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December 28, 2017

VIA MESSENGER

Chairman William Rice and
Members of the Zoning Board of Appeals
Village of Nelsonville
258 Main Street
Nelsonville, NY 10516
Phone: (845) 265-2500

RE: Homeland Towers, LLC New York SMSA Limited Partnership d/b/a/ Verizon Wireless
and New Cingular Wireless PCS, LLC d/b/a AT&T
Proposed Public Utility Personal Wireless Telecommunications Facility

Dear Chairman Rice and Members of the Zoning Board of Appeals:

This letter is respectfully submitted on behalf of New Cingular Wireless PCS, LLC ("AT&T") in furtherance of the above captioned matter and in support of the proposed facility.

Public Benefits of Reliable Wireless Service

As this Board may appreciate, wireless communications have revolutionized the way we live, work and play. The ability to connect with one another in a mobile environment has proven essential to the public's health, safety and welfare. Just a few of the statistics regarding reliable wireless service usage illustrates how dependent the public is on reliable wireless service.

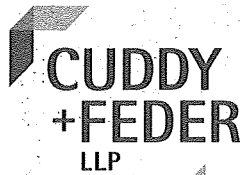
As of December 2016, there were an estimated 395.9 million wireless subscribers in the United States.¹ As of December 2015, 48.3% of households in the United States had cut the cord and were wireless only.² Wireless access has also provided a newfound form of safety. Today, approximately 70% of all 9-1-1 calls made each year come from a wireless device.³ In 2014, wireless carriers in the U.S. voluntarily supported Text-to-911, a program that allows users to send text messages to emergency services as an alternative to placing a phone call.

The U.S. Department of Health and Human Services Centers for Disease Control and Prevention ("CDC") reported in May 2017 as part of its annual reporting that the number of wireless phone

¹ CTIA's Annual Wireless Survey available at <https://www.ctia.org/industry-data/ctia-annual-wireless-industry-survey>

² CTIA's Wireless Industry Summary Report, Year-End 2015 Results available at <http://www.ctia.org/industry-data/ctia-annual-wireless-industry-survey> citing *Early Release of Estimates from the National Health Interview Survey, National Center for Health Statistics*, January – June 2015.

³ Wireless 911 Services, FCC, available at <http://www.fcc.gov/guides/wireless-911-services>



only households in the U.S. is now over 50% for the first time ever.⁴ Cord cutting (including IP based lines) and access to wireless phone services is a major trend that continues in the 12 years the CDC has tracked this data. The number of wireless phone only households goes up significantly in younger households (i.e., Generation X and Millennial households). Clearly reliable wireless services are a critical part of access to the internet and communications.

Thus, wireless carriers, such as AT&T, over time have seen the public's demand for traditional cellular telephone services in a mobile setting evolve rapidly into a requirement for anytime-anywhere wireless connectivity with critical reliance placed on the ability to send and receive, voice and text, as well as other data, images and video at broadband speeds. In short, more and more people rely on their wireless devices as their primary form of communication for personal, business and emergency needs.

AT&T's Need for the Proposed Facility

As noted in AT&T's report included in the July 19th Application submission:

The Target Area in this application includes the areas located near and along Route 301 for approximately 1.65 miles, Northeast from Route 9D to Lane Gate Road. It also includes areas along Route 9D for approximately 1.77 miles southeast from Route 301 to past Dick Castle Road; and other surrounding local roads and areas within the vicinity of the Site. In addition, AT&T collocating on the 15 Rockledge Road Facility will provide connectivity to AT&T's existing sites in the northeast, north, southeast and southwest. According to New York State Department of Transportation's Traffic Data viewer (see www.dot.ny.gov/tdv), the annual average daily traffic (AADT) for the subject part of State Route 9D is estimated at 6,232 vehicle trips, and Route 301 is estimated at 5,372 vehicle trips.

See Comprehensive Radio Frequency Report prepared by Daniel Penesso included in the Application submitted July 19, 2017. By co-locating on the Proposed Facility AT&T will be able to provide reliable wireless services to its customers living in and traveling through this portion of the Village of Nelsonville and the surrounding areas, while complying with its FCC licensing requirements and other FCC rules and regulations, and the applicable provisions of the Village of Nelsonville Code. The Proposed Facility will also support the *Public Benefits of Reliable Service* discussed above.

Conformance with the Applicable Special Permit Criteria Regarding Need

The Village of Nelsonville Zoning Code ("Code") sets forth regulations for the development of wireless communication facilities. The Code provides that wireless communication facilities, such as the one proposed here, are permitted at the proposed location subject to meeting specific criteria and obtaining special permit and site plan approvals from the Zoning Board of Appeals and Planning Board respectively. AT&T submits that this application for the proposed

⁴ See STEVEN J. BLUMBERG & JULIAN V. LUKE, U.S. DEPT OF HEALTH & HUMAN SERV., CTRS. FOR DISEASE CONTROL & PREVENTION, NATL. CTR. FOR HEALTH STATISTICS, WIRELESS SUBSTITUTION: EARLY RELEASE OF ESTIMATES FROM THE NATIONAL HEALTH INTERVIEW SURVEY, JULY-DECEMBER 2016 (2017), available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf>.



facility complies with the Code and meets the standards for site plan and special permit approvals.

With regard to its own specific need, AT&T must deploy and maintain wireless facilities in particular locations and at certain heights in order to provide reliable wireless service so as to operate a safe and adequate wireless network. Height and location are particularly important where existing vegetation and topographic constraints are prevalent in an area, such as in the Village of Nelsonville. Section 188-68(A)(1) of the Code mandates issuance of a special permit be based on "actual need". As set forth in the original Application and the record before you, AT&T previously maintained and operated a facility on Butterfield Hospital which had to be decommissioned when that property was redeveloped. When that facility was decommissioned, a critical gap in AT&T's services resulted. Accordingly, AT&T's need is well established and indeed confirmed by the Village's own radio frequency consultant dated October 23, 2017 confirming the gaps in coverage in the area.

Submissions by other parties to the Zoning Board of Appeals contend, in essence, that need for the facility should be reviewed using the legal standards developed in case law. However, the applicable standards for review of need are in fact those found in the Code. In relying on *Clear Wireless LLC v. Building Department of Lynbrook*, 2012 WL 826749 (EDNY Mar. 8, 2012) as evidence that broadband technology is not applicable to fulfilling gaps in wireless coverage, the Phillipstown Cell Solutions Group relied on arguments presented in *Clear Wireless* but are seemingly unaware that those arguments have not succeeded at the Second Circuit to survive a prohibition of service claim. See, *Orange County--County Poughkeepsie Ltd. Partnership v Town of E. Fishkill*, 632 Fed Appx 1 [2d Cir 2015] (finding that the district court properly granted summary judgment in favor of Verizon and Homeland Towers on their claim that the Town's denial of their application constituted an effective prohibition of wireless services in violation of the TCA. See also, Brief available at *Orange County--County Poughkeepsie Ltd. Partnership v Town of E. Fishkill*, 2015 WL 3827834 (C.A.2), 56. The plots included herein and the record for this application demonstrates that AT&T has a gap in coverage in the 850 MHz spectrum.



Conclusion

In light of the foregoing as well as the record provided in this matter by Verizon, the need for the facility and the ability of the proposed site to fulfill that need is substantially supported by the record. We thank the Zoning Board of Appeals for its continued review of this matter. Should you have any questions or need anything further please do not hesitate to contact me.

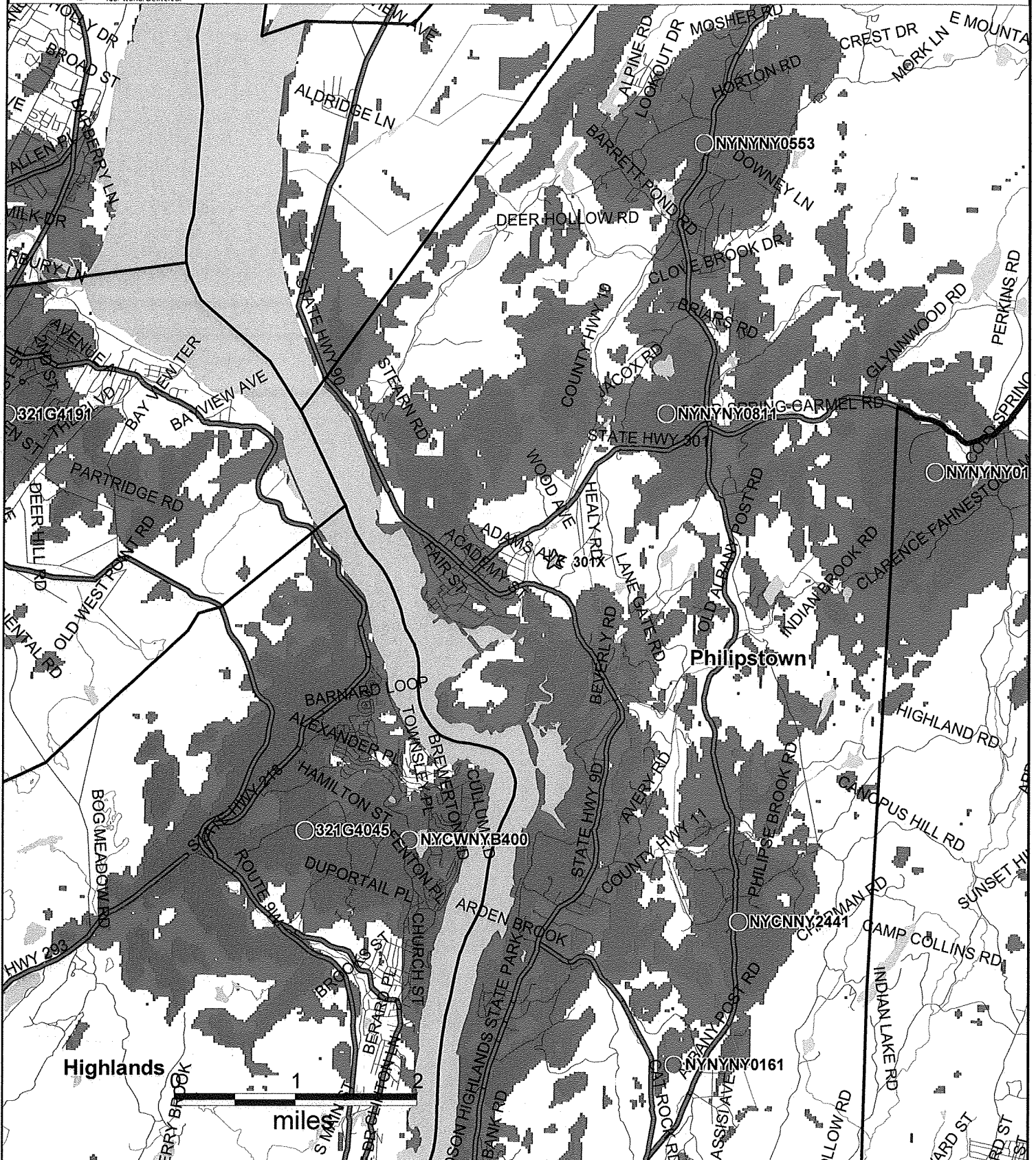
Very truly yours,

A handwritten signature in cursive script that reads "Lucia Chiocchio".

Lucia Chiocchio

Attachments

cc: Village of Nelsonville Planning Board (7 copies)
Ronald J. Gainer, P.E., Consultant for the Village
Ronald Graiff, P.E., Consultant for the Village
Robert D. Gaudioso, Esq.
Homeland Towers



Map 1
AT&T Neighboring Site Coverage

Site Number: 301X
Address: 15 Rockledge Road
Cold Spring, NY 10516

— State Rd
— Highway
— Municipal Border

850MHz LTE RSRP
■ In-Building Coverage
(-95dBm)
■ In-Vehicle Coverage
(-105dBm)

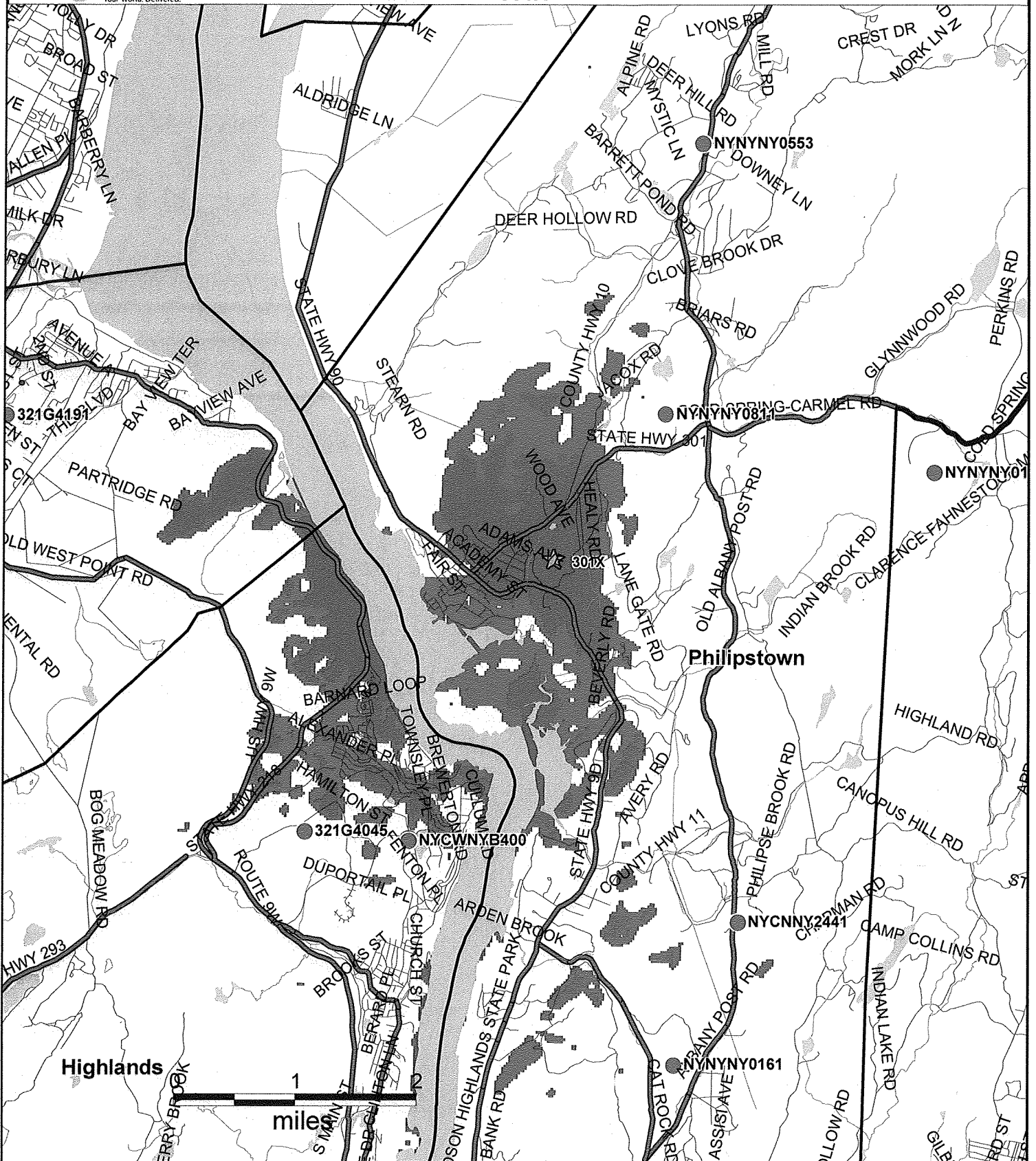
★ Proposed Site
● Existing On Air Sites

Prepared By:
Daniel Penesso
RF Engineer for AT&T
December 27, 2017



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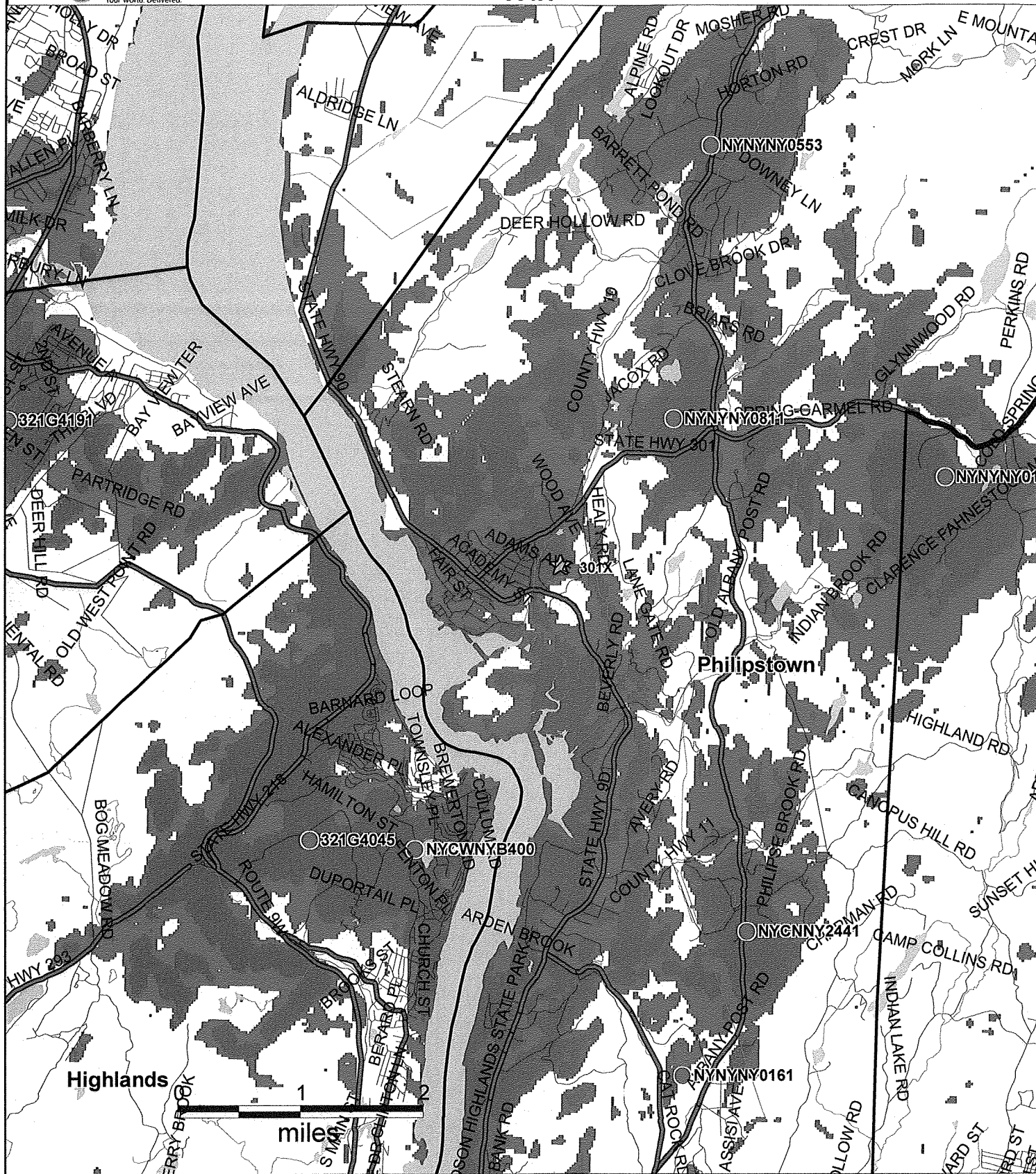




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Map 4
AT&T Composite Coverage
Antenna Centerline Height 76ft.
Site Number: 301X
Address: 15 Rockledge Road
Cold Spring, NY 10516

State Rd
Highway
Municipal Border

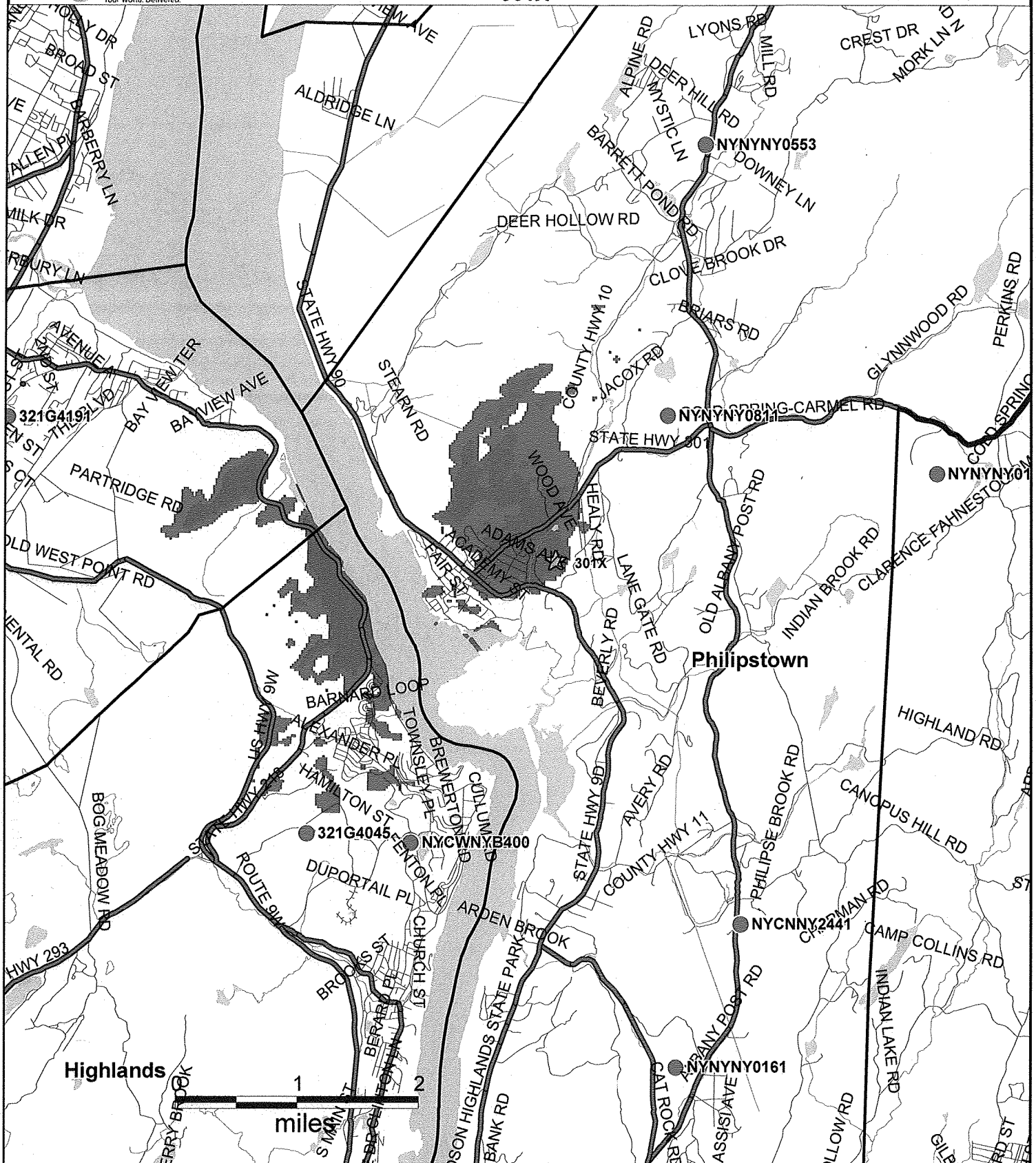
850MHz LTE RSRP
In-Building Coverage
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★ Proposed Site
● Existing On Air Sites

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December 27, 2017



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Map 5
AT&T Site Coverage
Antenna Centerline Height 76ft.
Site Number: 301X
Address: 15 Rockledge Road
Cold Spring, NY 10516

State Rd
Highway
Municipal Border

850MHz LTE RSRP
In-Building Coverage
(-95dBm)
In-Vehicle Coverage
(-105dBm)

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