



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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### VIA ELECTRONIC MAIL

July 19, 2019

TO: Parties and Intervenors

FROM: Melanie Bachman, Executive Director *MB*

RE: **DOCKET NO. 485** – MCM Holdings, LLC and 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 at one of two sites: 1542 Boston Post Road or at the end of Kirtland Street, Westbrook, Connecticut.

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As stated at the hearing in Westbrook on May 30, 2019, after the Connecticut Siting Council (Council) issues its draft findings of fact, parties and intervenors may identify errors or inconsistencies between the Council's draft findings of fact and the record; however, no new information, evidence, argument, or reply briefs will be considered by the Council.

Parties and Intervenors may file written comments with the Council on the Draft Findings of Fact issued on this matter by July 25, 2019.

MB/RDM/lm

Enclosure

**DOCKET NO. 485** – MCM Holdings, LLC and 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 at one of two sites: 1542 Boston Post Road or at the end of Kirtland Street, Westbrook, Connecticut.

Connecticut

Siting

Council

July 12, 2019

## **DRAFT Findings of Fact**

### **Introduction**

1. MCM Holdings, LLC and Celco Partnership d/b/a Verizon Wireless (collectively the Applicant), in accordance with provisions of Connecticut General Statutes (C.G.S.) § 16-50g, et seq, applied to the Connecticut Siting Council (Council) on April 1, 2019, for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 130-foot monopole wireless telecommunications facility at one of two proposed sites: 1542 Boston Post Road (Site A) or at the end of Kirtland Street (Site B), Westbrook, Connecticut (refer to Figure 1). (Applicant 1, p. 1)
2. MCM Holdings, LLC (MCM) is a Connecticut Limited Liability Company with offices at 40 Woodland Street, Hartford, Connecticut. MCM owns and/or operates numerous facilities in the State. MCM would construct, maintain and own the proposed facility and would be the Certificate Holder. (Applicant 1, p. 4)
3. Cellco Partnership d/b/a Verizon Wireless (Cellco) is a Delaware Partnership with an administrative office located at 99 East River Drive, East Hartford, Connecticut. Cellco is licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service to Connecticut. (Applicant 1, p. 4)
4. The party in this proceeding is the Applicant. (Transcript 1, May 30, 2019, 3:00 p.m. [Tr. 1], p. 5)
5. The purpose of the proposed facility is to permanently replace a former 121-foot tall water tank owned by the Connecticut Water Company (CWC) that supported multiple wireless service providers. The water tank, located at 1542 Boston Post Road in Westbrook, was decommissioned and demolished in 2018. (Council Administrative Notice Item No. 33; Applicant 1, p. 2)
6. Prior to demolition of the water tank, on December 7, 2017, the Council approved a Petition filed by MCM to install a 163-foot temporary monopole at the 1542 Boston Post Road property in order for the Old Saybrook Police Department (OSPD), AT&T, T-Mobile and Cellco to maintain wireless service to the surrounding area until a new, permanent wireless facility could be constructed. Neither the Council nor the petitioner had any jurisdiction or authority to request that the CWC retain the existing water tank for telecommunications purposes. (Council Administrative Notice Item No. 33)
7. Pursuant to C.G.S. § 16-50(b), on March 21, 2019, public notice of the filing of the application to the Council was published in the *Norwich Bulletin*. (Applicant 1, Tab 10)
8. Pursuant to C.G.S. § 16-50(b), on March 27, 2019, notice of the application filing was provided to all abutting property owners by certified mail. Notice was unclaimed by two abutting property owners. The Applicant resent notice to these abutters by first class mail. (Applicant 2, R. 1)

9. On March 29, 2019 and May 6, 2019, Cellco provided notice to all federal, state and local officials and agencies listed in C.G.S. § 16-50j(b). (Applicant 1, Tab 10; Applicant 2, R. 2)

#### **Procedural Matters**

10. Upon receipt of the application, on April 2, 2019, the Council sent a letter to the Town of Westbrook (Town) as notification that the application was received and is being processed, in accordance with C.G.S. § 16-50gg. (Record)
11. During a regular Council meeting on April 25, 2019, the application was deemed complete pursuant to Regulations of Connecticut State Agencies (R.C.S.A.) § 16-50j-1a and the public hearing schedule was approved by the Council. (Record)
12. Pursuant to C.G.S. § 16-50m, on May 9, 2019 the Council published legal notice of the date and time of the public hearing in the *Harbor News*. (Record)
13. Pursuant to C.G.S. § 16-50m, on April 26, 2019, the Council sent a letter to the Town to provide notification of the scheduled public hearing on May 30, 2019 and to invite the municipality to participate. (Record)
14. On May 7, 2019, the Council held a pre-hearing teleconference on hearing procedural matters for interested parties to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, filing of pre-hearing interrogatories and the logistics of the public inspection of the proposed sites. (Council Pre-hearing Conference Memorandum, dated May 8, 2019)
15. In compliance with R.C.S.A. § 16-50j-21, on May 14, 2019, the Applicant installed a four-foot by six-foot sign at both proposed sites. The signs presented information regarding the project and the Council's public hearing. (Applicant 3)
16. The Council and its staff conducted an inspection of the proposed sites on May 30, 2019, beginning at 2:00 p.m. During the field inspection, the Applicant flew four-foot diameter yellow balloons at both proposed sites to simulate the height of the proposed towers. Weather conditions during the balloon fly included overcast skies and light winds. The balloons were aloft from approximately 8:00 a.m. to 6:00 p.m. for the convenience of the public. (Council's Hearing Notice dated April 26, 2019; Applicant 1, p. 18; Tr. 1, pp. 22-23)
17. Pursuant to C.G.S. § 16-50m, the Council, after giving due notice thereof, held a public hearing on May 30, 2019, beginning with the evidentiary portion of the hearing at 3:00 p.m. and continuing with the public comment session at 6:30 p.m. at the Theresa Mulvey Municipal Center, 866 Boston Post Road, Westbrook, Connecticut. (Council's Hearing Notice dated April 26, 2019; Tr. 1, p. 1; Transcript 2, May 30, 2019, 6:30 p.m. [Tr. 2], p. 1)

#### **State Agency Comment**

18. Pursuant to C.G.S. § 16-50j (g), on April 26, 2019, the following State agencies were solicited by the Council to submit written comments regarding the proposed facility: Department of Energy and Environmental Protection (DEEP); Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Agriculture (DOAg); Department of Transportation (DOT); Connecticut Airport Authority (CAA);

Department of Emergency Services and Public Protection (DESPP); and State Historic Preservation Office (SHPO). (Record)

19. The Council received a response from the DOT's Bureau of Engineering and Construction on May 15, 2019 indicating that an encroachment permit may be required if work is conducted within a DOT right-of-way. (DOT letter received May 16, 2019)
20. The following agencies did not respond with comment on the application: DEEP, CEQ, PURA, OPM, DECD, DOAg, DPH, CAA, DESPP, and SHPO. (Record)

#### **Municipal Consultation**

21. The Applicant filed a Technical Report with the Town of Westbrook on October 18, 2018. (Applicant 1, p. 23)
22. On December 11, 2018 the Applicant appeared before the Town's Board of Selectman (BOS) to discuss the project and answer questions from Town officials and the public. (Applicant 1, p. 23)
23. On December 12, 2018, the Town First Selectman Noel Bishop submitted a letter to the Council indicating that the BOS voted to submit comments to the Council in support of a permanent telecommunications facility located at the 1542 Boston Post Road property (Site A). (Applicant 1, p. 24, Attachment 9; Record)
24. The Town Inland Wetlands and Watercourses Commission submitted comments to the Council at the May 30, 2019 hearing stating that the Commission does not have any issues with either proposed site as long as proper erosion control measures are established. (Record; Tr. 2, pp. 13-14)

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

25. 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. 4 – Telecommunications Act of 1996)
26. 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. Cellco is licensed by the FCC to provide personal wireless communication service to Connecticut. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996; Applicant 1, p. 4)
27. Section 253 of the Telecommunications Act of 1996 prohibits any state or local statute or regulation, or other state or local legal requirement from prohibiting or having the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
28. Section 704 of the Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services and from prohibiting or having the effect of prohibiting the provision of personal wireless services. This section also requires state or local governments to act on applications within a reasonable period of time and to make any denial of an

- application in writing supported by substantial evidence in a written record. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
29. Section 704 of the Telecommunications Act of 1996 also prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions, which include effects on human health and wildlife, to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
  30. In February 2009, as part of the American Recovery and Reinvestment Act, Congress directed the FCC to develop a National Broadband Plan to ensure every American has "access to broadband capability." Congress also required that this plan include a detailed strategy for achieving affordability and maximizing use of broadband to advance "consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes." (Council Administrative Notice Item No. 21 – The National Broadband Plan)
  31. Section 706 of the Telecommunications Act of 1996 requires each state commission with regulatory jurisdiction over telecommunications services to encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans, including elementary and secondary schools, by utilizing regulating methods that promote competition in the local telecommunications market and remove barriers to infrastructure investment. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
  32. In December 2009, President Barack Obama recognized cell phone towers as critical infrastructure vital to the United States. The Department of Homeland Security, in collaboration with other federal stakeholders, state, local, and tribal governments, and private sector partners, has developed the National Infrastructure Protection Plan to establish a framework for securing our resources and maintaining their resilience from all hazards during an event or emergency. (Council Administrative Notice Item No. 11 – Presidential Proclamation 8460, Critical Infrastructure Protection)
  33. In February 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act to advance wireless broadband service for both public safety and commercial users. The Act established the First Responder Network Authority to oversee the construction and operation of a nationwide public safety wireless broadband network. Section 6409 of the Act contributes to the twin goals of commercial and public safety wireless broadband deployment through several measures that promote rapid deployment of the network facilities needed for the provision of broadband wireless services. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012)
  34. In June 2012, President Barack Obama issued an Executive Order to accelerate broadband infrastructure deployment declaring that broadband access is a crucial resource essential to the nation's global competitiveness, driving job creation, promoting innovation, expanding markets for American businesses and affording public safety agencies the opportunity for greater levels of effectiveness and interoperability. (Council Admin Notice Item No. 22 – FCC Wireless Infrastructure Report and Order; Council Admin Notice Item No. 12 – Presidential Executive Order 13616, Accelerating Broadband Infrastructure Development)

35. Pursuant to Section 6409(a) of the Spectrum Act, a state or local government may not deny and shall approve any request for collocation, removal or replacement of equipment on an existing wireless tower provided that this does not constitute a substantial change in the physical dimensions of the tower. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012; Council Administrative Notice Item No. 22 – FCC Wireless Infrastructure Report and Order) (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012; Council Administrative Notice Item No. 23 – FCC Wireless Infrastructure Report and Order)
36. According to state policy, if the Council finds that a request for shared use of a facility by a municipality or other person, firm, corporation or public agency is technically, legally, environmentally and economically feasible, and the Council finds that the request for shared use of a facility meets public safety concerns, the Council shall issue an order approving such shared use to avoid the unnecessary proliferation of towers in the state. (C. G. S. §16-50aa)
37. On April 26, 2019, the Council sent correspondence to other telecommunications carriers requesting that carriers interested in locating on the proposed facility in the foreseeable future to notify the Council by May 23, 2019. No carriers responded to the Council's solicitation. (Record)

#### Site Selection

38. MCM established a search area in the Westbrook area in September 2016 after the CWC indicated it intended to demolish its existing water tank located at 1542 Boston Post Road. The water tank supported three commercial wireless carriers and an OSPD communication antenna. (Applicant 1, Attachment 2; Council Administrative Notice Item No. 33)
39. The site search focused on properties in the area around the water tank that had similar ground elevations in order to maintain the existing established wireless carrier networks and to minimize the height of the tower to the extent feasible. (Applicant 1, pp. 14-15, Attachment 2)
40. The Applicant investigated 12 locations in the area around the water tank and obtained preliminary lease agreements for the two properties that are the subject of this application. The other 10 properties were examined but were not pursued since the property owners of these parcels (9 owned by Dattilo Family Holdings LLC and 1 owned by Waters Edge Realty LLC) were not interested in leasing space for a telecommunications facility. (Applicant 1, pp. 14-15, Attachment 2)
41. The Site B location was selected by the landowner (Dattilo Family Holdings LLC) who requested that the site be located in the northeast corner of the lots they own in order not to impede the possibility of future development of these parcels. (Tr. 1, pp. 19-20)
42. MCM and the CWC entered into an agreement in early 2018 to install a temporary monopole telecommunications facility adjacent to the water tank in order to provide service to the Route 1 area, residential neighborhoods, commercial areas, and along the coast of Long Island Sound. The Council approved the temporary facility in Petition 1330. (Applicant 1, Attachment 2; Council Administrative Notice Item No. 33)
43. Providing coverage to the proposed service area using a distributed antenna system, repeater, microcell or other similar types of technology is not practical or feasible given the large area of coverage needed in this area. These technologies are typically used for specific, defined coverage or capacity needs. (Applicant 1, p. 14)

### Existing and Proposed Wireless Services

#### *Cellco*

44. A permanent facility at either Site A or Site B is an integral component of Cellco's network in this area of Westbrook. Cellco's former water tank facility was established around 1998 and served as an anchor site in Cellco's network, facilitating the design of other subsequent, adjacent sites. (Applicant 1, pp. 10-11)
45. Cellco's proposed facility would provide coverage to large areas of Westbrook including residential and commercial uses along Route 1 and Route 153. (Applicant 1, pp. 10-11, Attachment 1)
46. The proposed facility would allow Cellco to continue to provide wireless services in the 700, 800, 1900, and 2100 MHz frequency bands. New 800 MHz LTE service would also be deployed. (Applicant 1, Attachment 8)
47. Cellco would install 12 panel antennas at a centerline height of 126 feet above ground level (agl) at either proposed site. (Applicant 1, p. 3)

#### *Town of Old Saybrook*

48. The OSPD used the former water tank to support an emergency communications antenna. The antenna was transferred to the top of the existing temporary tower. (Council Administrative Notice Item No. 33)
49. Mr. Michael Spera, Chief of Police and Director of Emergency Management and Homeland Security for the Town of Old Saybrook, made a limited appearance statement at the May 30, 2019 public comment session. Chief Spera spoke in favor of a new permanent facility, stating that the former water tank facility, and current temporary tower facility, is a critical component of OSPD's communications, providing service to a third of Old Saybrook. (Tr. 2, pp. 33-34)
50. MCM would relocate OSPD's existing 8-foot high whip antenna from the top of the temporary tower to the top of the proposed tower free of charge. (Applicant 1, Attachment 4; Tr. 1, p. 15)

#### *Other Wireless Providers*

51. Both AT&T and T-Mobile utilized the former water tank as a telecommunications site and both are located on the temporary tower facility. (Council Administrative Notice Item No. 33)
52. Although AT&T and T-Mobile did not request party status in the proceeding, both AT&T and T-Mobile submitted correspondence to the Applicant in support of a permanent facility at either site. The correspondence included coverage plots that demonstrated anticipated service from the proposed sites. (Applicant 6)
53. AT&T and T-Mobile intend to locate at the 116 and 106-foot level of either new tower, respectively. (Applicant 1, Attachment 4)

### Facility Description – Site A

54. Proposed Site A is located on a 0.61-acre parcel at 1542 Boston Post Road, Westbrook. (Applicant 1, pp. 2-3)

55. The parcel is in the Neighborhood Commercial District Zone and has frontage on Route 1 (Boston Post Road). Surrounding land use is residential and commercial. The Water's Edge Resort & Spa is located across the street from the site. (Applicant 1, Attachment 4; Council Administrative Notice No. 33; Tr. 1, p. 24)
56. The parcel, owned by the CWC, was previously developed with a 121-foot tall water tank that has since been decommissioned and removed. (Applicant 1, Attachment 4)
57. A 163-foot tall temporary tower is located in the southeast corner of the site, near Route 1. (Applicant 1, Tab 1; Council Administrative Notice No. 33)
58. An existing 6,405 square-foot compound area that surrounded the former water tank remains in the southern portion of the property. The compound area, enclosed by an existing six-foot tall chain link fence, contains existing ground equipment operated by Cellco, AT&T, T-Mobile and the OSPD. The ground equipment is currently connected to the antennas on the temporary tower. (Applicant 1, Attachment 4; Council Administrative Notice No. 33; Tr. 1, pp. 10, 33)
59. A new 130-foot monopole would be constructed within the footprint of the former water tank. It would be designed to support four levels of platform-mounted antennas. (Applicant 1, Attachment 4)
60. The existing configuration of the ground equipment would remain the same except for new coax/ice bridges connecting the ground equipment to the new tower. (Applicant 1, Attachment 4)
61. Site access and utilities to the equipment compound would remain unchanged. Access is from an existing gravel driveway that extends approximately 70 feet from the Boston Post Road to the compound entrance gate. (Applicant 1, Attachment 4)
62. The proposed tower site is at a ground elevation of 48 feet above mean sea level (amsl). (Applicant 1, Attachment 4)
63. There are approximately 184 residential properties within 1,000 feet of the proposed tower site. (Applicant 1, Attachment 6, Tab A)
64. The nearest residence, 26 Kirtland Street, is located approximately 180 feet north of the proposed site. (Applicant 1, Attachment 6, Tab A)
65. The nearest property line from the proposed tower is approximately 43 feet to the west at 1525 Boston Post Road. (Applicant 1, Attachment 4, Attachment 6, Tab A)
66. The nearest property line from the existing compound fence is 3 feet to the east at 1552 Boston Post Road. (Applicant 1, Attachment 4, Attachment 6, Tab A)

#### **Facility Description – Site B**

67. Proposed Site B is comprised of two parcels of land approximately 300-350 feet west of proposed Site A. The two parcels have no specific address but are identified as Map 182, Lot 003 (0.39 acre) and Map 177, Lot 122 (1.92 acres) on the Town Tax Map. (Applicant 1, p. 3, Attachment 3)



68. Both lots, and several nearby lots to the east, are owned by Dattilo Family Holdings LLC. (Applicant 1, Attachment 2, Attachment 3)
69. Lot 003 is also known as Kirtland Street, a private paved road extending north from the Boston Post Road for a distance of approximately 400 feet. Lot 122 is located east of Kirtland Street and is undeveloped. Several residences to the west of Lot 003 have leased access along Kirtland Street. (Applicant 1, Attachment 2, Attachment 3; Applicant 2, response 10)
70. The southern portion of Lot 003 (Kirtland Street) and Lot 122 is within the Neighborhood Commercial District Zone. The northern portions of both lots are within the Medium Density Residential District. The proposed tower/compound location is within the Medium Density Residential District. (Applicant 1, Attachment 3, Applicant 1d-Zoning Map)
71. Land use immediately surrounding the subject parcel consists primarily of residential, with residences along Kirtland Street and along Maple Ridge Road, approximately 125 feet north of the site. (Applicant 1, Attachment 5)
72. The proposed 130-foot tower would be located in a wooded area at the end of Kirtland Street. (Applicant 1, Attachment 5)
73. The tower would be designed to support four levels of platform-mounted antennas. (Applicant 1, Attachment 5)
74. The proposed tower site is at a ground elevation of 53 feet amsl. (Applicant 1, Attachment 5)
75. A 50-foot by 60-foot equipment compound would be located within a 4,326 square foot irregularly shaped lease area. The lease area and compound would be located on both lots that comprise the proposed facility site. (Applicant 1, Attachment 5)
76. The proposed compound would be enclosed by an eight-foot high chain link fence with a mesh size of less than two inches (anti-climb). (Applicant 1, Attachment 5)
77. Cellco would install three equipment cabinets on a 9-foot by 16-foot concrete pad within the compound. Ground equipment for AT&T (shelter), T-Mobile (cabinet), and the OSPD (cabinet) would also be installed within the compound. (Applicant 1, Attachment 5)
78. Underground utilities would be installed to the compound from an existing utility pole on Kirtland Street. (Applicant 1, Attachment 5)
79. Access to the site would be across the existing paved Kirtland Street. An approximate 70-foot long, 12-foot wide gravel drive would be constructed at the end of Kirtland Street to the proposed compound. (Applicant 1, Attachment 5)
80. Site construction would entail an approximately 5,410 square feet of ground disturbance. Improvements include 67 cubic yards of fill and 100 cubic yards of cut. (Applicant 1, Attachment 5)
81. There are approximately 157 residential properties within 1,000 feet of the proposed tower site. (Applicant 1, Attachment 6, Tab B)
82. The nearest residence, 37 Kirtland Street, is located approximately 65 feet southeast of the proposed site. (Applicant 1, Attachment 6, Tab B)

83. The nearest property line from the proposed tower is approximately 35 feet to the west at 39 Maple Ridge Road. (Applicant 1, Attachment 4, Attachment 6, Tab B)
84. The nearest property line from the proposed compound fence is 5 feet to the north and west. (Applicant 1, Attachment 4, Attachment 6, Tab B)

#### **Project Schedule and Costs**

85. Construction of the site would take approximately eight weeks. Once the proposed tower is constructed, MCM would establish a 60-day timeline for the carriers to relocate their equipment from the temporary tower to the new tower. MCM does not know if the carriers would purchase and install new equipment for use on the new tower, or simply transfer antennas to the new tower. (Applicant 1, p. 25; Tr. 1, pp. 14-15, 71-72)
86. The telecommunication carriers would be responsible for the installation of their antennas and connections to the proposed tower. The OSPD communication antenna would be relocated to the new tower, a process that would only take a few hours. (Applicant 1, p. 25; Applicant 2, R. 4; Tr. 1, pp. 14-15)
87. The estimated cost of the proposed facilities, excluding carriers costs for ground equipment antenna installation, are:

<b>MCM Cost Item</b>	<b>Site A</b>	<b>Site B</b>
Excavation/foundation(not including tree removal)	\$130,000	\$130,000
Tower/installation/grounding	\$103,000	\$103,000
Utilities	0	\$70,500
Compound/fencing	\$15,000	\$15,000
Landscaping	\$17,000	\$17,000
<b>MCM Total</b>	<b>\$265,000</b>	<b>\$335,500</b>

(Applicant 1, Attachment 6, Tab, Tab B; Tr. 1, pp. 65-66)

88. MCM would recover the cost of the facility through subleases with the telecommunication carriers that locate at the facility. Cellco would recover its installation cost through customer subscriptions. (Cellco 2, R. 4)

#### **Public Safety**

89. The Wireless Communications and Public Safety Act of 1999 (911 Act) was enacted by Congress to promote and enhance public safety by making 9-1-1 the universal emergency assistance number, by furthering deployment of wireless 9-1-1 capabilities, and by encouraging construction and operation of seamless ubiquitous and reliable networks for wireless services. (Council Administrative Notice Item No. 6 - Wireless Communications and Public Safety Act of 1999)
90. The proposed facility would be in compliance with the requirements of the 911 Act and would provide Enhanced 911 services. (Applicant 1, pp. 11-12)
91. Wireless carriers have voluntarily begun supporting text-to-911 services nationwide in areas where municipal Public Safety Answering Points support text-to-911 technology. Text-to-911 will extend emergency services to those who are deaf, hard of hearing, have a speech disability, or are in situations where a voice call to 911 may be dangerous or impossible. However, even after a carrier

- upgrades its network, a user's ability to text to 911 is limited by the ability of the local 911 call center to accept a text message. The FCC does not have the authority to regulate 911 call centers; therefore, it cannot require them to accept text messages. (Council Administrative Notice Item No. 22 – FCC Text-to-911: Quick Facts & FAQs)
92. The State of Connecticut has recently transitioned to text-to-911 and the proposed facility would be capable of supporting this service. (Applicant 1, p. 10)
93. Pursuant to the Warning, Alert and Response Network Act of 2006, "Wireless Emergency Alerts" (WEA) is a public safety system that allows customers who own certain wireless phone models and other enabled mobile devices to receive geographically-targeted, text-like messages alerting them of imminent threats to safety in their area. WEA complements the existing Emergency Alert System that is implemented by the FCC and FEMA at the federal level through broadcasters and other media service providers, including wireless carriers. (Council Administrative Notice No. 5 – FCC WARN Act)
94. Pursuant to CGS § 16-50p(a)(3)(G), the proposed tower would be constructed in accordance with the governing standard in the State of Connecticut for tower design in accordance with the currently adopted 2018 State Building Code. (Applicant 1, R. 5)
95. Neither proposed tower would constitute an obstruction or hazard to air navigation and would require obstruction marking or lighting. (Applicant 1, pp. 19-20)
96. The tower set back radius for both proposed facilities extends beyond the property boundaries, as follows: 87 feet for Site A and 95 feet for Site B. A tower yield point could be designed to ensure the tower does not extend onto adjacent properties. (Applicant 1, Attachment 6 tab A, Tab B; Applicant 2, R. 8)
97. The cumulative worst-case maximum power density from the radio frequency emissions from the operation Celco's proposed antennas is 29.7 percent of the standard for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, around the base of the proposed 130-foot 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 are operating at full power, all antenna channels would be operating simultaneously, and all radio transmitters are operating at full power which creates the highest possible power density levels. Under normal operation, this equipment would be not at maximum operating capacity and the radio frequency power associated with the antennas would be oriented towards the horizon, thus resulting in significantly lower power density levels in areas around the tower. Power density levels for other carriers that may locate at the facility would be provided as part of facility-related Tower Share and Exempt Modification submissions to the Council. (Applicant 1, Attachment 6, Attachment 8)

#### **Emergency Backup Power**

98. In response to two significant storm events in 2011, Governor Malloy formed a Two Storm Panel (Panel) that was charged with an objective review and evaluation of Connecticut's approach to the prevention, planning and mitigation of impacts associated with emergencies and natural disasters that can reasonably be anticipated to impact the state. (Council Administrative Notice Item No. 50 - Final Report of the Two Storm Panel)

99. Consistent with the findings and recommendations of the Panel, and in accordance with C.G.S. §16-50, the Council, in consultation and coordination with DEEP, DESPP, and PURA, studied the feasibility of requiring backup power for telecommunications towers and antennas as the reliability of such telecommunications service is considered to be in the public interest and necessary for the public health and safety. (Council Administrative Notice Item No. 32 – Council Docket No. 432)
100. Commercial Mobile Radio Service (CMRS) providers are licensed by and are under the jurisdiction and authority of the FCC. At present, no standards for backup power for CMRS providers have been promulgated by the FCC. Every year since 2006, AT&T, Sprint, T-Mobile, and Verizon have certified their compliance with the CTIA Business Continuity/Disaster Recovery Program and the Communications Security, Reliability and Interoperability Council standards and best practices to ensure network reliability during power outages. (Council Administrative Notice Item No. 26 – Council Docket No. 432)
101. Cellco has an emergency power system consisting of a diesel generator and a battery for its existing ground equipment at Site A. Although the specifics of the emergency generator are not known, typically Cellco deploys a 50 kilowatt, 200 gallon generator within an equipment shelter that could last for up to four days. (Tr. 1, pp. 16-18, 57)
102. Cellco would most likely install its own emergency power system at the proposed Site B facility. (Tr. 1, p. 59)
103. AT&T and T-Mobile have a battery for a backup power source for their existing equipment at Site A. A battery can provide several hours of emergency power. (Tr. 1, pp. 16-17, 62)
104. Specifics for emergency power have not been addressed for Site B. No generators have been proposed at this time. (Tr. 1, pp. 33-34; 58-69, 61)
105. MCM would offer to install a shared, propane-fueled generator at Site B. (Applicant 2 R. 9; Tr. 12, pp. 51-52, 59-61)
106. For carriers that do not have an on-site backup power source, arrangements are usually made to deploy mobile emergency power generators if a significant storm event is anticipated. (Tr. 1, pp. 51-52)
107. Even if an emergency power source is on-site, wireless service may still be lost if the backhaul line, typically attached to utility poles, is out of service. (Tr. 1, pp. 52-53)
108. Pursuant to R.C.S.A. §22a-174-3b, if an emergency generator is installed, it would be exempt from general air permit requirements. (R.C.S.A. §22a-174-3b)

#### Environmental Considerations

109. The Westbrook Town Center Historic District is located approximately a half-mile west of the sites. The Applicant has been consulting with the SHPO regarding the project. SHPO indicated to the Applicant that Site A was preferable. (Applicant 1, p. 18; Tr. 1, pp. 31-32)
110. The proposed facilities are within the Connecticut Coastal Management Act's (CCMA) coastal boundary. No coastal resources, as defined in the CCMA, would be adversely affected by development of either proposed facility. (Applicant 2, R. 16)

111. Neither proposed site is located within a Federal Emergency Management Agency designated 100-year or 500-year flood zone. (Applicant 1, p. 19; Applicant 2, response 16)
112. Development of Site A would not require the removal of any trees. All work would be within the existing compound or adjacent, previously disturbed areas. (Applicant 1, Attachment 4, Attachment 6; Tr. 1, p. 13)
113. Development of Site B would require the removal of 10 trees as well as shrub and understory vegetation. Clearing would occur along the property line to the north and west. (Applicant 1, Attachment 5, Attachment 6; Tr. 1, pp. 20-22)
114. According to DEEP's Natural Diversity Database, no state listed-species are known to occur at either proposed site. (Applicant 1, p. 18)
115. Connecticut is within the range of the northern long-eared bat (NLEB), a federally-listed Threatened species and State-listed Endangered species. The Applicant performed a NLEB review in accordance with procedures established by the United States Fish and Wildlife Service (USFWS). There are no known NLEB hibernacula or known maternity roost trees near the project area and thus the proposed facility is not likely to adversely impact the NLEB. (Applicant 1, Attachment 6)
116. Construction of the either proposed facility would not cause a significant disturbance to breeding birds protected under the Migratory Bird Treaty Act. The design of the proposed facilities would comply with USFWS guidelines for minimizing the potential impact of telecommunications towers to bird species. The guidelines recommend that towers be less than 199 feet tall, avoid the use of aviation lighting, and avoid guy-wires as tower supports, among others. (Council Administrative Notice Item No. 14; Applicant 1, Attachment 6)
117. The Inland Wetlands and Watercourses Act (IWWA), CGS §22a-36, *et seq.*, contains a specific legislative finding that the inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed, and the preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. (CGS §22a-36, *et seq.*)
118. The IWWA grants regulatory agencies with the authority to regulate upland review areas in its discretion if it finds such regulations necessary to protect wetlands or watercourses from activity that will likely affect those areas. (CGS §22a-42a)
119. The IWWA forbids regulatory agencies from issuing a permit for a regulated activity unless it finds on the basis of the record that a feasible and prudent alternative does not exist. (CGS §22a-41)
120. Two wetlands are in close proximity to proposed Site A, as follows.
  - a) Wetland 1 is a small, isolated depressional wetland located just north of the prior water tower's fenced compound.
  - b) Wetland 2 is a forested wetland located along the north and east sides of the site property. that drains to the north into a larger forested wetland system located off-site.No adverse impacts to these wetlands are anticipated given that proposed Site A is currently developed and construction would occur within previously disturbed areas. (Applicant 1, p. 23; Tr. 1, pp. 35-36)
121. The nearest wetland to proposed Site B is approximately 269 feet to the east. (Applicant 1, p. 23)

122. The project would be constructed in compliance with the *2002 Connecticut Guidelines for Soil Erosion and Sedimentation Control*. Silt fencing would be used to isolate the construction areas. (Applicant 1, p. 23; Tr. 1, pp. 35-36)
123. Soil mapping indicates that Site A is located on Prime Farmland Soil. The Site is disturbed and currently unsuitable for farming. Site B does not contain any Prime Farmland Soil. (Applicant 1, Attachment 6; Applicant 2, R. 17)
124. The proposed sites are not within a DEEP designated Aquifer Protection Area (APA) or a public supply watershed. The closest public drinking water resource to the proposed sites is the Westbrook APA, approximately 0.9 mile north of Site B. (Applicant 2, R. 13)
125. Operation of the proposed facility would not cause any significant noise, air, or water impacts. (Applicant 1, p. 19)
126. Site blasting is not anticipated to be necessary for construction of either site. (Applicant 2, R. 12)
127. Construction noise is exempt from the State of Connecticut Noise Control Regulations §22a-69-1.8(g), which includes, but is not limited to, "physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property." (R.C.S.A. §22a-69-1.8(g))
128. Pursuant to R.C.S.A. §22a-69-1.8, noise created as a result of, or relating to, an emergency, such as an emergency backup generator, is exempt from the State Noise Control Regulations. (R.C.S.A. §22a-69-1.8)

#### Visibility

129. The proposed sites are located on a small rise relative to their immediate surroundings. Generally, land use within the immediate vicinity of the proposed sites is a mix of commercial and institutional development along Boston Post Road and residential neighborhoods to the southeast and southwest, including beach communities associated with Long Island Sound; residences and undeveloped forested land are prevalent to the north. (Applicant 2, Attachment 7)
130. Long Island Sound is 0.25 mile to the south of the proposed sites. Both towers would be visible from the waters of Long Island Sound. (Applicant 1, Attachment 7; Applicant 2, Attachment 7)
131. Generally, both proposed towers would be visible year-round from limited areas nearly 1.5 miles to the southwest and 0.5 mile to the southeast -refer to Figures 7 and 8 for areas with visibility. The combination of relatively flat terrain, existing structures and a dense, mature tree canopy serves to reduce open views of both proposed towers from other areas. (Applicant 2, Attachment 7)
132. Coastline areas with year-round tower visibility include beach areas along Seaside Avenue approximately 1 mile to 1.5 miles to the southwest and from Salt Island Road, approximately 0.4 mile southwest of the site, where the towers would be visible from a coastal residential area across a salt marsh. (Applicant 2, Attachment 7)
133. Within a quarter-mile, Site A is anticipated to be more visible than Site B from Route 1, the Water's Edge property, and residentially developed Ripley Road, while Site B is anticipated to be more visible

than Site A from the residences on Kirtland Street and from the residentially developed Stone Hedge Road, Maple Ridge Road and Fawn Hill Drive north of the sites. (Applicant 2, Attachment 7)

134. Seasonally, when the leaves are off the deciduous trees, views of the proposed Site B tower would be possible from some of the residential properties to the north along Maple Ridge Road, Fawn Hill Drive, and Stone Hedge Road. Site A is farther away from these areas, reducing the possibility of seasonal tower visibility. (Applicant 2, Attachment 7)
135. No landscaping is proposed at either site. MCM has included landscaping within the cost estimate in anticipation that a landscape plan would be developed as part of the construction plan. (Tr. 2, pp. 10-11, 68-69)
136. There are no "blue-blazed" hiking trails maintained by the Connecticut Forest and Park Association within one-mile of the site. (Council Administrative Notice Item No. 68)
137. Pursuant to C.G.S. § 16-50p(a)(3)(F), no schools or commercial day care centers are located within 250 feet of either site. The nearest such facility is the Oxford Academy at 1393 Boston Post Road, approximately 0.3 mile to the west of both sites. The very top portion of both towers would be visible year-round from this school. (Applicant 2, Attachment 7)
138. Potential stealth tower designs were not discussed during the Town municipal consultation process. (Tr. 1, pp. 23-24)

Figure 1 – Site Location



**Legend**

-  Site A
-  Site B
-  Site Parcel Boundary
-  Approximate Parcel Boundary (CTDEEP GIS)

**Map Notes**  
Base Map Source: CT ECD 2018 Imagery  
Map Scale: 1 inch = 350 feet  
Map Date: September 2018



**Figure 1 - Site Location Map**

Proposed Wireless  
Telecommunications Facility

Site A: 1542 Boston Post Road  
Westbrook, Connecticut

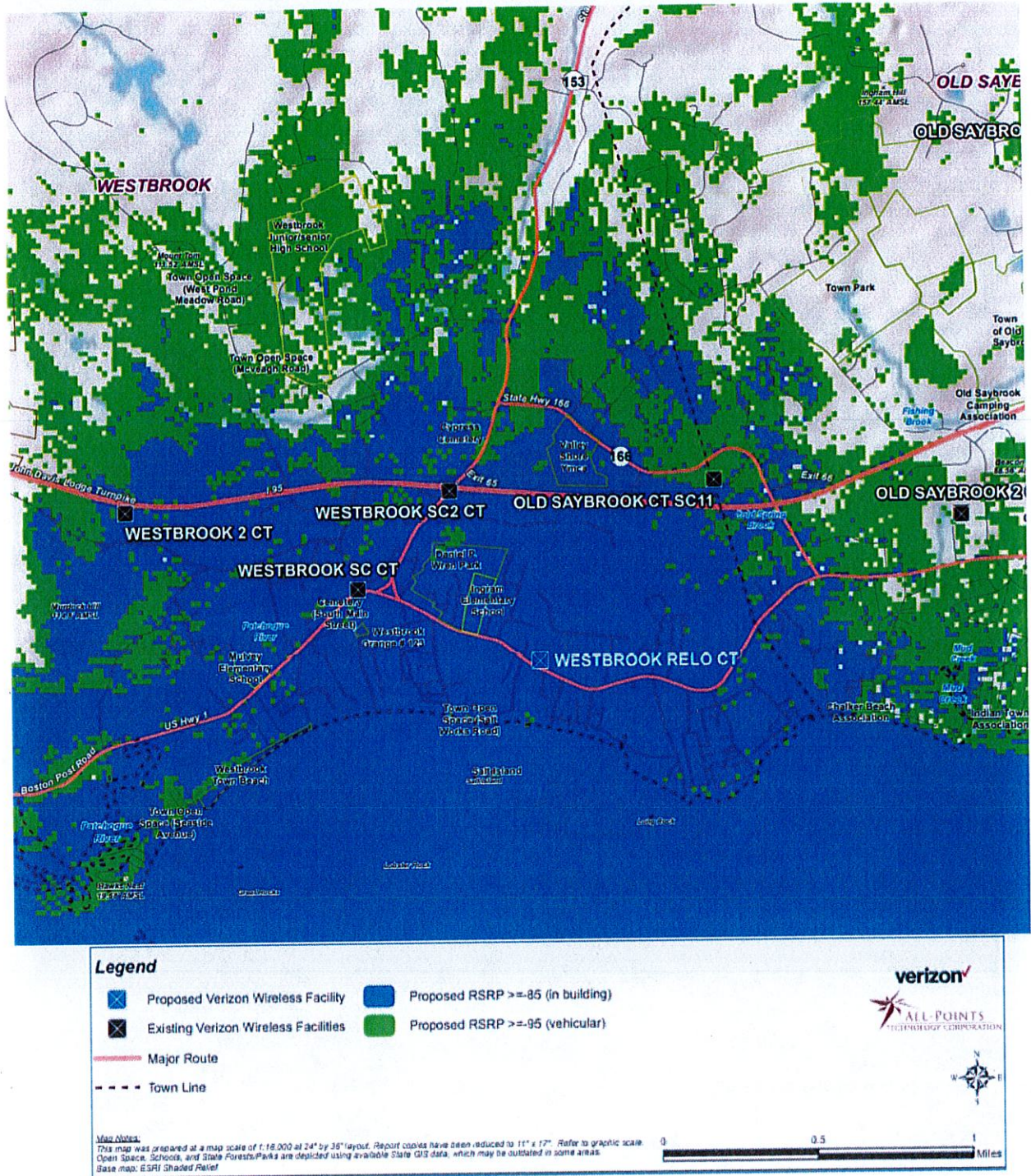
Site B: Kirtland Street  
Westbrook, Connecticut



(Applicant 2, Attachment 7)

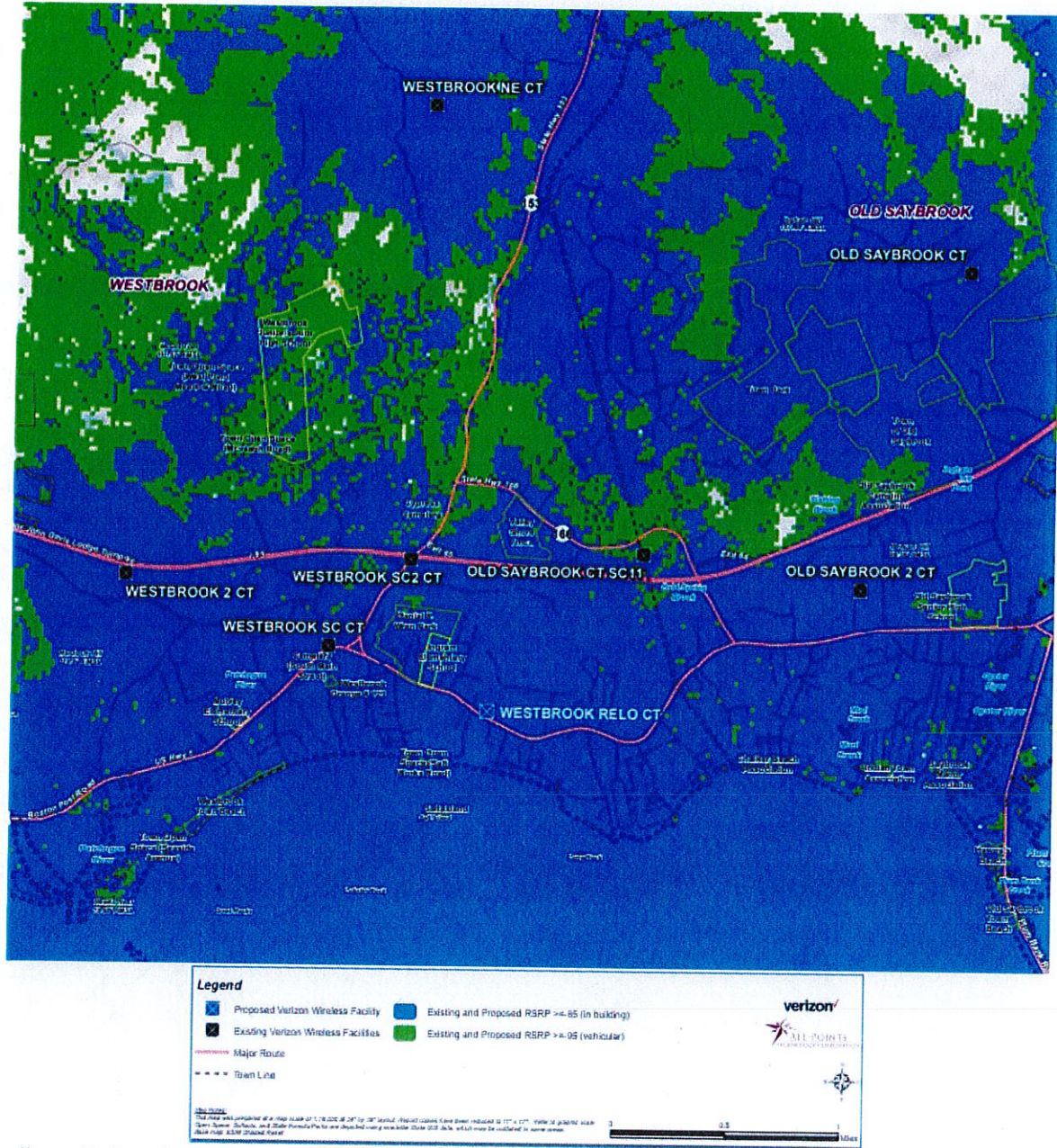


Figure 2 – Existing and Proposed LTE 850 MHz Service



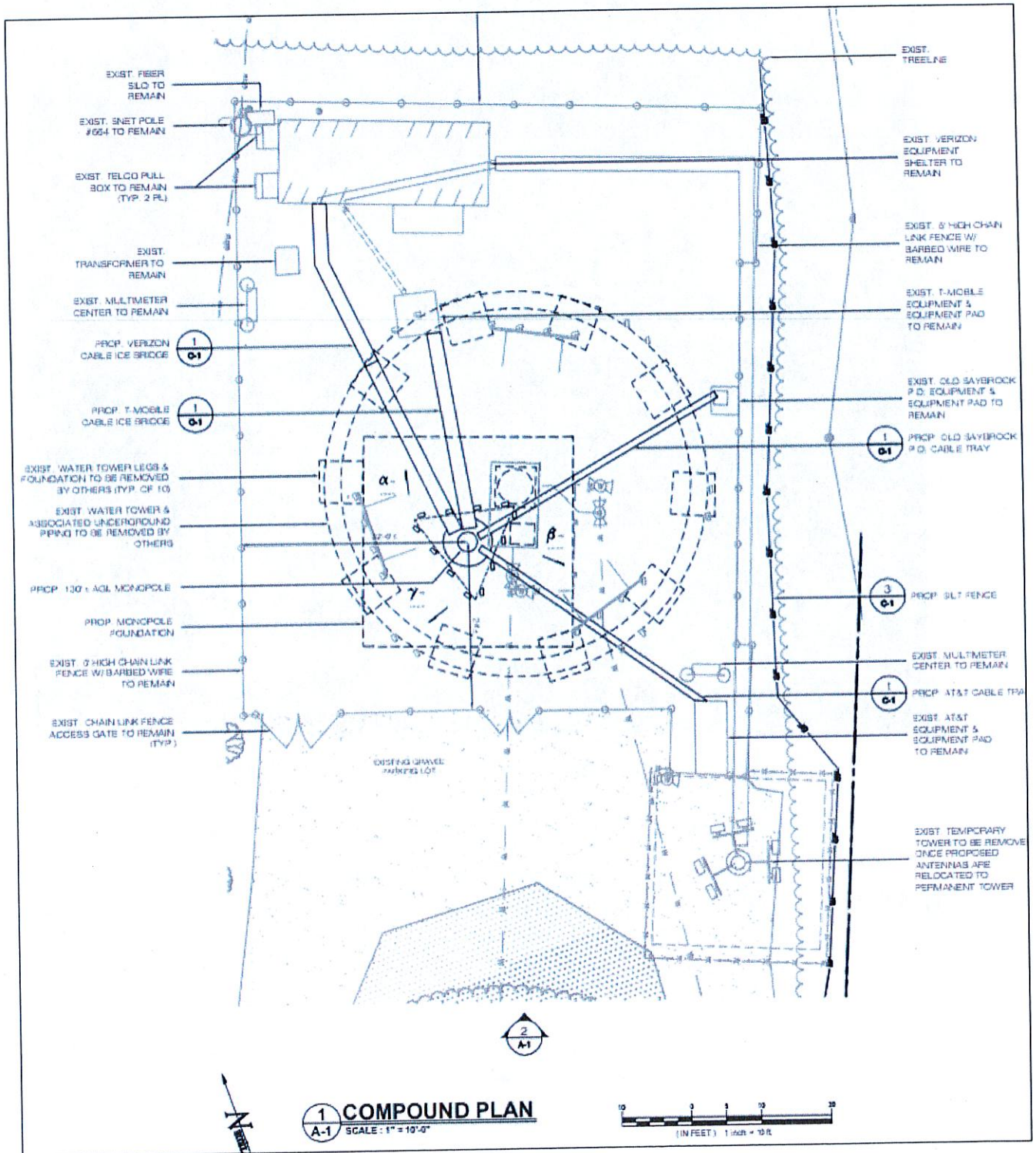
(Applicant 1, Attachment 1)

**Figure 3 - Existing LTE 700 MHz Service to be maintained with Proposed Site**



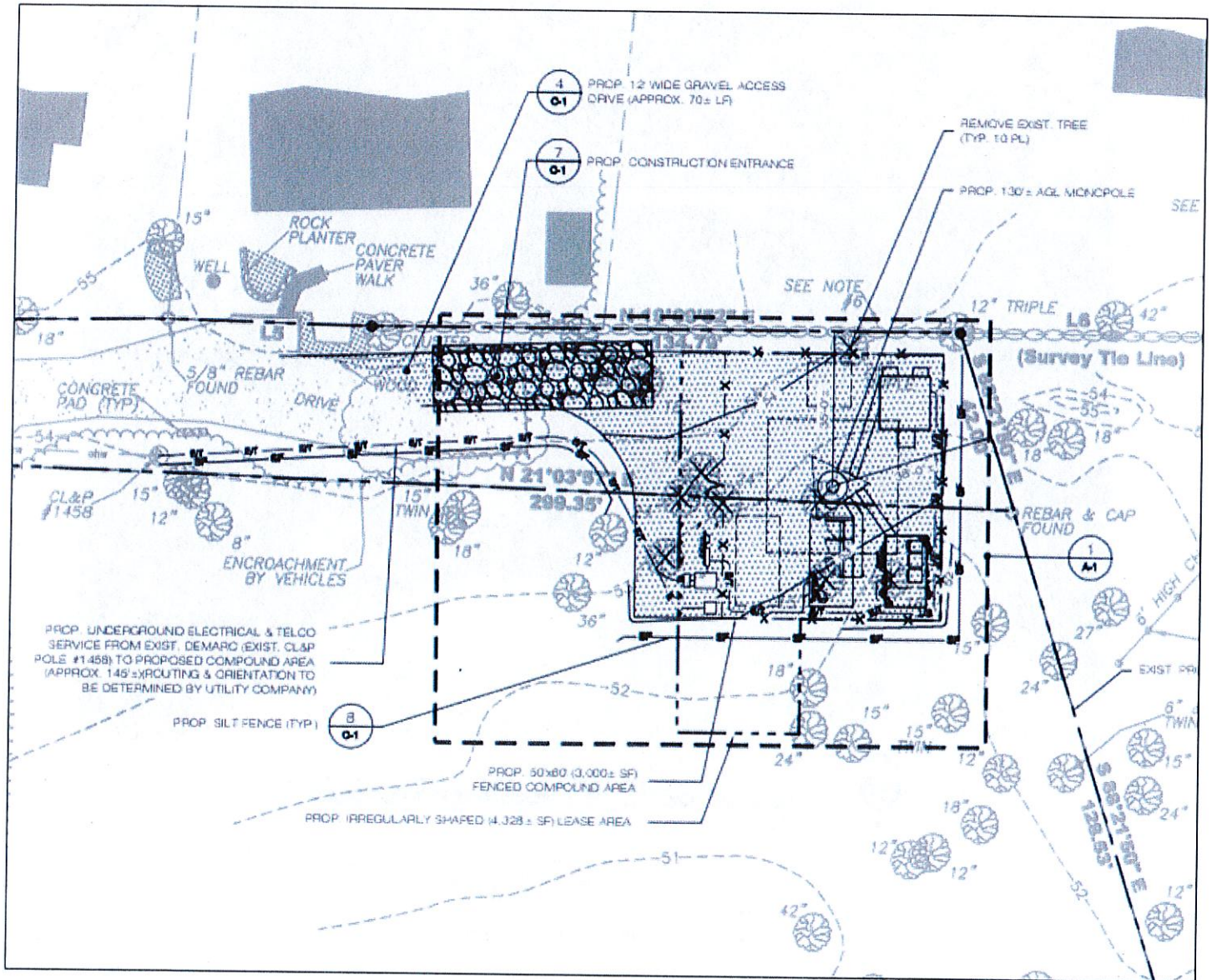
(Applicant 1, Attachment 1)

**Figure 4 – Site Plan A – 1542 Boston Post Road**  
 (No scale)



(Water tank has been removed)  
 (Applicant 2, Attachment 4)

Figure 5 – Site Plan B – Kirtland Street

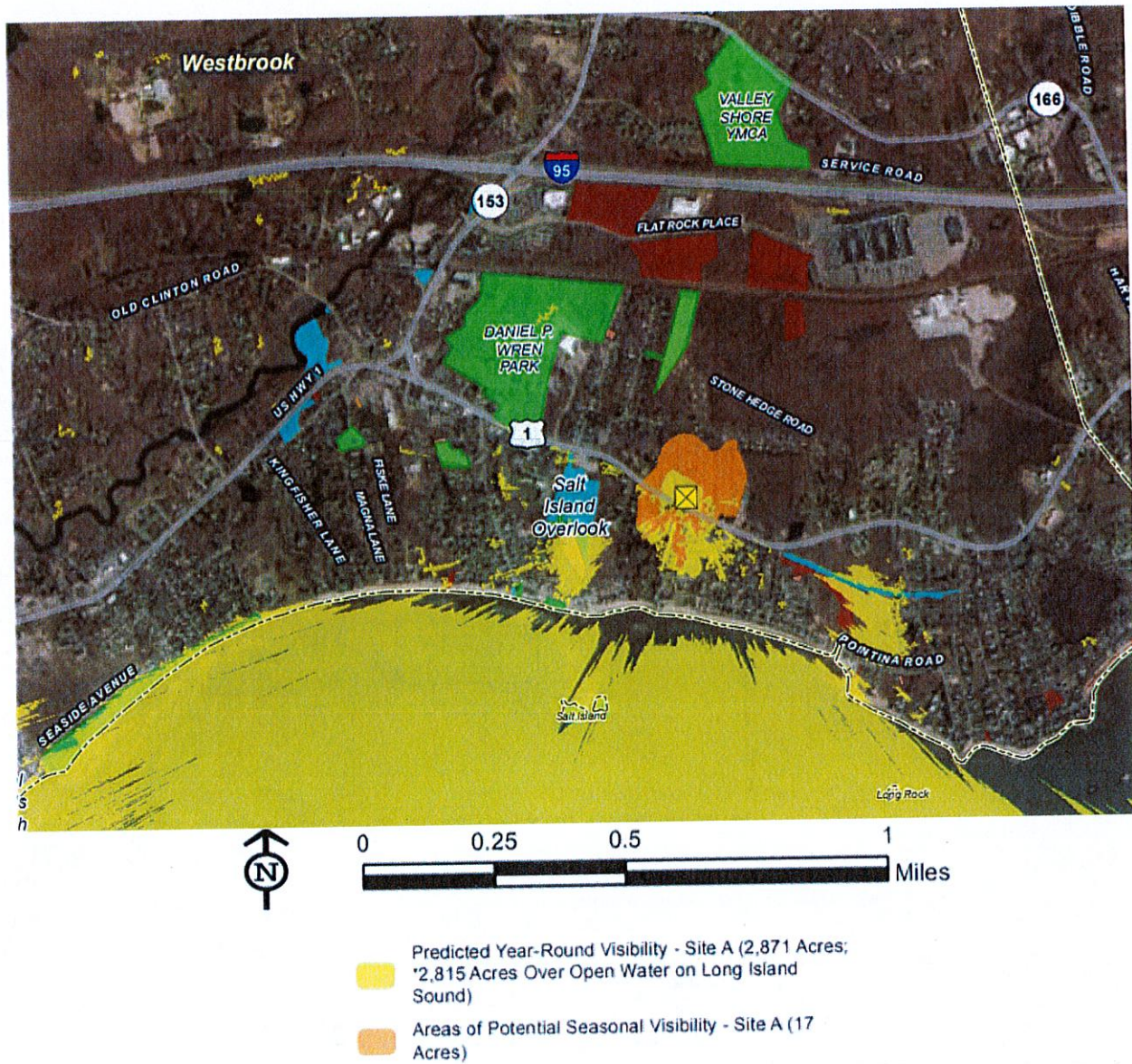


**1 PARTIAL SITE PLAN**  
 SP-1 SCALE: 1" = 20'-0"



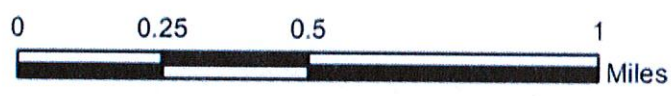
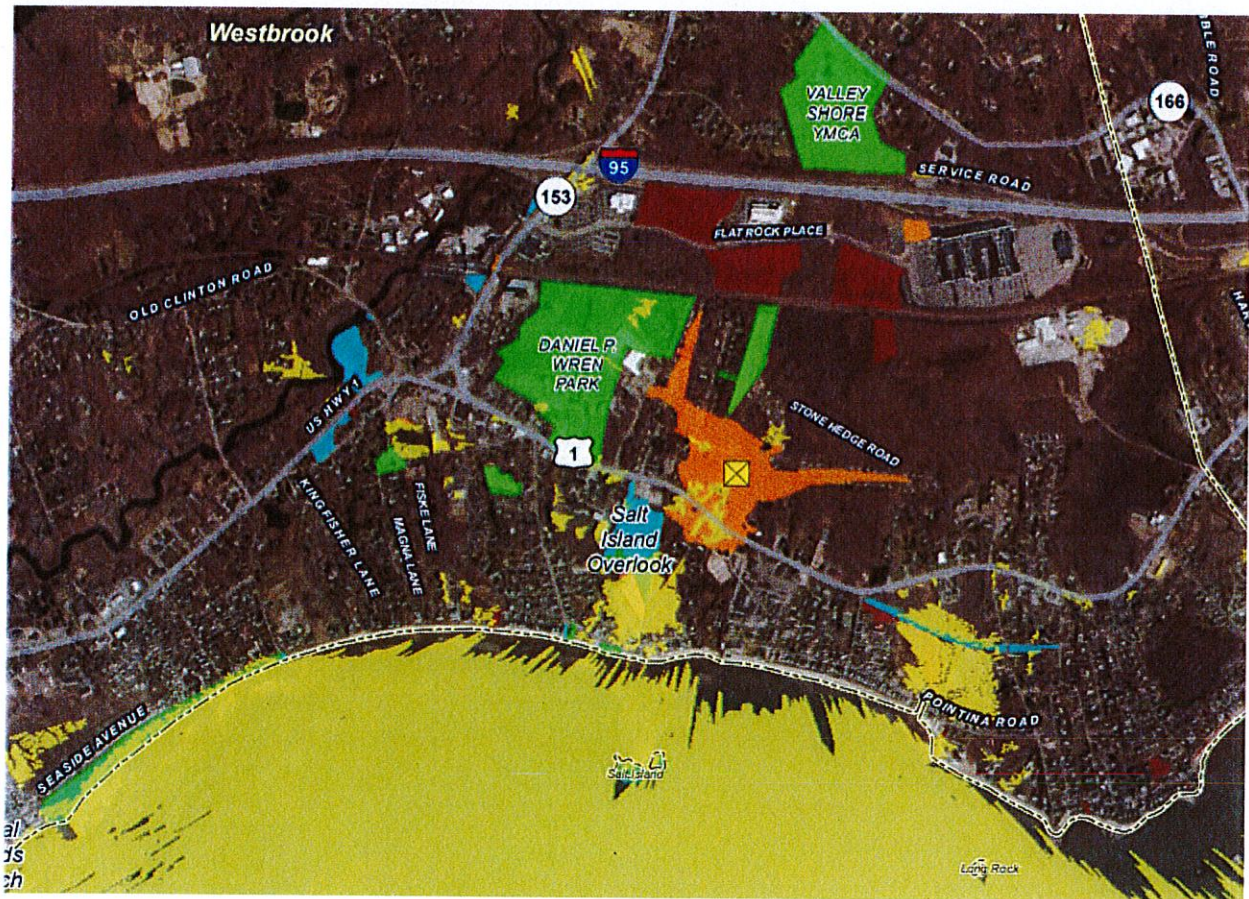
(Applicant 1, Attachment 5)

**Figure 7 – Visibility Analysis - Site A**



(Applicant 2, Attachment 7)

**Figure 8 – Visibility Analysis - Site B**



-  Predicted Year-Round Visibility - Site B (2,737 Acres  
\*2,646 Acres Over Open Water on Long Island Sound)
-  Areas of Potential Seasonal Visibility - Site B (29 Acres)

(Applicant 2, Attachment 7)