

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

In re Application of New Cingular Wireless	:	
PCS, LLC (AT&T) Application for a	:	Docket No. 428
Certificate of Environmental Compatibility and	:	
Public Need for the Construction, Maintenance	:	November 6, 2012
and Operation of a telecommunications tower	:	
facility in Roxbury, Connecticut	:	

Interrogatories of
Bronson Mountain Farm Homeowners' Association
Set Three

1. Does AT&T contend that the road required to access the tower at Candidate B is not part of the proposed Candidate B "facility" within the meaning of Connecticut General Statutes 16-50i?
2. If Candidate B is approved and AT&T proceeds with construction of the road, the tower, and related equipment, will AT&T provide consideration or compensation to another party for construction of the required access road?
3. Considering AT&T's obligation to compensate the property owner of Candidate A for construction of the proposed access road pursuant to its lease, will AT&T now provide construction details of the road for the Council's consideration?

4. With reference to AT&T's response to Question 2 of the Association's Second Set of Interrogatories, and specifically the response's reference to Docket 314, is the Candidate A property in this Docket "currently undergoing subdivision development"? See Docket 314, Findings of Fact, attached as Exhibit 1, Finding No. 27.

5. Has the Town of Roxbury "approved [a] subdivision" on the Candidate A property? Id.

6. Other than Docket 314, which is not analogous to this Docket, please provide any precedent where the Council has declined to take jurisdiction over the environmental impact of a proposed access road merely on the basis that the property owner was to construct the road where (i) the applicant was required to compensate the owner for construction of the road, (ii) the road was not under construction at the time of application to the Council, (iii) no application for a subdivision or any other use had been submitted to or approved by the local planning and zoning commission, and (iv) the record pertaining to the local approval of the road was replete with references to a proposed cell tower.

7. The Application provides that approximately 122 trees will need to be removed at the Candidate A property for the installation of the last short portion of the access road, underground utilities, and the compound. Does AT&T agree that the plans submitted with the

Application indicate that approximately additional 75 trees will need to be removed for the construction of the balance of the road?

8. Has AT&T investigated any multi-facility solutions to providing its desired coverage that may result in less overall visual and environmental impact than either of the two candidates?

9. In Docket 409, AT&T investigated a multi-facility solution to providing its desired coverage. Will AT&T provide a similar analysis in this Docket?

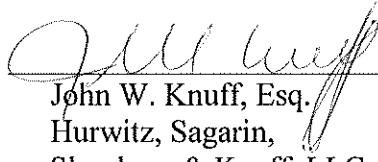
10. AT&T has stated that it “requires a macro solution” to providing coverage to its existing coverage gap in Roxbury, CT. Is a “macro solution” equivalent to the “least expensive solution?”

11. The Application, at Page 20, discusses how the facility complies with the town’s zoning regulations. The table at pages 20-21 provides responses to some of the subparagraphs of section 5.11.10 of the Roxbury Zoning Regulations, but the table does not respond to all of the subparagraphs of 5.11.10, and does not respond to any of the other wireless regulations. Please provide responses to the remainder of the applicable regulations, including an analysis of multi-facility solutions, and the town’s location preferences as found in section 5.11.12.

Respectfully submitted,

Bronson Mountain Farm
Homeowners Association,
Intervenors

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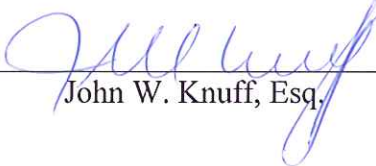
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EXHIBIT 1

DOCKET NO. 314 - Bay Communications, LLC application for the recertification of a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 170 Southeast Road, New Hartford, Connecticut.	} } } }	Connecticut Siting Council July 27, 2006
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Findings of Fact

Introduction

1. Bay Communications LLC (Bay), in accordance with the provisions of General Statutes §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on March 13, 2006 for the recertification of a wireless telecommunications facility originally approved at 170 Southeast Road, New Hartford, Connecticut. (Bay 1, p. 6)
2. On November 20, 2003, the Council approved an application (Docket 251) from Sprint Spectrum, L.P. d/b/a Sprint PCS (Sprint) to construct a 150-foot monopole facility at this location with the condition that the facility be constructed within one year. (Council Administrative Notice 12)
3. On February 3, 2004, the Council approved a petition (Petition 649) from Celco Partnership d/b/a as Verizon Wireless (Celco) to increase the height of the approved facility from 150 feet to 160 feet above ground level (agl). (Council Administrative Notice 13)
4. On March 4, 2004, the Council approved a Development and Management Plan for the approved 160-foot facility. (Council Administrative Notice 12)
5. On August 12, 2004, the Council approved a transfer of the Certificate of Environmental Compatibility and Public Need (Certificate) from Sprint to Bay Communications, LLC (Bay). While Bay and Sprint were finishing details of the transfer, the Certificate expired. (Council Administrative Notice 12; Transcript 1- 5/18/06, 6:30 p.m. [Tr. 1], p. 14)
6. Bay is a tower company based in Rhode Island that owns and operates 21 sites in Massachusetts, Connecticut, and Rhode Island. Bay owns two sites in Connecticut, one in Litchfield and one in Goshen. (Tr. 1, p. 13)
7. The party in this proceeding is the applicant. The intervenors in this proceeding are Celco and New Cingular Wireless PCS, LLC (Cingular). (Transcript 1, p. 5)
8. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on May 18, 2006, beginning at 6:30 p.m. at the New Hartford Town Hall, 530 Main Street, New Hartford, Connecticut. (Council's Hearing Notice dated April 24, 2006; Tr. 1, p. 3)
9. The Council performed an inspection of the proposed site on May 18, 2006, beginning at 4:00 p.m. During the field inspection, the applicant flew a balloon at the proposed tower site to simulate the height of the facility. (Council's Hearing Notice dated April 24, 2006; Tr. 1, p. 33)

10. Public notice of the application was published in The Hartford Courant, The Waterbury Republican-American, and The Register Citizen on January 10, 2006 and January 12, 2006. (Bay 1, p. 6)
11. Pursuant to CGS § 16-50(b), abutting property owners received notice of the application by certified mail. All certified mail receipts were received except one, Jennifer Klinger at 207 Southeast Road. Bay sent a second mailing to Ms. Klinger by first class mail. (Bay 1, p. 7)
12. The Council received written notice from the Metropolitan District Commission (MDC), an entity that owns the Nepaug Reservoir, a public water supply reservoir east of the site. (Specific comment is provided in Finding 39). (Record)

State Agency Comment

13. Pursuant to General Statutes § 16-50j (h), on April 24, 2006 and May 19, 2006, the following state agencies were solicited to submit written comments regarding the proposed facility: Department of Environmental Protection (DEP), Department of Public Health (DPH), Council on Environmental Quality (CEQ), Department of Public Utility Control (DPUC), Office of Policy and Management (OPM), Department of Economic and Community Development (DECD), and the Department of Transportation (DOT). (Record)
14. The DPH provided written comment to the Council on May 4, 2006. (Specific comment is provided in Finding 40). (Record)
15. The following state agencies did not comment on the application: DEP, CEQ, DPUC, OPM, DOT, and the DECD. (Record)

Municipal Consultation

16. On October 12, 2005, Bay representatives met with William Baxter, First Selectman for the Town of New Hartford, to discuss recertification of the facility. The Town did not conduct a public hearing of Bay's recertification process. Bay representatives met with the Inland Wetlands Commission to explain the recertification process and modifications to the access road. The Inland Wetlands Commission did not comment on the proposal. (Bay 1, p. 8)
17. Sprint would allow free use of the tower for any local authority or emergency response system, provided such installation is consistent with the structural integrity of the tower. (Council Administrative Notice 12; Tr. 1, pp. 27-28)

Public Need for Service

18. 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 7)
19. 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 7)

20. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice 7)
21. The Telecommunications Act of 1996, a Federal law passed by the United States Congress, prohibits any state or local entity from regulating telecommunications towers based on the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with Federal Communications Commission's (FCC) 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 7)

Site Selection

22. Prior to selecting the proposed site, Sprint considered 13 other sites to provide coverage to the Route 202 corridor between existing Sprint facilities in New Hartford and Canton. The sites consisted of electric transmission structures, farm silos, a private radio tower and a church steeple. All of the sites were rejected due to inadequate coverage to the target service area. (Council Administrative Notice 12)
23. The search ring consists of an oval area, 0.5 miles at its widest, located south of Route 202 and north of an area of high elevation known as Garret Mountain. Two property owners are located within the search ring, Paul Miano and the MDC. (Council Administrative Notice 12)
24. The proposed tower site is located in the northeast portion of the 64-acre Miano property. The site is located east of Spruce Brook, a tributary of the Nepaug River that drains into the Nepaug Reservoir. The site is within the search ring established for the target service area. Areas of the Miano property west of Spruce Brook are not within the search ring and would not meet coverage objectives on Route 202. (Council Administrative Notice 12)
25. The MDC would not consider the placement of a telecommunications tower on their watershed property. (Council Administrative Notice 12)
26. Town regulations present a ranked system of three siting classes based on property ownership and distance to adjacent residences and schools with Class 1 being most preferred, as follows:
- | | |
|---------|---|
| Class 1 | locations within municipal or state property a minimum distance of 1,500 feet from residences or schools. |
| Class 2 | locations within municipal or state property a minimum distance of 750 feet from residences or schools. |
| Class 3 | locations within municipal or privately owned land a minimum distance of 750 feet from residences or schools. |
- The selected site is located in a Class 3 area. Class 1 or Class 2 siting options are not within the search ring. (Council Administrative Notice 12)

Site Description

27. The Miano property is a 64-acre parcel undergoing subdivision development. The town approved the subdivision including a new road that will terminate at a cul-de-sac just west of Spruce Brook. No development would occur on the parcel east of Spruce Brook. (Bay 1, pp. 7-10; Bay 2, Q. 6; Bay 2, Q. 5; Tr. 1, pp. 14-15, 18)

28. The immediate area surrounding the site consists of rolling hills ranging in elevation from 500 feet above mean sea level (amsl) to 1,000 feet amsl. Forest cover in the area consists of mixed deciduous hardwoods with an average height of 75 feet. (Council Administrative Notice 12)
29. Bay proposes to construct a 160-foot monopole within a 100-foot-by-100-foot lease area on the portion of the Miano property east of Spruce Brook. (Bay 1, p. 7, Attachment 8)
30. The nearest abutting property, owned by the MDC, is 150 feet north of the tower site. The nearest existing residence is approximately 1,753 feet southwest of the site. (Council Administrative Notice 12)
31. Cellco would install 12 panel antennas on a platform at a centerline height of 160 feet agl. Sprint would install 12 panel antennas on a platform at a centerline height of 150 feet agl. Cingular would install six panel antennas on a platform at a centerline height of 140 feet. The overall height of the facility with antennas would be 163 agl. (Bay 1, p. 8; Cellco 1, Q. 3; Cingular 1, Q. 3; Tr. 1, p. 35)
32. A 65-foot by 75-foot compound would be constructed at the base of the tower. Sprint would install equipment cabinets within the compound. Cingular and Cellco would each install an equipment shelter within the compound. (Bay 1, p. 7; Bay 2, Q. 8; Cingular 1, Q. 6; Cellco 1, Q. 6)
33. Access to the site would be from a 12-foot wide, 870-foot long gravel road of new construction extending from the end of the approved subdivision road. (Bay 2, Q. 8)
34. The proposed road would cross Spruce Brook using a 15-foot wide, 29-foot long open bottom bridge with bridge footings installed approximately 12 feet from the edge of the brook. The proposed crossing is located at the narrowest point of uplands on the Spruce Brook corridor. Access to the site would be controlled by a gate to be installed on the west end of the bridge. (Council Administrative Notice 12, Bay 2, Q. 8; Tr. 1, pp. 19-20)
35. The access road east of Spruce Brook would require approximately 2,600 cubic yards of fill to obtain a 12% grade. (Council Administrative Notice 13)
36. Aboveground utilities would be installed from the end of the subdivision road along the new access road. This would require the installation of six new utility poles along the access road. The subdivision would be serviced by underground utilities. (Bay 2, Q. 8; Tr. 2, pp. 23-24)

Environmental Considerations

37. Development of the site, including all areas of grading east of Spruce Brook, would require the removal of approximately 65 trees with a diameter six inches or greater at breast height. Dominant trees in the development area include eastern hemlock, white pine, and red and black oak. (Council Administrative Notice 12; Bay 2, Q. 7; Tr. 1, pp. 21-22)
38. Disturbed areas, particularly the grading area east of Spruce Brook, would be mulched and seeded. Stabilization blankets would be used to reduce erosion. The amount of tree clearing adjacent to work areas would be minimized. Evergreens would be planted in the grading area to provide further stabilization. (Council Administrative Notice 12; Bay 2, Q. 8; Tr. 1, pp. 21-22)

39. The MDC recommended paving the 12% grade of the access road to reduce possible erosion. Bay would be willing to pave this section of road and examine ways to prevent accelerated runoff from the paved surface from affecting areas adjacent to the bridge. (Council Administrative Notice 14; Tr. 1, pp. 25-26)
40. The CT DPH is concerned about erosion of the steep slope area east of the brook that could lead to degradation of water quality in the brook. The CT DPH recommends best management practices to reduce the potential for erosion and to prevent the discharge of construction-related pollutants into the watershed. (CT DPH comments of April 27, 2006)
41. Approximately 126 square feet of wetlands adjacent to Spruce Brook would be impacted by construction of the bridge. The bridge design would not affect the brook channel. (Council Administrative Notice 12)
42. The proposed facility would have no effect upon historic or archaeological resources. (Council Administrative Notice 12)
43. The Bald Eagle (*Haliaeetus leucocephalus*), a federally threatened and state endangered species, occurs in the site area, specifically using the shoreline of the Nepaug Reservoir as habitat. The nearest shoreline is approximately 1,900 feet east of the site. The proposed tower would have no effect on resident eagles. (Council Administrative Notice 12)
44. Aircraft hazard obstruction marking or lighting of the proposed tower would not be required. (Bay 2, Q. 2)
45. The maximum power density of radio frequency emissions from the operation of Cingular's, Sprint's and Cellco's antennas would be 16.4% 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. (Council Administrative Notice 12; Cingular 1, Q. 7; Cellco 1, Q. 7)

Visibility

46. Anticipated visibility of the proposed tower is depicted on Figure 1. (Cellco 2)
47. The proposed tower would be visible year-round from 0.25 miles of Southeast Road, approximately 0.5 miles west of the site. Two residences are located in this area. An additional four residences on Southeast Road would have seasonal views. (Council Administrative Notice 12; Cellco 2)
48. The proposed tower would be visible from two homes in a residentially developed section of Stedman Road, approximately 1.1 miles north of the site. (Council Administrative Notice 13; Cellco 2)
49. The upper portion of the proposed tower would be visible year-round from three separate locations along Route 202 ranging in length from 0.1 miles to 0.3 miles. Route 202 is approximately 0.25 miles north of the site at its nearest point. Route 202 in this area of New Hartford is a state-designated scenic road. (Cellco 2)

50. The proposed tower would be visible from Browns Corner Park, a Town park containing ballfields located approximately 0.7 miles north of the site. (Council Administrative Notice 12; Cellco 2)
51. The proposed tower would not be visible from the Tunxis Trail, a public hiking trail maintained by the Connecticut Forest and Park Association (CFPA). The nearest portion of the Tunxis Trail to the tower site is approximately 230 feet to the east. Forest cover exists between the proposed site and the trail. (Council Administrative Notice 12; Cellco 2)
52. The proposed tower would be seasonally visible from the Rome Spare Outlook approximately 1.3 miles north of the site. The outlook is a prominent viewpoint on the Valley Outlook Trail, a trail maintained by the CFPA in the Nepaug State Forest. (Council Administrative Notice 13; Cellco 2)
53. The proposed tower would not be visible from Indian Hills Drive, a residential street approximately 0.5 miles south of the site, or from County Lane and Freedom Drive, residential streets approximately two miles east of the site. The tower would also not be visible from the proposed Sweetheart Mountain subdivision, approximately two miles east of the site. (Council Administrative Notice 12, Council Administrative Notice 13; Tr. 1, pp. 32-33; 57-59)
54. The tower would be visible from a clearing within preserved open space along Southeast Road approximately 0.4 miles northwest of the site. The open space parcel is not open to the public. (Council Administrative Notice 12)

Cellco - Existing and Proposed Wireless Coverage

55. Cellco operates at a minimum signal level threshold of -85 dBm and in the 1900 MHz frequency band. Cellco is licensed to provide only PCS service in Litchfield County, Connecticut and will offer only PCS service at the proposed site. (Cellco 1, Q. 2)
56. Cellco has identified a 2.2-mile gap on Route 202 in New Hartford between existing Cellco facilities in New Hartford and Canton (refer to Figure 2). (Cellco 1, Q. 4)
57. Installing antennas at 160 feet agl would provide Cellco with approximately 2.0 miles of coverage on Route 202. Continuous coverage would be attained between the proposed site and the adjacent Canton site to the east (refer to Figure 3). An approximate 0.2-mile coverage gap would remain between the proposed site and the adjacent New Hartford site to the west. (Council Administrative Notice 12; Cellco 1, Q. 5)

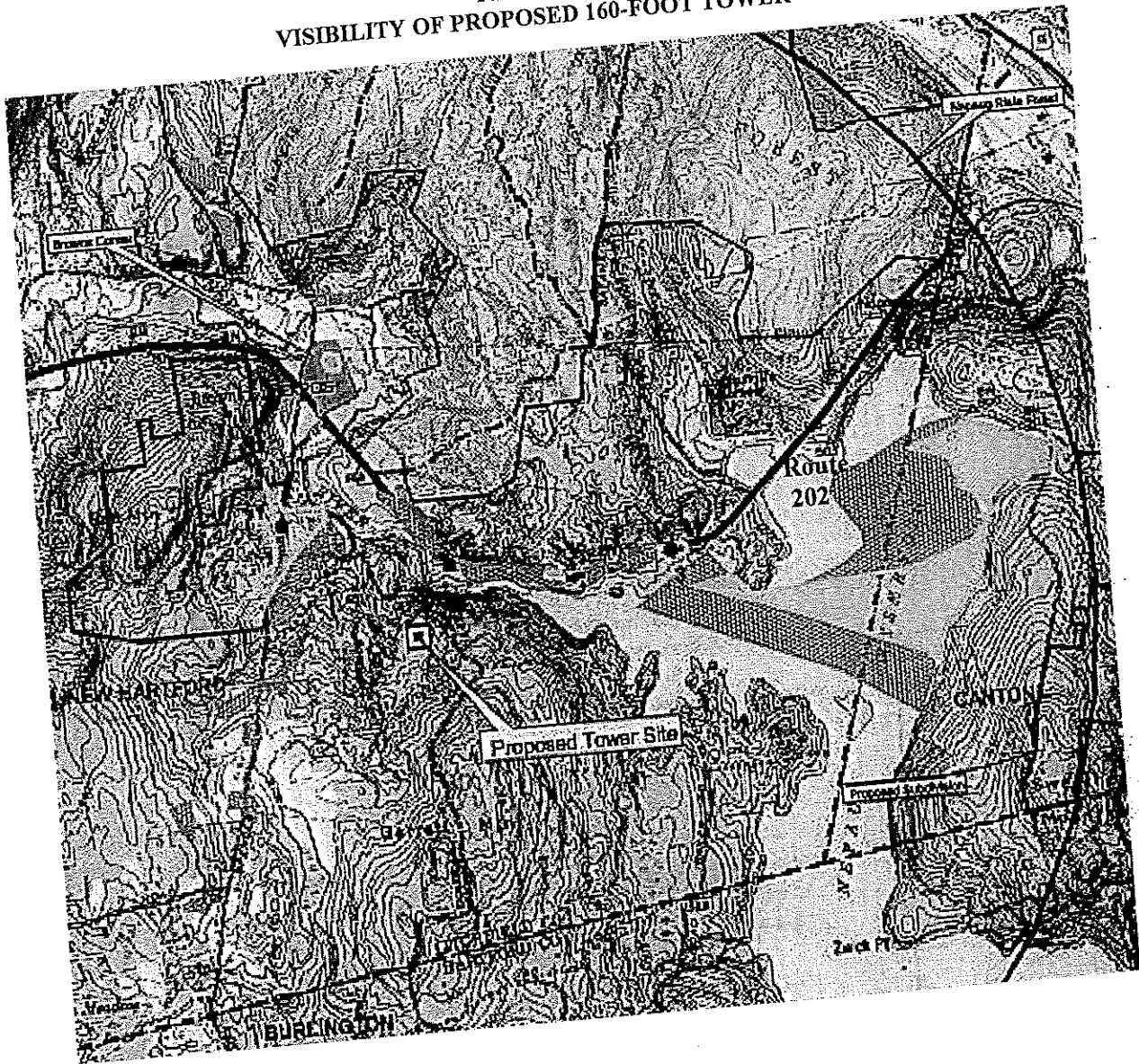
Sprint - Existing and Proposed Wireless Coverage

58. Sprint operates at a minimum signal level threshold of -94 dBm and in the 1900 MHz frequency band. (Council Administrative Notice 12)
59. Sprint has identified a 2.0-mile gap in coverage on Route 202 between existing Sprint facilities in New Hartford and Canton (refer to Figure 4). (Council Administrative Notice 12)
60. Sprint is requesting a minimum antenna height of 150 feet agl. Installing antennas at 150 feet agl would provide coverage to 1.9 miles of the identified gap. A 0.1-mile gap in coverage would still occur where Route 202 crosses the northern extension of the Nepaug Reservoir on a causeway (refer to Figure 5). A signal level of -96 dBm is expected in the gap area, which could result in dropped calls during high call traffic periods. Sprint would install a repeater in this area if necessary. (Council Administrative Notice 12)

Cingular - Existing and Proposed Wireless Coverage

61. Cingular's service design operates at a minimum signal level threshold of -85 dBm, sufficient for in-vehicle coverage. Cingular is licensed to operate in the 800 MHz and 1900 MHz frequency bands. (Cingular 1, Q. 1; Q. 2)
62. Cingular plans to install 800 MHz and 1900 MHz equipment at this site. (Cingular 1, Q. 2)
63. A 2.5 mile gap in coverage, defined as < -95 dBm at a frequency of 1900 MHz, exists on Route 202 between Cingular facilities east and west of the site (refer to Figure 6). (Cingular 1, Q. 4)
64. Installing 800/1900 MHz dual band antennas at 140 feet agl at the proposed site would provide continuous coverage on Route 202 between existing Cingular facilities east and west of the site (refer to Figure 7). (Cingular 1, Q. 5)

FIGURE 1
VISIBILITY OF PROPOSED 160-FOOT TOWER



LEGEND

- Proposed Tower Location (Includes area of visibility approximately 500 feet around facility)
- Photopoint Locations - June 7, 2002
- Balloon visible above trees
- ▨ Anticipated seasonal visibility
- ▨ Year-round visibility (approximately 118 acres)
- ≡ Scenic Roads (Local and/or State designated)
- ≡ Tunxis Trail (CT Blue Blaze)
- ≡ Tipping Rock Trail (Nepaug State Forest)
- ≡ Valley Outlook Trail (Nepaug Trail)

FIGURE 2
CELLCO - EXISTING COVERAGE

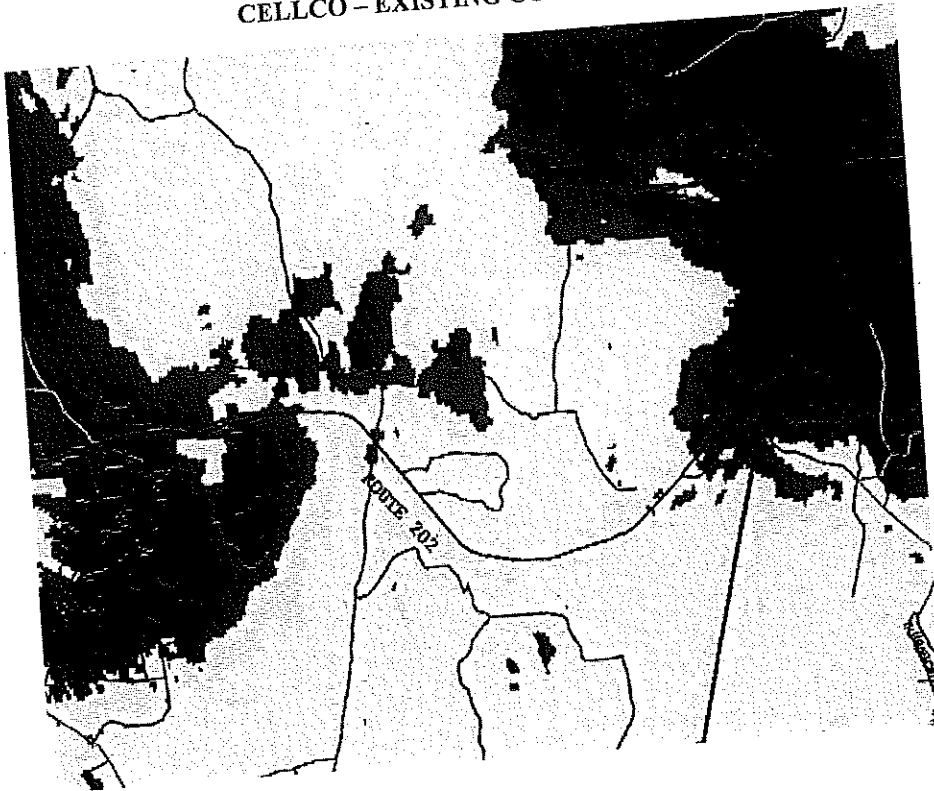
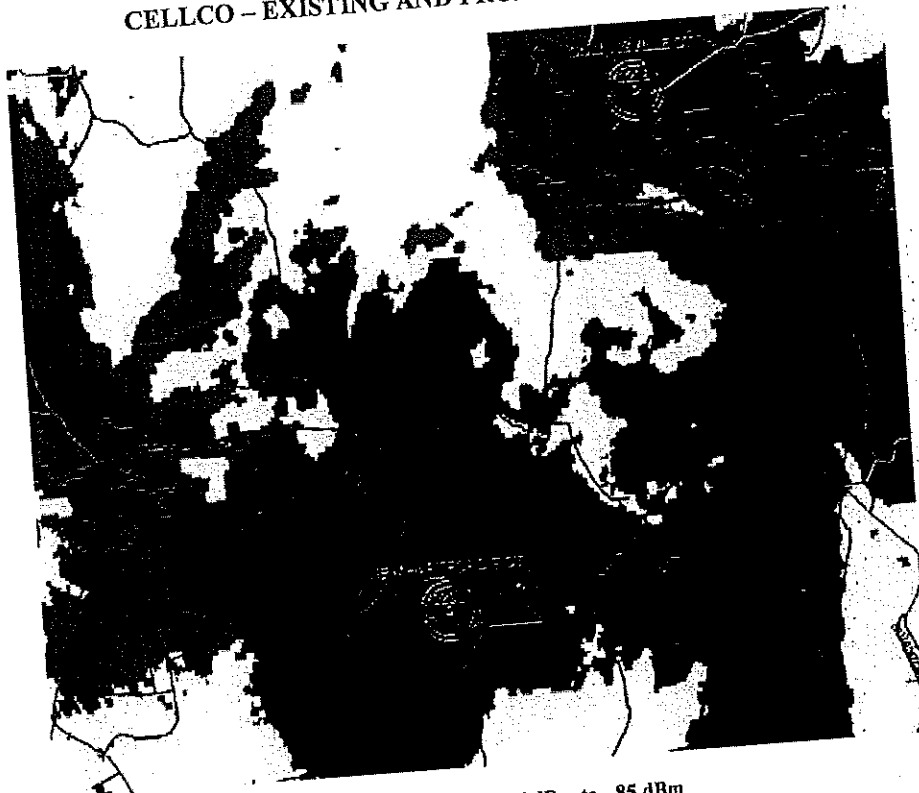


FIGURE 3
CELLCO - EXISTING AND PROPOSED COVERAGE



Green designation: -76 dBm to -85 dBm
Orange designation: -75 dBm

FIGURE 4
SPRINT - EXISTING COVERAGE

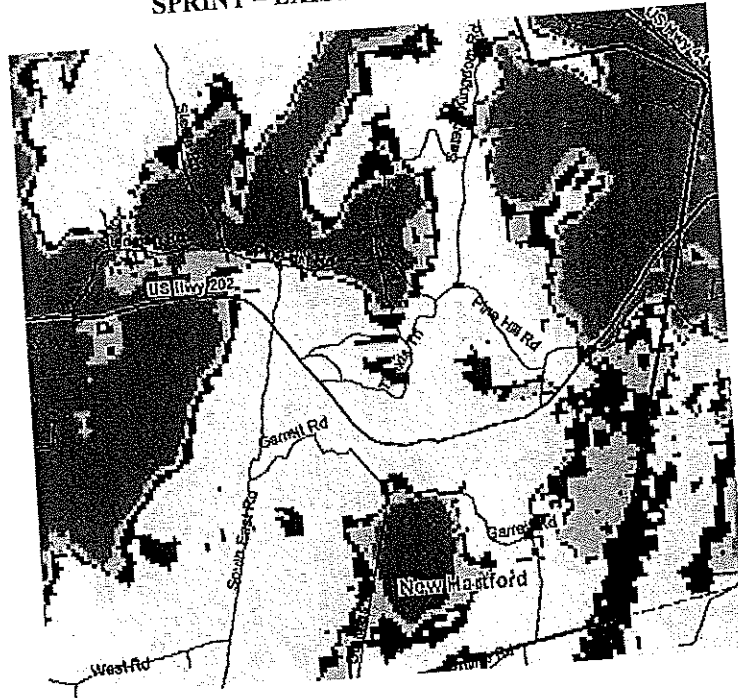
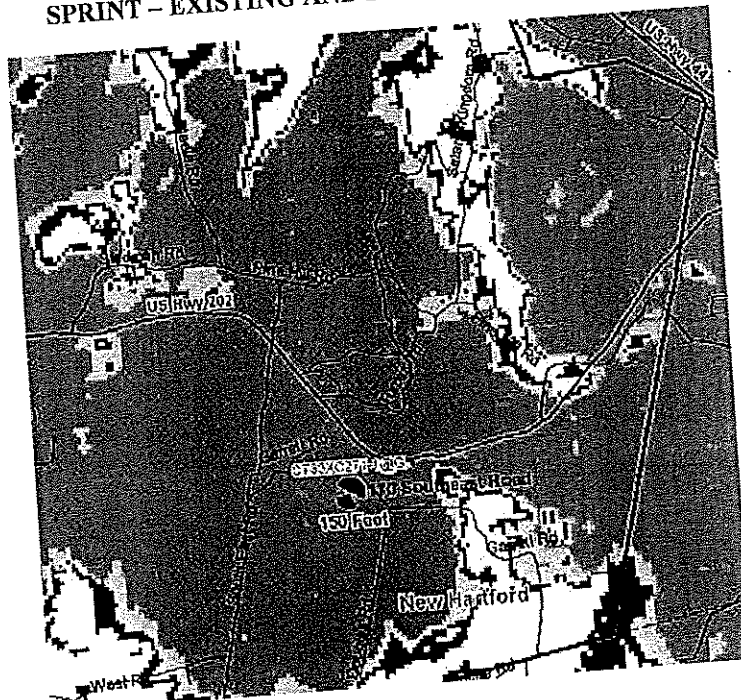


FIGURE 5
SPRINT - EXISTING AND PROPOSED COVERAGE



Legend




-  RSSI: > -84 dBm
-  RSSI: -84 to -89 dBm
-  RSSI: -89 to -94 dBm

FIGURE 6
CINGULAR - EXISTING 1900 MHz COVERAGE

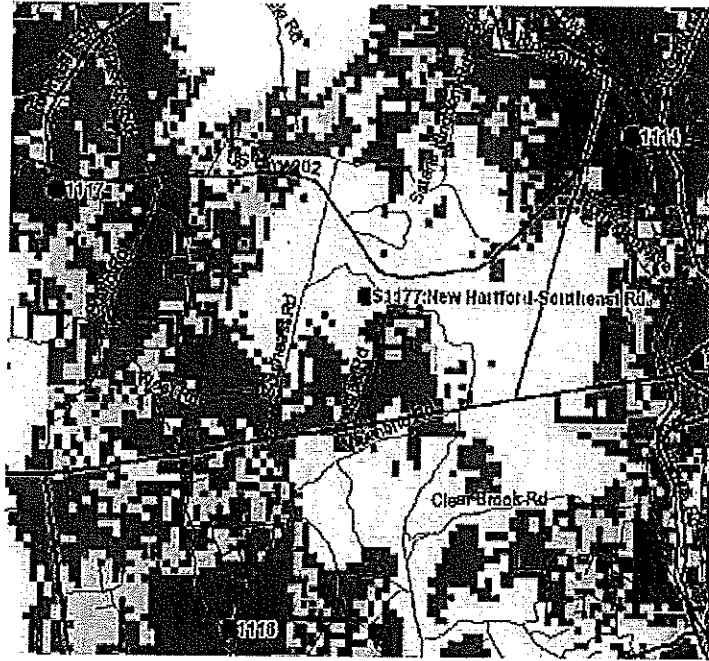
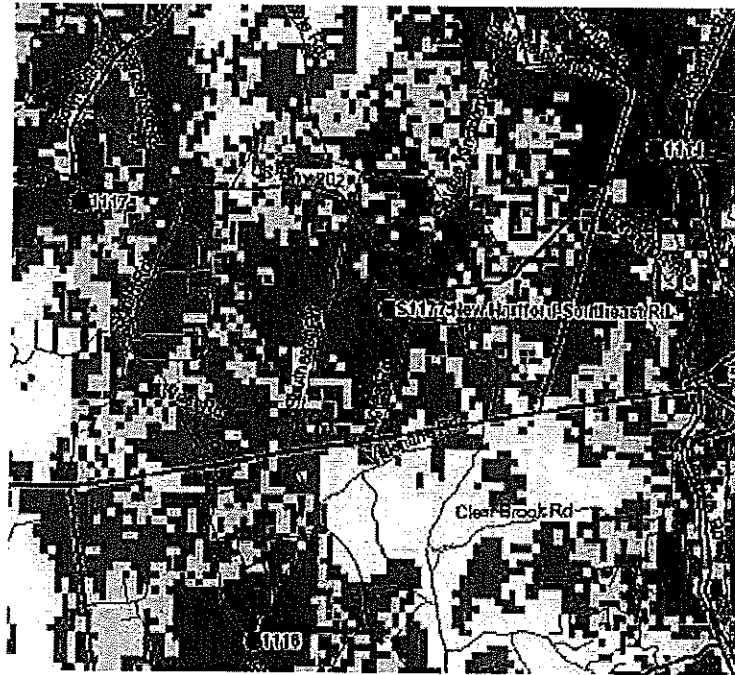


FIGURE 7
CINGULAR - EXISTING AND PROPOSED 1900 MHz COVERAGE



- On Air Site
- Proposed Site
- -75 dBm and better
- -75 dBm to -60 dBm
- -60 dBm to -40 dBm