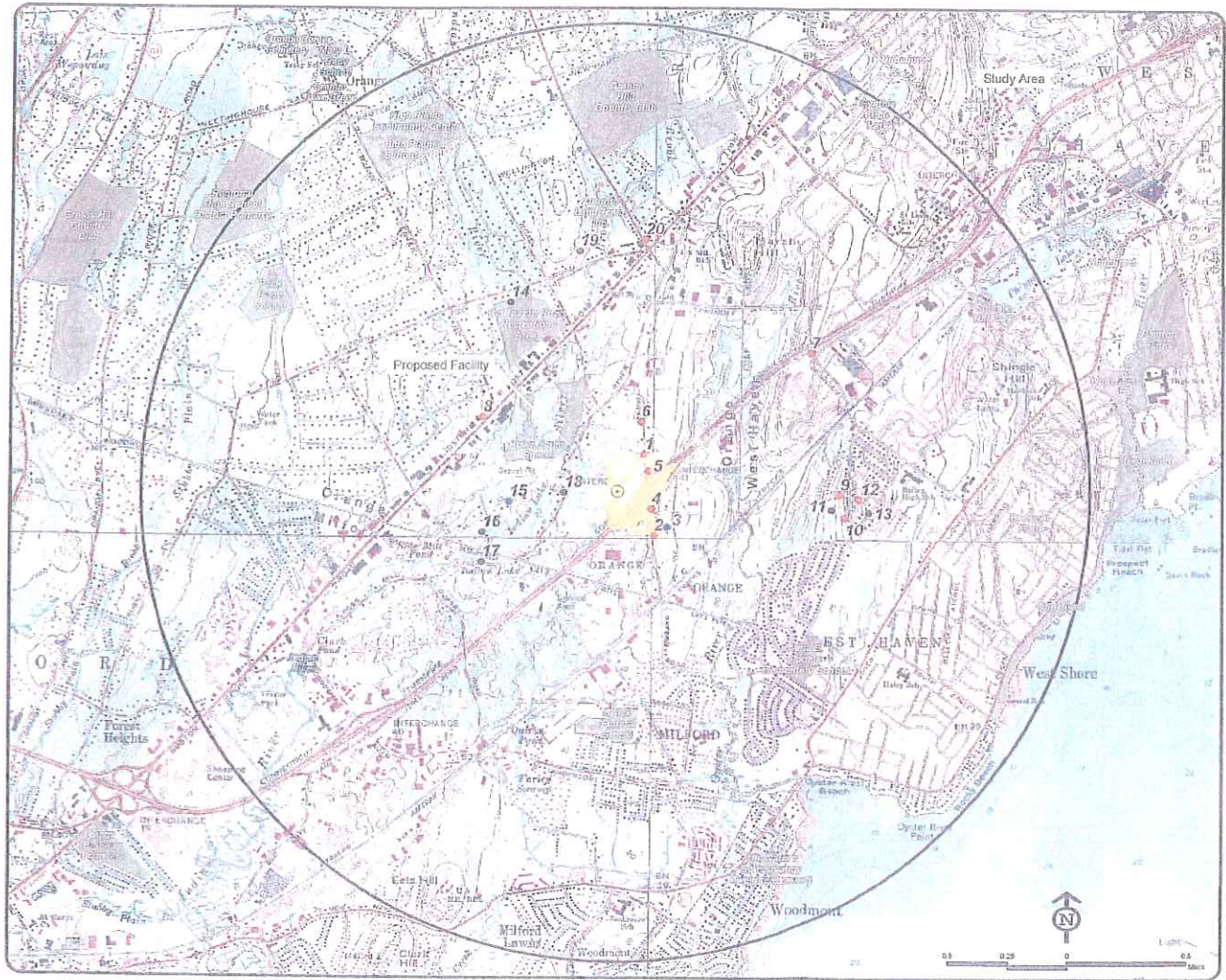
(UI

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Attachment

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Figure 4: Visual Analysis



DOCKET NO. 406 – United Illuminating Company application } Connecticut
for a Certificate of Environmental Compatibility and Public Need }
for the construction, operation and maintenance of a } Siting
telecommunications facility located at 100 Marsh Hill Road, }
Orange, Connecticut. } Council

January 20, 2011

Opinion

On September 3, 2010, the United Illuminating Company (UI) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, operation and maintenance of a wireless telecommunications facility to be located at its new operations center at 100 Marsh Hill Road in the Town of Orange, Connecticut. UI's objective for the proposed telecommunications facility is to facilitate operations and internal communications between its operations center and the company's field crews, as well as remote electric system devices that are responsible for operating and maintaining the electric transmission and distribution system within UI's service area. The proposed facility would replicate UI's coverage from its existing operations center in Shelton. The existing operations center and the antennas located there would be replaced by the new operations center under development in Orange.

UI proposes to construct a 100-foot self-supporting lattice tower near the southwest corner of the new operations center's parking garage. UI would install its telecommunications ground equipment within a 15-foot by 22-foot equipment shelter. UI would not enclose its proposed tower and equipment shelter inside a separate fence. Instead, UI would erect a fence around the entire operations center and would control access to its property through a guarded entrance in keeping with security requirements mandated by the Federal Energy Regulatory Commission. Because of these security requirements, UI would not consider allowing commercial wireless carriers to share its proposed tower. UI would, however, permit the Town of Orange to install emergency services antennas on the tower if the town determined it had such a need. The setback radius of the 100-foot lattice tower would lie completely within the property on which UI is developing its new operations center.

In order to ensure uninterrupted wireless communication within its service area, UI would develop a Business Continuity Plan backup site that would provide coverage in the event that this proposed site were to become inoperable.

UI's proposed tower would be visible above the tree canopy on a year-round basis from approximately 48 acres in the surrounding vicinity. Most of this visibility would occur on UI's operations center property and its immediate vicinity. An estimated ten residential properties would have at least partial year-round views of the proposed tower. The proposed tower would be seasonally visible from approximately 35 additional acres. The areas of seasonal visibility are generally located south and east of the proposed tower's site. Portions of approximately three additional residential properties would have seasonal views of the proposed tower.

Because the property on which UI's proposed operations center will be located was previously developed, no vegetation had to be cleared for the proposed tower and equipment shelter. There are six wetland areas on UI's operations center property. All but one of these areas are located within a conservation easement that was established at the time the property was initially developed in 1993. The one wetland area that is not within the conservation easement is not located within the area to be developed for the operations center.

Records of the Department of Environmental Protection (DEP) indicate that the Eastern Box Turtle (*Terrapene carolina carolina*) may occur in the vicinity of UI's proposed Office Building that would be located at 114 Marsh Hill Road. This, however, is a separate parcel from the one on which the proposed tower would be located. DEP suggested that the lattice design of the proposed tower might attract monk parakeets, an invasive species that builds very large stick nests that can weigh hundreds of pounds and create dangerous nuisances. DEP suggested that a monopole tower would be less attractive to the parakeets. UI maintains that because its proposed tower would be located at its operations center, which would be manned by five to six hundred people, it would be under constant observation by UI personnel, who are very aware of the problems created by monk parakeet nests through its experience with the birds in its service area.

UI's proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places.

After reviewing the record in this proceeding, the Council finds that the proposed facility would provide UI with needed wireless communications coverage within its service area and that the facility would not cause any significant environmental impacts. We also find that the visual presence of the proposed tower would not be unduly disruptive in the surrounding vicinity.

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 0.33% 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 proposed telecommunications facility at 100 Marsh Hill Road, 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 100-foot self-supporting lattice tower telecommunications facility at 100 Marsh Hill Road in Orange, Connecticut.

DOCKET NO. 406 – United Illuminating Company application } Connecticut
for a Certificate of Environmental Compatibility and Public Need }
for the construction, operation and maintenance of a } Siting
telecommunications facility located at 100 Marsh Hill Road, }
Orange, Connecticut. } Council

January 20, 2011

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 the United Illuminating Company, hereinafter referred to as the Certificate Holder, for a telecommunications facility at 100 Marsh Hill Road, located in the Town of Orange, Connecticut.

Unless otherwise approved by the Council, 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 tower shall be constructed as a self-supporting lattice tower, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of the United Illuminating Company and other entities, both public and private, but such tower shall not exceed a height of 100 feet above ground level.
2. 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 Orange 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, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

3. Prior to the commencement of operation, the Certificate Holder shall 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.
4. 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.
5. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of Orange public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
6. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless service 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. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
7. Any request for extension of the time period referred to in Condition 6 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 Orange. Any proposed modifications to this Decision and Order shall likewise be so served.
8. 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.
9. Any nonfunctioning antenna, and associated antenna mounting equipment, on this facility shall be removed within 60 days of the date the antenna ceased to function.
10. 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.

11. The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v.
12. This Certificate may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Certificate Holder/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Certificate Holder/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.
13. The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this Decision and Order and a Development and Management Plan to be approved by the Council.
14. If the Certificate Holder is a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the Certificate Holder within 30 days of the sale and/or transfer.

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 New Haven Register and the Connecticut Post.

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

The United Illuminating Company
157 Church Street
P.O. Box 1564
New Haven, CT 06506-0901

Its Representative

Bruce L. McDermott, Esq.
Wiggin and Dana LLP
One Century Tower
New Haven, CT 06508-1832

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. 406** – United Illuminating Company application for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut, and voted as follows to approve the proposed telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut:

<u>Council Members</u>	<u>Vote Cast</u>
 _____ Daniel F. Caruso, Chairman	Yes
 _____ Colin C. Tait, Vice Chairman	Yes
 _____ Commissioner Kevin M. DelGobbo Designee: Larry P. Levesque	Yes
 _____ Commissioner Amey Marrella Designee: Brian Golembiewski	Yes
 _____ Philip T. Ashton	Yes
 _____ Daniel P. Lynch, Jr.	Yes
 _____ James J. Murphy, Jr.	Yes
_____ Dr. Barbara Currier Bell	Absent
 _____ Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, January 20, 2011.



Daniel F. Caruso
Chairman

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

Internet: ct.gov/csc

January 24, 2011

Bruce L. McDermott, Esq.
Wiggin and Dana LLP
One Century Tower
New Haven, CT 06508-1832

RE: **DOCKET NO. 406** – United Illuminating Company application for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut.

Dear Attorney McDermott:

By its Decision and Order dated January 20, 2011, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut.

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

Very truly yours,

Linda Roberts
Executive Director

LR/CDM/laf

Enclosures (4)

c: Parties and Intervenors



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

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**CERTIFICATE
OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
DOCKET NO. 406**

Pursuant to General Statutes § 16-50k, as amended, the Connecticut Siting Council hereby issues a Certificate of Environmental Compatibility and Public Need to the United Illuminating Company for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, 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 January 20, 2011.

By order of the Council,


Daniel F. Caruso, Chairman

January 20, 2011



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

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January 24, 2011

TO: Classified/Legal Supervisor
406101116
The Hartford Courant
285 Broad St.
Hartford, CT 06115

Classified/Legal Supervisor
406101116
Amity Observer (Weekly)
Hometown Publications
1000 Bridgeport Avenue
Shelton, CT 06484

Classified/Legal Supervisor
406101116
The Bulletin
40 Sargent Dr.
New Haven 06511

FROM: Lisa A. Fontaine, Fiscal Administrative Officer

RE: **DOCKET NO. 406** – United Illuminating Company application for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut.

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.

LAF



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

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NOTICE

Pursuant to General Statutes § 16-50p (e), the Connecticut Siting Council (Council) announces that, on January 20, 2011, the Council issued Findings of Fact, an Opinion, and a Decision and Order approving an application from the United Illuminating Company for a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a telecommunications facility located at 100 Marsh Hill Road, Orange, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.