

TOWN OF FRANKLIN  
INSPECTION DEPARTMENT  
Building Inspection – Division of Wires – Division of Gas  
Division of Plumbing  
MUNICIPAL BUILDING – 355 East Central Street  
Franklin, Massachusetts 02038

Lloyd (Gus) Brown  
Building Commissioner

Telephone: 508-520-4926  
FAX: 508-520-4906

**ZONING REVIEW**

**APPLICANT:** Vertex Towers, LLC

**LOCATION:** 1034 Pond Street

**ZONING DISTRICT:** SFR III

**TYPE OF PROJECT:** Construction of a Wireless Communication Facility

**DATE:** 09/17/2025      **DENY**

**Variance**

**ZONING BY LAW SECTIONS:** Article III Section 185-44(B) and 185-44(D) Use Restrictions, Article III Section 185 Attachment 9 Schedule of Lot, Area, Frontage, Yard and Height Requirements

**REASON FOR DENIAL:** Applicant is seeking to construct a wireless communication facility, consisting of a 100' monopole tower ( 104' to the highest appurtenance) within a 35'x60' fenced in compound that is less than 30' to the rear yard setback requirement. The building permit is denied without a Variance from the ZBA.

**APPEAL OF DENIAL OPTIONS:**

**ZONING BOARD OF APPEALS**

**APPLICANT SIGNATURE** \_\_\_\_\_ **DATE**

**ZONING OFFICIAL SIGNATURE** LAB \_\_\_\_\_ **09/17/2025** \_\_\_\_\_  
\_\_\_\_\_  
**DATE**

TOWN OF FRANKLIN  
ZONING BOARD OF APPEALS

Municipal Building  
355 East Central Street  
Franklin, MA 02038  
508-520-4926

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TOWN OF FRANKLIN

SEP 22 2025

ZONING BOARD OF APPEALS

TOWN OF FRANKLIN  
TOWN CLERK

2025 SEP 22 A 9:54

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ZBA APPLICATION FORM  
GENERAL INFORMATION

The undersigned hereby petitions the Zoning Board of Appeals for the following:

Special Permit: \_\_\_\_\_ Variance: X Appeal: \_\_\_\_\_

PETITIONER: Vertex Towers, LLC

PETITIONER'S ADDRESS: c/o Parisi Law, 225 Dyer St, Providence, RI 02903 PHONE: 401-447-8500

LOCATION OF PROPERTY: 1034 Pond Street, Franklin, MA

TYPE OF OCCUPANCY: wireless communications ZONING DISTRICT: Single Family III

ASSESSORS MAP & PARCEL: 222-044-000-000

REASON FOR PETITION:

- |  |                     |
|--|---------------------|
| _____ Additions                                      | _____ New Structure |
| _____ Change in Use/Occupancy                        | _____ Parking       |
| _____ Conversion to Addi'l Dwelling Unit's           | _____ Sign          |
| _____ Dormer   | _____ Subdivision   |
| <u>X</u> Other: <u>Use and Dimensional Variances</u> |                     |

DESCRIPTION OF PETITIONER'S PROPOSAL:

Vertex Towers, LLC requires Use and Dimensional Variances to permit construction of a wireless communications facility in the SFIII Zoning District, consisting of a 100' tall monopole tower (104' to top of highest appurtenance) on which Verizon Wireless and other carriers will co-locate antennas and place ground based telecommunications equipment within an approximately 35' x 60' fenced in compound that is less than the 30' rear yard setback requirement

SECTIONS OF ZONING ORDINANCE CITED:

Article III Section 185-44(B) and 185-44 (D) Use Restrictions

Article III Section 185 Attachment 9 - Schedule of Lot, Area, Frontage, Yard and Height Requirements

Article III Section 185 Attachment 9 - Schedule of Lot, Area, Frontage, Yard and Height Requirements

Applicants for a Variance must complete Pages 1-5

Applicants for a Special Permit must complete Pages 1-4 and 6

Applicants for an Appeal to the ZBA pursuant to Zoning Bylaw section 185-45 (D) must attach a statement concerning the reasons for the appeal

Original Signature(s): \_\_\_\_\_

(Petitioner(s)/Owner)

**Vertex Towers, LLC By: Francis D. Parisi, Esq. Authorized Agent**

(Print Name)

Address: c/o Parisi Law, 225 Dyer St. Providence, RI 02093

Tel. No.: 401 447-8500

E-Mail Address: fparisi@plapc.com

Date: September 8, 2025

# PLAPC

PARISI LAW ASSOCIATES, P.C.

## APPLICATION FOR USE AND DIMENSIONAL VARIANCES FOR WIRELESS COMMUNICATIONS SERVICE FACILITY

**Applicant:** Vertex Towers, LLC  
**Site Id:** VT-MA-0124A  
**Property Address:** 1034 Pond Street, Franklin, MA 02038  
**Tax Assessors:** 222-044-000-000  
**Property Owner:** Veterans of Foreign Wars, Franklin Post #3402  
**Date:** September 9, 2025

1. Zoning Board Application for Variance
2. Filing Fees
3. Abutters List (requested)
4. Letter of Authorization
5. Project Narrative
6. TOWAIR (FAA Analysis re No Hazard to Air Navigation)
7. Affidavit of Radio Frequency Engineer and RF Coverage Maps
8. Affidavit of Site Acquisition Specialist and Alternatives Analysis
9. Photo of Existing Conditions
10. Site Plans

Respectfully submitted,



Francis D. Parisi, Esq.  
Parisi Law Associates, P.C.  
225 Dyer Street  
Providence, RI 02903  
(401) 447-8500 cell  
[fparisi@plapc.com](mailto:fparisi@plapc.com)

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TOWN OF FRANKLIN  
ZONING BOARD OF APPEALS

Municipal Building  
355 East Central Street  
Franklin, MA 02038  
508-520-4926

ZBA APPLICATION FORM - OWNERSHIP INFORMATION

*To be completed by OWNER, signed and returned to the Secretary of the Zoning Board of Appeals.*

I/We Veterans of Foreign Wars, Franklin Post #3402  
(OWNER)

Address: PO Box 96 Franklin, MA 02038

State that I/We own the property located at 1034 Pond Street Franklin, MA

which is the subject of this zoning application.

The record title of this property is in the name of \_\_\_\_\_

Veterans of Foreign Wars, Franklin Post #3402

\*Pursuant to a deed of duly recorded in the date 6/10/53 and 10/22/58

Norfolk County Registry of Deeds at Book 3175, Page 533 ;

and Norfolk County Registry of Deeds at Book 3678, Page 73 ;

Dedham Registry District of Land Court, Certificate No. \_\_\_\_\_ Document: \_\_\_\_\_

Veterans of Foreign Wars, Franklin Post #3402

By: **Francis D. Parisi, Esq.**  
Authorized Agent



SIGNATURE BY LAND OWNER OR  
AUTHORIZED TRUSTEE, OFFICER OR  
AGENT\*

TOWN OF FRANKLIN  
ZONING BOARD OF APPEALS

Municipal Building  
355 East Central Street  
Franklin, MA 02038  
508-520-4926

ZBA APPLICATION FORM

DIMENSIONAL INFORMATION

APPLICANT: Vertex Towers, LLC PRESENT USE/OCCUPANCY: CHR Fraternal Lodge

LOCATION: 1034 Pond Street, Franklin, MA ZONE: Single Family III

PHONE: 401 447-8500 REQUESTED USE/OCCUPANCY: wireless communications facility

		<u>EXISTING CONDITIONS</u>	<u>REQUESTED CONDITIONS</u>	<u>ORDINANCE REQUIREMENTS<sup>1</sup></u>
<u>Lot Area:</u>		<u>38450 sq ft</u>	<u>no change</u>	<u>20,000 sqft (min.)</u>
<u>Continuous Frontage:</u>		<u>180'</u>	<u>no change</u>	<u>125' (min.)</u>
<u>Size of Lot:</u>	Width	<u>180'</u>	<u>no change</u>	<u>112' (min.)</u>
	Depth	<u>180'</u>	<u>no change</u>	<u>160' (min)</u>
<u>Setbacks in Feet:</u>	Front	<u>60'</u>	<u>125'</u>	<u>40' (min.)</u>
	Rear	<u>65'</u>	<u>20'</u>	<u>30' (min.)</u>
	Left Side	<u>95'</u>	<u>121'</u>	<u>25' (min.)</u>
	Right Side	<u>35'</u>	<u>41-</u>	<u>25' (min.)</u>
<u>Building Height:</u>	Stories	<u>n/a</u>	<u>n/a</u>	<u>n/a (max.)</u>
	Feet	<u>n/a</u>	<u>116'</u>	<u>35' (max.)</u>
<u>NO. of Dwelling Units:</u>		<u>0</u>	<u>no change</u>	<u>0 (max.)</u>
<u>NO. of Parking Spaces:</u>		<u>&gt;37</u>	<u>1</u>	<u>37 (min./max)</u>

Describe where applicable, other occupancies on same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g.; wood frame, concrete, brick, steel, etc.

Presently on lot is a CHR Fraternal Lodge

Applicant proposes to build a 110' monopole (steel) tower (104' to top of highest appurtenance) on a concrete foundation

SEE FRANKLIN ZONING BYLAW ARTICLE 185, ATTACHMENT 9.

TOWN OF FRANKLIN  
ZONING BOARD OF APPEALS

Municipal Building  
355 East Central Street  
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508-520-4926

ZBA APPLICATION FORM SUPPORTING  
STATEMENT FOR A VARIANCE

*EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH ZONING BYLAW SECTION 185-45 (D) (2) (6) AND MGL 40A, SECTION 10:*

- A) A Literal enforcement of the provisions of this Zoning bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

See attached Project Narrative which accompanies this Application

- B) The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

See attached Project Narrative which accompanies this Application

- C) Desirable relief may be granted without either:

- 1) Substantial detriment to the public good for the following reasons:

See attached Project Narrative which accompanies this Application

- 2) Nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw for the following reasons:

See attached Project Narrative which accompanies this Application

**If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with your own attorney.**

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LETTER OF AUTHORIZATION

We, the undersigned, are officers of the Franklin Post # 3402 Veterans of Foreign Wars, Inc. a.k.a Veterans of Foreign Wars, Franklin Post 3402 (the "Company"). The Company owns of a certain parcel of land located on Pond Street in the Town of Franklin, Norfolk County, Massachusetts, which is depicted as Lot 44, on Assessor's Map 222, and being further described as the same real property conveyed by that certain deed recorded in Deed Book 11956 at Page 384 of the Norfolk County Registry of Deeds(the "Property").

As officers and authorized representatives of the Company, we hereby authorize Vertex Towers, LLC and any of its designated agents or assigns, to apply for all necessary municipal, state, federal and other permits necessary to accommodate the installation of a wireless telecommunication facility on the Property.

Sign: *Lawrence P. Bederian*

Lawrence P. Bederian- President

Date: 5-8 2020

Sign: *Ernest W. Carruthers Jr.*

Ernest W. Carruthers Jr.- Treasurer

Date: 5/8/2020

Sign: *Herman Anderson*

Herman Anderson-Vice President

Date: 5/8/20

Sign: *Jose L. Trevino*

Jose L. Trevino-Vice President

Date: 3/8/20

Sign: *Matthew Linehan*

Matthew Linehan- Director

Date: 5/8/20

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# PLAPC

PARISI LAW ASSOCIATES, P.C.

## APPLICATION FOR USE AND DIMENSIONAL VARIANCES FOR WIRELESS COMMUNICATIONS SERVICE FACILITY

**Applicant:** Vertex Towers, LLC  
**Site Id:** VT-MA-0124A  
**Property Address:** 1034 Pond Street, Franklin, MA 02038  
**Tax Assessors:** 222-044-000-000  
**Property Owner:** Veterans of Foreign Wars, Franklin Post #3402  
**Date:** September 9, 2025

### INTRODUCTION

The Applicant Vertex Tower Assets, LLC, a Massachusetts limited liability company (“Vertex”) is a telecommunications infrastructure developer. Vertex develops, manages and owns telecommunications facilities in strategic locations across the country. The Vertex team has been working in the industry since the industry was founded and has the experience and expertise to navigate the challenges of the most complex markets.

Vertex is sometimes herein referred to as the “Applicant”.

The Applicant’s proposed Wireless Communications Service Facility is shown on plans submitted with this Application (the “Plans”). The Applicant proposes to construct a 100’ tall monopole tower (104’ to top of highest appurtenance) at 1034 Pond Street, Franklin, MA 02038 Tax Assessors: 222-044-000-000 (the “Property”) that will structurally accommodate at least 3 wireless broadband telecommunications carriers and associated antennas, electronic equipment and cabling; and fence in the base of the tower to accommodate ground based telecommunications equipment. As shown on the Plans that accompany this Application, Verizon Wireless T-Mobile will place panel style antennas and required electronic equipment at a height of approximately 96’ (above ground level, centerline) AGL) on the tower, and will place telecommunications equipment and backup batteries inside e weatherproof cabinets to be located immediately adjacent to the base of the tower, and it is anticipated that various other telecommunications companies, including AT&T Wireless, T-Mobile and/or others will place panel style antennas and required electronic equipment at heights of approximately 86’ and 76’ (AGL, centerline, AGL) on the tower, and each will place telecommunications equipment and backup batteries inside equipment shelter(s) and/or weatherproof cabinets to be located immediately adjacent to the base of the tower. Power/telephone cabinets will be installed just outside the fenced in compound. Applicant’s Wireless Communications Service Facility is similar to the other telecommunication facilities already located in Franklin and the surrounding area and has been designed in accordance with the Town’s Bylaw as much as possible.

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The subject Property is an approximately 38,450 sq ft parcel in the Single Family III Zoning District on which there is currently fraternal (VFW) lodge and associated parking, and abuts undevelopable wetlands to the south.

The proposed Facility will be located in the Single Family III Zoning District, and not within the Wireless Communications Services Overlay District. As is evidenced by the Affidavits of Radio Frequency Engineers, the Affidavit of Site Acquisition Specialist and the supporting materials that accompany this Application, there are no existing wireless facility towers or any other structure anywhere near the proposed Facility that have the height and structural integrity to support wireless communications antennas and meet the coverage objective of the proposed Facility. Moreover, there is no land anywhere near the location of the proposed Facility within the Wireless Communications Services District. Said engineers and experts will be available to answer questions at the public hearing on this Application if necessary. Given the substantial gap in telecommunications coverage as well as the height and density of the area tree canopy and the area terrain relative to the height and structural capacity of the existing utility infrastructure as well as the technical requirements of wireless carriers, the proposed monopole Facility represents the only viable alternative to achieve the coverage objectives and satisfy all of the other requirements of the Bylaw, including facilitating site-sharing and co-location. For the reasons set forth above and herein, the Applicant respectfully requests a USE VARIANCE from § 185-44(B) to permit construction and operation of the Facility as proposed.

Because the proposed Facility will not be located in the Wireless Communications Services Overlay District, the Applicant must obtain a USE VARIANCE for the proposed Facility. Accordingly, compliance with the remainder of § 185-44 is not required. However, because the proposed Facility will be located within the Single Family III Zoning District, in which Attachment 9 to the Zoning Bylaw imposes a 35' height restriction upon all structures within said District, the Applicant also respectfully requests a DIMENSIONAL VARIANCE from the height restrictions of Attachment 9 to permit construction and operation of the Facility as proposed. In addition, the proposed fenced-in compound will be less than the required 30' setback from the rear property line; accordingly, the Applicant also respectfully requests a DIMENSIONAL VARIANCE from the rear yard setback restrictions of Attachment 9 to permit construction and operation of the Facility as proposed.

## **THE PROJECT**

Wireless telecommunications carriers are in the process of independently designing, constructing and upgrading wireless telecommunications networks to serve areas in and around the Town of Franklin. Such a network requires a grid of radio transmitting and receiving cell sites located at varying distances depending on the location of existing and proposed installations in relation to the surrounding topography. The radio transmitting and receiving facilities require a path from the facility to the user on the ground. This requires the antennas to be located in a location above the tree line where the signal is not obstructed or degraded by buildings or topographical features.

Once constructed, the proposed Facility will be unmanned and will involve only periodic maintenance visits. The only utilities required to operate the facility are electrical power as well as telephone service which are currently available at the property. The traffic generated by the facility will be one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order. These visits will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character. The Applicant's maintenance personnel will make use of the existing access roads and parking at the Property. The proposed Facility will not obstruct existing rights-of-way or pedestrian access and will not change the daily conditions of access, egress, traffic, congestion hazard, or character of the neighborhood. The installation will not require the addition of any new parking or loading spaces.

The construction of the Applicant's Wireless Communications Service Facility will enhance service coverage in the Town of Franklin and surrounding communities. The enhancement of service coverage in the Town of Franklin is desirable to the public convenience for personal use of wireless services and for community safety in times of public crisis and natural disaster. Wireless communications service also provides a convenience to residents and is an attractive feature and service to businesses. In addition, the requested use at this location will not result in a change in the appearance of the surrounding neighborhoods. The use is passive in nature and will not generate any traffic, smoke, dust, heat, glare, discharge of noxious substances, nor will it pollute waterways or groundwater. Once constructed, the facility will comply with all applicable local, state and federal safety regulations.

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Moreover and most importantly:

1. The proposed Wireless Communications Service Facility will promote and conserve the convenience and general welfare of the inhabitants of the Town of Franklin by enhancing telecommunications services within the Town.
2. The proposed Wireless Communications Service Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.
3. The proposed Wireless Communications Service Facility will preserve and increase the amenities of the Town by enhancing telecommunications services.
4. The proposed Wireless Communications Service Facility will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal and emergency uses.

Wireless service is important to public safety and convenience. As of the end of 2023 there were an estimated 492 million mobile wireless subscribers in the United States. See FCC's 2024 Communications Marketplace Report, p. 48 (December 31, 2024). There are now more wireless subscriptions than landline telephone subscriptions in the United States, and the number of landline telephone subscribers across the nation is declining each year while the number of wireless users increases. Moreover, it is forecasted that wireless connections will become more significant as network service providers facilitate increased connectivity directly between devices, sensors, monitors, etc., and their networks. *Id.*

For many Americans, wireless devices have become an indispensable replacement for traditional landline telephones. Even when Americans maintain both types of telephone service, Americans are opting increasingly to use wireless devices over their landline telephones. For Americans living in "wireless-only" homes and for those others while away from their homes, cell phones are often their only lifeline in emergencies. Approximately 98% of Americans now own a cellphone of some kind and more than 91% own smartphones; more importantly, more than 50 percent of American households are now wireless only for voice connectivity, and 15% of adults are "smartphone-only" internet users – meaning they own a smartphone, but do not have traditional home broadband service. <http://www.pewinternet.org/fact-sheet/mobile/> Approximately 80% of the millions of 911 calls made daily are placed from cell phones, and that percentage is growing. <https://www.ctia.org/the-wireless-industry/infographics-library>. The FCC's Phase II E911 rules require wireless service providers to transmit the location of a wireless 911 call, within certain parameters for accuracy. Under the FCC's rules, wireless providers are subject to increasingly stringent 911 location accuracy requirements. See <https://www.fcc.gov/general/9-1-1-and-e9-1-1-services>

**COMPLIANCE WITH SITING CRITERIA FOR  
WIRELESS COMMUNICATIONS SERVICE FACILITIES**

As noted above, the proposed Facility will be located in the Single Family III Zoning District, and not within the Wireless Communications Services Overlay District and, therefore, the Applicant must obtain a USE VARIANCE for the proposed Facility. Accordingly, compliance with the remainder of § 185-44 is not required. However, because the proposed Facility will be located within the Single Family III Zoning District, in which Attachment 9 to the Zoning Bylaw imposes a 35' height restriction upon all structures within said District, the Applicant also respectfully requests a DIMENSIONAL VARIANCE from the height restrictions of Attachment 9 to permit construction and operation of the Facility as proposed. In addition, the proposed fenced-in compound will be less than the required 30' setback from the rear property line; accordingly, the Applicant also respectfully requests a DIMENSIONAL VARIANCE from the rear yard setback restrictions of Attachment 9 to permit construction and operation of the Facility as proposed.

**CRITERIA FOR VARIANCES UNDER SECTION 185-45(d)(2)(b)**

Pursuant to Section 185-45(d)(2)(b) of the Zoning Bylaw, variances from the terms of this bylaw, including variances for use, may be authorized by the Board of Appeals with respect to particular land or structures, but only in cases where the Board finds all of the following:

1. A literal enforcement of the provisions of this chapter would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
2. The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
3. Desirable relief may be granted without either:
  - (a) Substantial detriment to the public good; or
  - (b) Nullifying or substantially derogating from the intent or purpose of this chapter.

The proposed Facility will meet all of the requirements of a Variance under Section 185-45(d)(2)(b) 9.3.2 and respectfully requests that the Zoning Board of Appeals make the requisite findings to issue the requested Variances under those and such other provisions of the Bylaw, if any, that the Board deems necessary to approve the Facility as proposed. Given technical limitations with respect to:

- (i) the location of the tower relative to the surrounding neighborhoods and other existing telecommunication sites in and around the Town of Franklin;
- (ii) the topography of the surrounding area;
- (iii) the lack of viable alternatives in the area;
- (iv) the height restrictions of the tower imposed by the Ordinance;
- (v) the Town's requirement to accommodate multiple wireless communications companies;
- (vi) the demand for robust and reliable telecommunications coverage; and
- (vii) the requirement to accommodate rapidly evolving technologies;

the Applicant requires the requested Variances to permit construction of the Facility as proposed.

As the Plans indicate, the proposed Facility has been designed to accommodate the antennas at least 3 wireless broadband co-locators. There are no existing or previously approved

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telecommunications facilities in the area of the proposed Facility, nor are there existing structures of sufficient height in the area of the proposed Facility, that will achieve the coverage objective of the proposed Facility. The Facility has been situated on the Property in such a way to achieve the objectives of the Bylaw by minimizing the visibility from abutting landowners as much as possible.

As has been shown throughout this Project Narrative, the granting of the Variances will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest. The Variances will substantially secure the objectives, standards and requirements of these regulations, and a particular hardship exists and special circumstances warrant the granting of the Waivers.

In 1996, the U.S. Congress enacted the Telecommunications Act of 1996, Pub. L. No. 104-104, § 704; 110 Stat. 56 (1996) (the "TCA"). The intent of the TCA enacted by the U.S. Congress was to institute a framework to promote competition and innovation within this telecommunications industry. Under their respective licenses from the FCC, wireless telecommunications providers are obligated to provide a reliable "product" [i.e. wireless communications service] to the population in the metropolitan Boston region, which includes the Town of Franklin. Likewise, consumer expectations for increasingly robust and reliable service requires competing service providers to identify and remedy existing gaps in reliable network coverage, or gaps that result from increasing subscriber voice and data traffic beyond the limits of existing network infrastructure. A carrier's failure to remedy network gaps in a timely fashion can result in a significant loss of subscribers to competing telecommunications carriers. The proposed Facility and corresponding relief requested are necessary to remedy a gap in reliable service coverage within the various wireless carriers' existing network infrastructure.

The Applicant has investigated alternative sites in and around the defined geographic area within which engineers determined that a facility must be located to fill the gap in service coverage and to function effectively within the network of existing and planned facilities. No existing structure or property in or near the vicinity of the proposed Facility is feasible to accommodate the coverage network requirements.

Accordingly, a literal enforcement of the provisions of the Bylaw would prevent the Applicant from eliminating an existing gap in reliable service coverage, resulting in a potential loss of subscribers and the inability to effectively compete for subscribers with FCC licensed competitors in the market, contrary to the intent of the Bylaw and the U.S. Congress in enacting the TCA.

Moreover, this hardship is owing to the circumstances relating to topography of the surrounding area. The property is a large, commercially used parcel abutting business and industrial zones and undevelopable wetlands. The surrounding area is provides no other feasible location in which to install and operate a wireless telecommunications facility. Existing structures and buildings in the area are insufficient in height to allow wireless carriers to operate thereon and provide adequate coverage to this significant gap in its network. The property provides a unique opportunity, given the existing tower as well as the location and area topography surrounding the

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Facility, to minimize any adverse visual impacts to the surrounding area. The proposed design conforms to the existing characteristics of the Property, and utilizes the existing structures on the property to screen the proposed Facility, thereby minimizing potential impacts.

The wireless communications systems being developed by the various telecommunications carriers operating in the Franklin area have been designed employing the most sophisticated radio frequency engineering methods available. Radio frequency engineers determine the placement of network points-of-presence using computer engineering models that simultaneously evaluate topography and population patterns to identify specific geographic areas to be serviced by each antenna facility in the network. As a result of this modeling, combined with actual coverage data provided by existing “on air” facilities, the carriers’ radio frequency engineers have identified a limited geographic area as a necessary location for a communications facility to remedy an existing gap in reliable service coverage in the general vicinity of the Property. Without the requested relief, there would remain a substantial “gap” in reliable service coverage in the carriers’ respective networks. Radio frequency coverage maps confirm that a telecommunications facility located at the Property is required to remedy the existing gap in the wireless network coverage in the area. The requested height has been determined by engineers to be the minimum height necessary to connect coverage from the proposed Facility with coverage from adjacent cell sites in the carriers’ respective networks (i.e. to remedy the existing “gap” in service and to effect reliable handoffs between adjacent cell sites as a subscriber travels through the area).

Additionally, the requested height will allow future carriers to co-locate on the Facility hereby minimizing the number of new facilities needed to provide coverage to the Town.

In the context of a utility service where the critical criteria in the development of each facility is its ability to integrate with a network of surrounding sites and subsequently, for each cluster of sites to function within a regional/national network, there is an underlying premise that each site chosen by the Applicant for a facility possesses a unique location and topographical characteristics.

Finally, as noted in Nextel Communications of the Mid-Atlantic, Inc. v. Town of Wayland, 231 F.Supp. 2d 396, 406-407 [D. Mass. 2002], the “need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless services, constitutes another unique circumstance when a zoning variance is required.” No existing structure or property in an allowed zoning district is technically suitable to resolve the existing gap in the wireless service coverage in the area. In addition, the existing structures located near the Property are not at a height sufficient to provide adequate coverage to this significant gap in its network. The Facility will be the minimum height necessary to provide coverage for multiple wireless carriers. Given the location and size of the Property, as well as the proposed design of the Facility, the proposed installation will have a minimal visual impact to the surrounding neighborhood while achieving the carriers’ requisite coverage.

- The proposed Facility will reduce the number of new structures ultimately needed to provide wireless communication services in the surrounding area by providing co-location potential;

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- The proposed Facility is designed to be at the minimum height necessary to provide adequate coverage to the area and keep potential visual impacts to a minimum;
- The proposed Facility will comply in all respects with radio frequency emission standards established by the FCC;
- The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The proposed use is passive, requires no employees on the premises, and has no characteristics that are incompatible with the underlying zoning. Specifically, it will generate only about two vehicle trips per month by a service technician for routine maintenance, will be served by standard electrical and telephone service, and requires no water, septic or other town services;
- The proposed Facility will promote and conserve the convenience and general welfare of the inhabitants of the Town by enhancing telecommunications services within the town;
- The proposed Facility will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters;
- The proposed Facility will involve no overcrowding of land or undue concentration of population because it is an unmanned Facility;
- The proposed Facility will preserve and increase the amenities of the Town by enhancing the telecommunications services and will facilitate the adequate provisions of transportation by improving mobile telecommunications for business, personal and emergency uses;
- The proposed Facility will involve no adverse effects on public and private water supplies and indeed will utilize no water at all;
- The proposed Facility will involve no adverse effects on drainage, schools, parks, open space, or other public requirements, and will involve no excessive noise or pollution to the environment;
- The proposed Facility will have no adverse effect on historic sites; and
- The proposed Facility will be an appropriate use of land within the Town.

Due to the unique size, shape, location and elevation of the subject Property and the topography of the surrounding area as well as the existing zoning of the property and surrounding area, unique circumstances exist to justify the granting of the requested Variances. Moreover, Applicant's proposed Facility will have no impact on adjoining properties and the surrounding neighborhood in that the proposed Facility will produce no objectionable noise, glare, dust, smoke, fumes, odors, of effluent, and will not have any impact of traffic or circulation.

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Accordingly, the Applicant requests findings that

1. a literal enforcement of the provisions of this chapter would involve a substantial hardship, financial or otherwise, to the Applicant.
2. The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
3. Desirable relief may be granted without either:
  - (a) Substantial detriment to the public good; or
  - (b) Nullifying or substantially derogating from the intent or purpose of the zoning bylaw.

In addition (or in the alternative), the Applicant requests a finding that strict compliance would cause a conflict with the TCA.

## THE TELECOMMUNICATIONS ACT OF 1996

In 1996, the U.S. Congress enacted the Telecommunications Act of 1996, Pub. L. No. 104-104, § 704; 110 Stat. 56 (1996) (the “TCA” or the “Telecommunications Act”). The intent of the TCA as enacted by Congress was to institute a framework to promote competition and innovation within the telecommunications industry. Although this law specifically preserves local zoning authority with respect to the siting of wireless service facilities, it clarifies when the exercise of local zoning authority may be preempted by federal law. Section 704 of the TCA provides, in pertinent part, that

### **(7) PRESERVATION OF LOCAL ZONING AUTHORITY-**

**(A) GENERAL AUTHORITY-** Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

### **(B) LIMITATIONS-**

**(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--**

**(I) shall not unreasonably discriminate among providers of functionally equivalent services; and**

**(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.**

The intent of the TCA enacted by the U.S. Congress was to institute a framework to promote competition and innovation within this telecommunications industry. Under its respective licenses from the FCC, wireless telecommunications carriers are obligated to provide a reliable “product” [i.e. telecommunications service] to the population in the metropolitan Boston area, which includes the Town of Franklin. Likewise, consumer expectations for increasingly robust and reliable service requires competing service providers to identify and remedy existing gaps in reliable network coverage, or gaps that result from increasing subscriber voice and data traffic beyond the limits of existing network infrastructure. A carrier’s failure to remedy network gaps in a timely fashion can result in a significant loss of subscribers to competing telecommunications carriers. As demonstrated in the Application and supplemental materials provided by the Applicant, the proposed Facility and corresponding relief requested are necessary to remedy a gap in reliable service coverage within the existing network infrastructure.

Town of Franklin  
September 9, 2025  
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In a growing number of cases, the federal courts have found that permit denials violate the TCA, even if such denials would be valid under state law. For example, in Omnipoint Communications v. Town of Lincoln, 107 F. Supp. 2d 108 (D. Mass. 2000), the court found that denial of a variance for a location outside of the town's wireless overlay district violated the TCA and ordered the variance to issue despite an Bylaw provision prohibiting use variances. The court in Nextel Communications v. Town of Wayland, 231 F. Supp. 2d 396 (D. Mass 2002) reached the same result. In that case, the court stated: "Although the Board's statement [regarding its lack of authority to issue a use variance] may be correct statement in Massachusetts regarding variances, it is not controlling in the special case of Telecommunications facilities...Under the Telecommunications Act, the Board cannot deny the variance if in so doing it would have the effect of prohibiting wireless services." Wayland at 406-407. Most notably, in Omnipoint Holdings, Inc. v. Town of Cranston, No. 08-2491 (1st Cir. Nov. 3, 2009), the United States Court of Appeals for the First Circuit affirmed a judgment of the United States District Court for the District of Rhode Island, which found that the Cranston Zoning Board of Review violated the TCA by effectively prohibiting the provision of wireless services in Cranston when it denied an application for a special use permit and variance to construct a wireless facility in a residential area. The Court noted that "[t]he effective prohibition clause does not stand alone; it is also part of the TCA's larger goal of encouraging competition to provide consumers with cheaper, higher-quality wireless technology.... As cell phone use increases, carriers need to build more facilities, especially in populated areas, to continue providing reliable coverage, and local regulations can present serious obstacles." Cranston, p. 25.

The Applicant has investigated alternative sites in and around the defined geographic area within which its engineers determined that a facility must be located to fill the gap in service coverage and to function effectively within the wireless network of existing and planned facilities. No existing structure or property in or near the vicinity of the proposed Facility is feasible to accommodate the wireless network requirements. The proposed Facility is on land which already is commercially used.

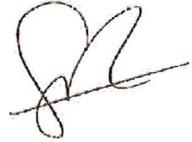
Accordingly, denial of a permit to construct the Facility would prevent the Applicant from eliminating an existing gap in reliable service coverage, resulting in a potential loss of subscribers and the inability to effectively compete for subscribers with FCC licensed competitors in the market, contrary to the intent of the Bylaw and the U.S. Congress in enacting the TCA.

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**SUMMARY**

Because the proposed Facility meets all of the requirements for a variance under Section 185-45(d)(2)(b) of the Town of Franklin Zoning Bylaw and pursuant to §704(a) of the Federal Telecommunications Act of 1996 which provides, among other things, that wireless facilities may not be prohibited in any particular area and that any denial of zoning relief must be based upon substantial evidence, the Applicant respectfully requests that the Zoning Board of Appeals grant the requested Variances as proposed, and grant such other relief, relief or waivers deemed necessary by the Town of Franklin under the current Bylaw and pending Bylaw amendments, if any, so that the Applicant may construct and operate the Facility as proposed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Parisi', with a horizontal line extending to the right.

Francis D. Parisi, Esq.  
Parisi Law Associates, P.C.  
38 N. Court Street  
Providence, RI 02903  
(401) 447-8500 cell  
fparisi@plapc.com

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## TOWAIR Determination Results

### \*\*\* NOTICE \*\*\*

TOWAIR's findings are not definitive or binding, and we cannot guarantee that the data in TOWAIR are fully current and accurate. In some instances, TOWAIR may yield results that differ from application of the criteria set out in 47 C.F.R. Section 17.7 and 14 C.F.R. Section 77.13. A positive finding by TOWAIR recommending notification should be given considerable weight. On the other hand, a finding by TOWAIR recommending either for or against notification is not conclusive. It is the responsibility of each ASR participant to exercise due diligence to determine if it must coordinate its structure with the FAA. TOWAIR is only one tool designed to assist ASR participants in exercising this due diligence, and further investigation may be necessary to determine if FAA coordination is appropriate.

#### DETERMINATION Results

**Structure does not require registration. There are no airports within 8 kilometers (5 miles) of the coordinates you provided.**

#### Your Specifications

##### NAD83 Coordinates

Latitude	42-18-13.6 north
Longitude	077-02-42.1 west

##### Measurements (Meters)

Overall Structure Height (AGL)	61
Support Structure Height (AGL)	59.4
Site Elevation (AMSL)	371.3

##### Structure Type

LTOWER - Lattice Tower

#### Tower Construction Notifications

Notify Tribes and Historic Preservation Officers of your plans to build a tower.

[CLOSE WINDOW](#)

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## AFFIDAVIT OF RF ENGINEER

I, Jose Hernandez hereby state the following in support of the application for Vertex Tower, LLC (“Vertex”) of proposed Monopole located at 1034 Pond St Franklin, MA 02038. (42.125569, -71.431461).

(the “Site”) and the attachment of antennas, cabling and other telecommunications equipment on and at the base of the Monopole by various wireless broadband telecommunications carriers as proposed in the attached application (the “Facility”).

1. I am a currently an independent consultant Principal/Manager Radio Frequency Engineer. I have been involved with the wireless telecommunications industry for 27 years, and have held various technical, operational and supervisory positions with Nextel Communications, T-Mobile, AT&T Mobility and Sprint PCS.

2. In order to satisfy its obligations under its radio licenses acquired from the FCC and under the Code of Federal Regulations 47 C.F.R. § 27.14(a), wireless broadband telecommunications carriers must have in place a system of strategically deployed “cell sites” to provide wireless communications services to their subscribers’ throughout their licensed area. These cell sites generally consist of an antenna support structure such as a telecommunications tower, building, water tank, or other structures used to elevate the antennas to the height necessary for providing adequate service to the targeted area. The antennas are connected via cabling to radio equipment located near the antennas and/or at the base of the support structure. The cell sites operate by transmitting and receiving low power radio frequency signals to and from their subscribers’ portable wireless communication devices such as basic handheld phones, smartphones, PDA’s, tablets, and laptop aircards. These wireless voice and data signals are then transferred through ground telephone lines, fiber, microwave or other means of backhaul transport, and routed to their destinations by sophisticated electronic equipment.

3. Cell sites are a vital and necessary part of carriers’ network infrastructure. In order to maintain effective, uninterrupted service throughout a given area, there must be a series of cell sites, interconnected to each other with slightly overlapping coverage areas. This allows for the subscribers to move freely about a geographic area while maintaining a consistent and reliable wireless connection to the network.

4. A proposed cell site must consider the locations and coverage provided by the surrounding cell sites in the network, and must be located within a limited geographical area, which is defined by factors such as terrain, land use characteristics, and population density. By locating within this limited area and at a sufficient height, the cell site would have a high probability of meeting the targeted objectives, thereby providing reliable coverage and capacity throughout the cell.

5. In compliance with the requirements of its FCC licenses, carriers are actively building their respective networks to provide coverage throughout its licensed area. In order to meet the responsibility of providing seamless, uninterrupted service, carriers must continue to acquire

interest in sites for additional facilities, and is applying for and obtaining local governmental zoning approvals to construct its sites in order to eliminate deficient service areas due to gaps in coverage or insufficient capacity. Any delays severely curtail carriers' ability to satisfy both mandated time requirements, and to achieve a market position that will allow it to compete for customers with other similar companies also issued licenses to operate in this area.

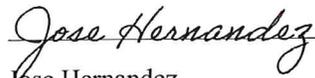
6. Using computer simulations to model radio frequency propagation, Vertex has determined that a wireless transmission facility located at or near to the proposed Facility would facilitate wireless communications within the local area along Pond St, Partridge St, Beech St, Southgate rd and surrounding areas of Franklin, MA. These simulations model characteristics such as antenna types, antenna height, output power, terrain, ground elevations and RF propagation effects of the frequency utilized.

7. In my opinion based upon substantial research and analysis, without a cell site located at or very near the proposed site, this area of Franklin, MA would not meet the typical coverage requirements for multiple wireless carriers, resulting in a substantial gap in wireless coverage.

8. Based upon the technologies currently being deployed by wireless carriers, it is my opinion that the proposed Facility is at the minimum height necessary to satisfy the coverage objectives of multiple wireless carriers providing in the area.

9. All of the transmitter facilities to be located at the proposed location are required to comply, and when constructed and operational will comply with, all applicable regulations of the FCC regarding radio frequency (RF) exposure as detailed in FCC OET Bulletin 65, Edition 97-1.

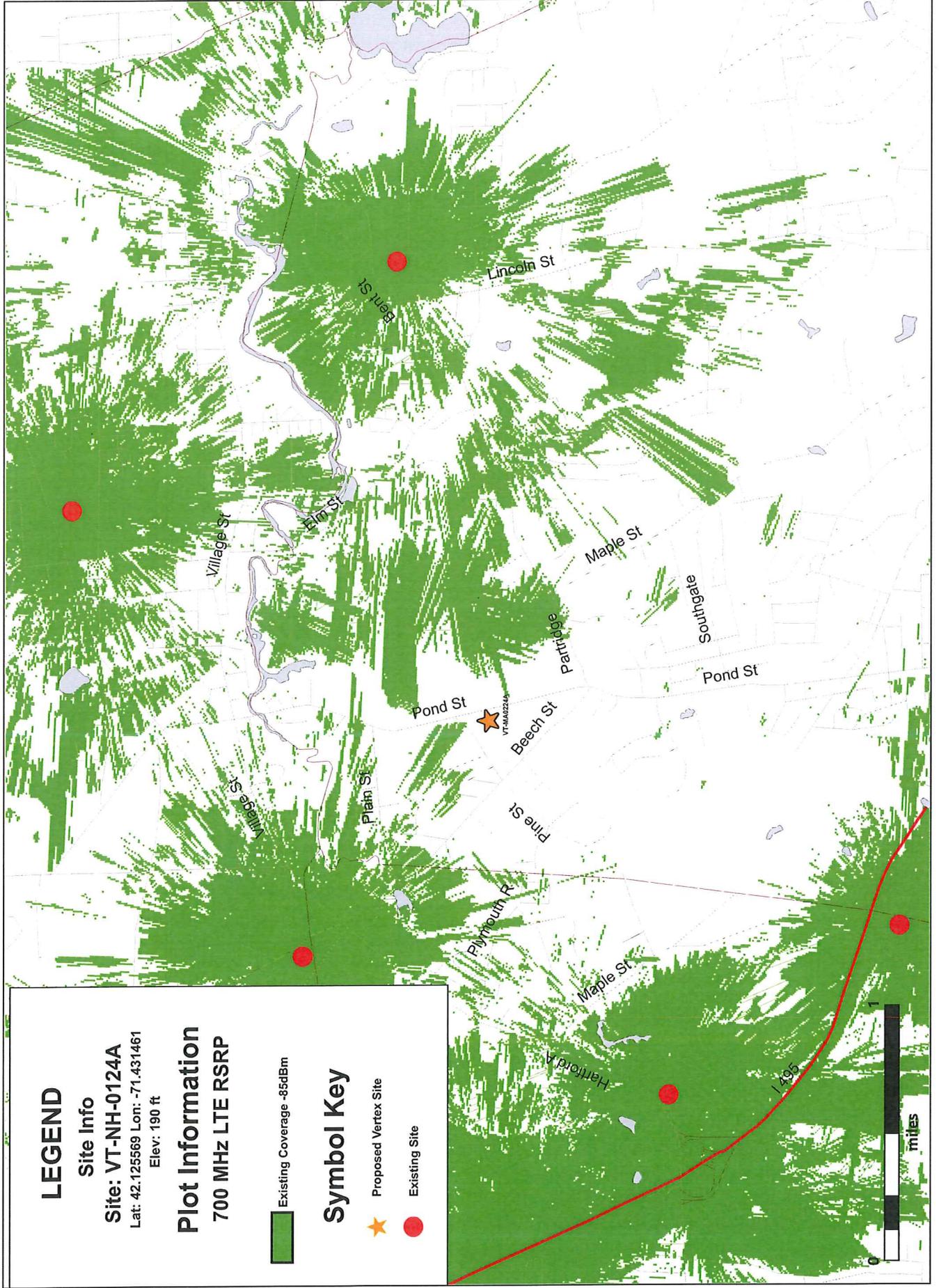
Signed and sworn under the pains and penalties of perjury September 05, 2025.

  
Jose Hernandez

JNaerowaves.Corp

President / Principal Radio Frequency Engineer

# RF Existing Coverage Without VT-MA-0124A@96'



## LEGEND

### Site Info

Site: VT-NH-0124A

Lat: 42.125569 Lon: -71.431461

Elev: 190 ft

### Plot Information

700 MHz LTE RSRP

Existing Coverage -85dBm

## Symbol Key

Proposed Vertex Site

Existing Site

# RF Proposed Coverage For VT-MA-0124A@96'

## LEGEND

### Site Info

Site: VT-NH-0124A

Lat: 42.125569 Lon: -71.431461

Elev: 190 ft

### Plot Information

700 MHz LTE RSRP

 Proposed Coverage -85dBm

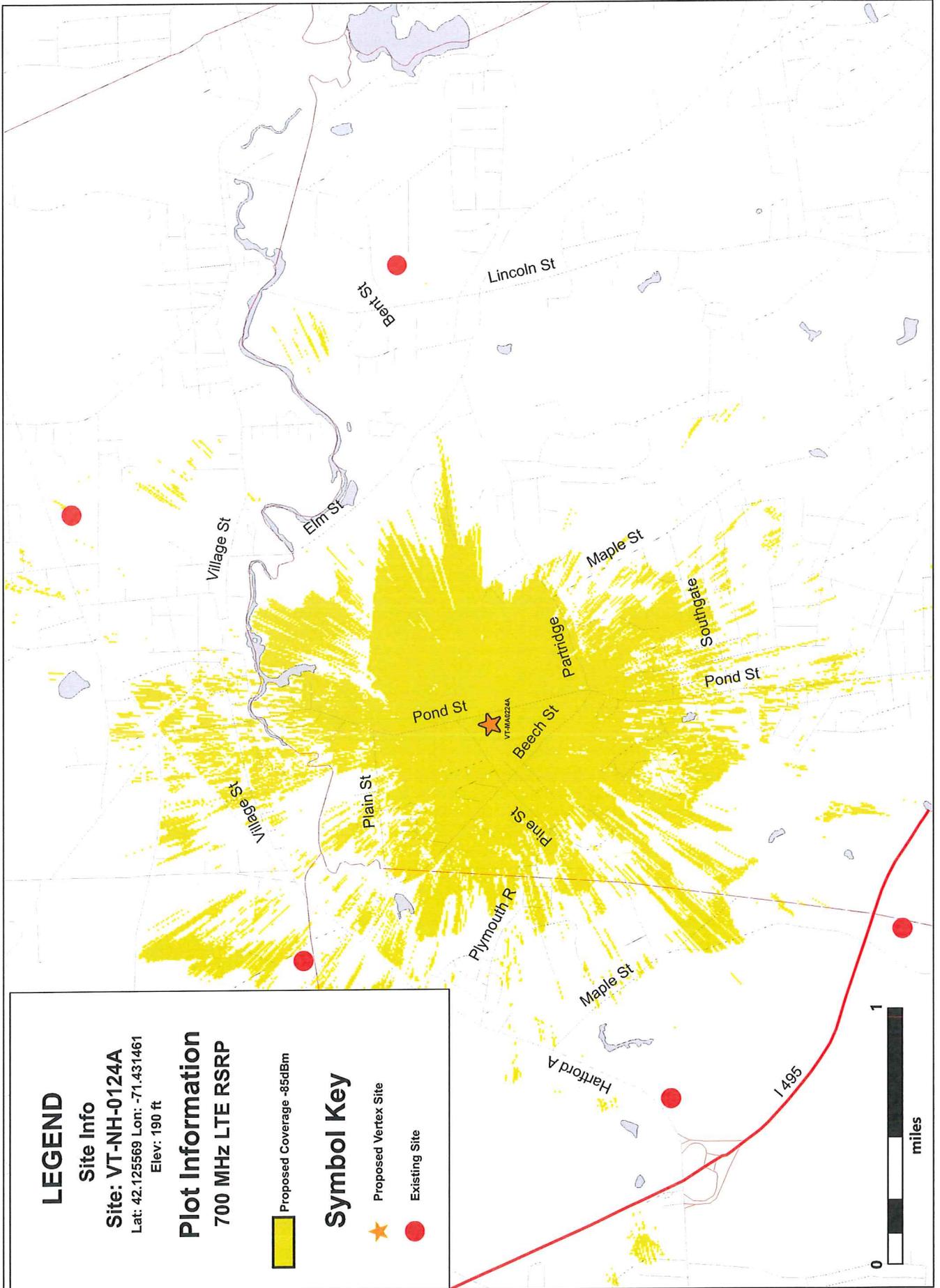
### Symbol Key



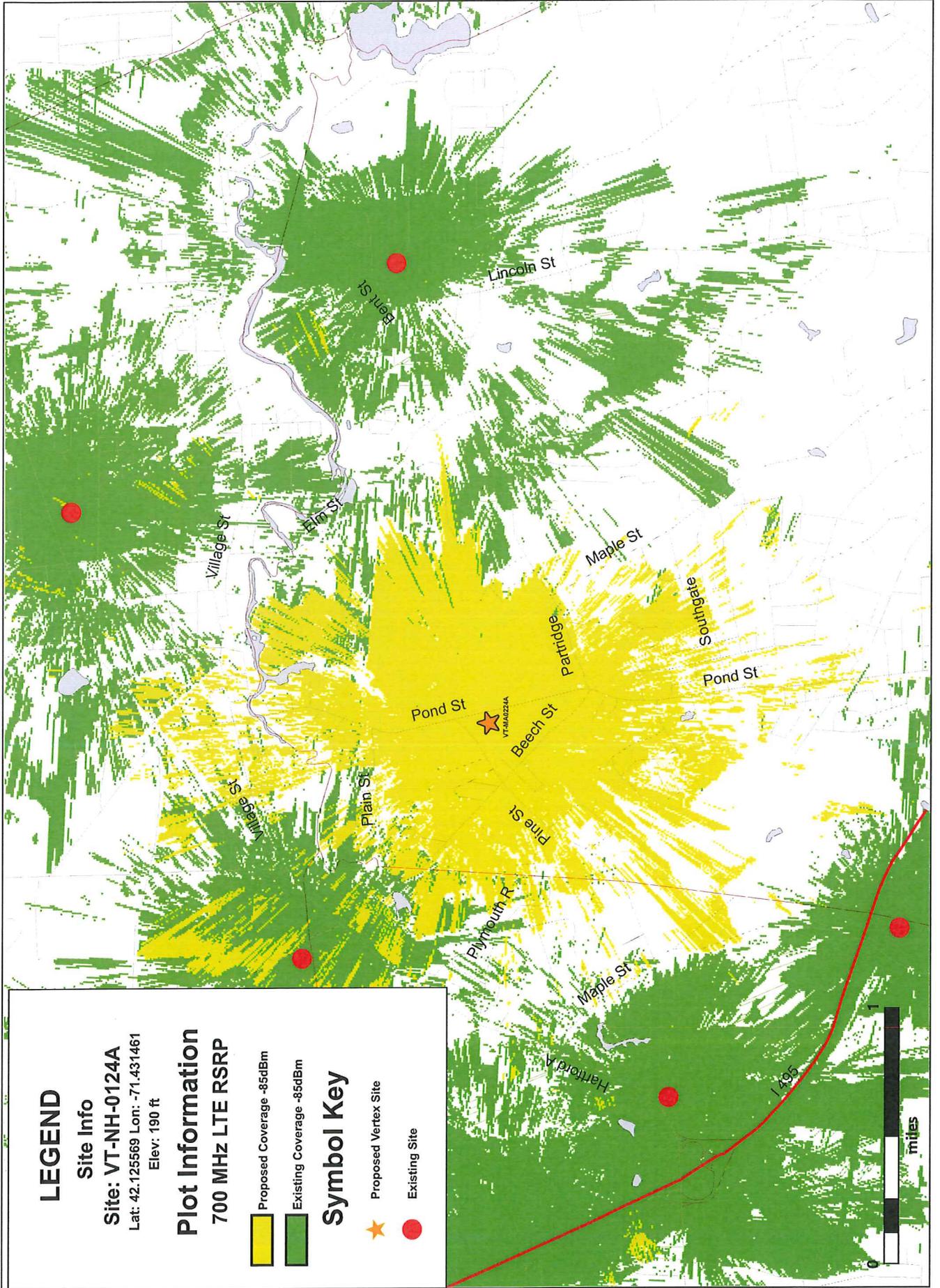
Proposed Vertex Site



Existing Site



# RF Existing Coverage With VT-MA-0124A@96'



**Site Emissions Report For Franklin, MA**

**Date Performed: 09/05/2025**

This site emissions analysis was created for Vertex Towers, LLC. The Monopole was performed to include all 4 major carriers. According to the analysis, this Monopole located at 1034 Pond St Franklin, MA 02038. (42.125569, -71.431461) does pass the FCC requirements for Radio Frequency emissions. The FCC requirements used in this report were determined from the FCC OET65 documentation and calculations.

The Monopole assumes the worst case scenario which would not occur in the real world. It assumes that all 4 carriers are using all frequency bands and are all on the lowest height of the tower.

The approach taken for calculations takes into account the typical antenna used, since a Cell Site antenna is directional and has different gains at different angles. At the lowest height of 66ft, the highest emissions does not go above 5.75 μW/cm<sup>2</sup> which is 0.575% of the Maximum Permissible Emissions requirements, which is less than 1% of the MPE requirements.

Site Name: VT-MA-0124A

Coordinates: (42.125569, -71.431461)

Location: Franklin, MA 02038.

Carrier Available Heights (ft):

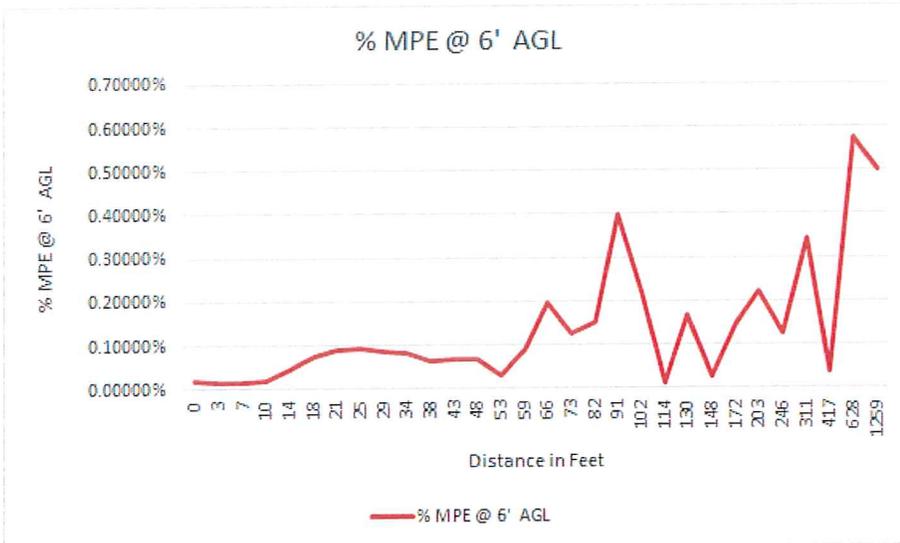
96,86,76,66

**Equation for Predicting RF Fields:**

$$S = \frac{EIRP}{4\pi R^2} \tag{4}$$

where: EIRP = equivalent (or effective) isotropically radiated power  
 S = power density (in appropriate units, e.g. mW/cm<sup>2</sup>)

Reference: OET Bulletin 65



Wireless Service Provider	Frequency Band	ERP (Watts)
Carrier 1	1900MHz	1250
Carrier 1	700MHz	1000
Carrier 1	850MHz	1000
Carrier 1	2100MHz	2500
Carrier 2	1900MHz	2000
Carrier 2	700MHz	1000
Carrier 2	850MHz	1000
Carrier 2	2100MHz	1000
Carrier 3	1900MHz	1360
Carrier 3	2100MHz	1360
Carrier 3	700MHz	1000
Carrier 4	850MHz	400
Carrier 4	1900MHz	1360

Analysis Performed by: Jose Hernandez  
 Jose Hernandez – President / Principal, RF Engineer - JNaerowaves.Corp

*Jose Hernandez is an independent Radio Frequency Engineer with 20 years of experience as an engineer in the Wireless Telecommunications field. Jose has performed numerous emissions reports for the Wireless Telecommunications Industry.*

09/05/2025

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## STATEMENT OF BRENDAN M. GILL

Vertex Towers, LLC

I, Brendan Gill, hereby state the following in support of the application submitted by Vertex Towers, LLC for a multi-user Personal Wireless Service Facility ("PWSF") to be located 1034 Pond Street (Map 222, Lot 44), Franklin, MA (the "Property"), consisting of a 100' monopole style tower and related ground equipment contained within a fenced compound (the "Site")

1. My name is Brendan M. Gill and I am the Director of Site Acquisition and Leasing for Vertex Towers, LLC.
2. I have worked in the telecommunications industry for over 12 years overseeing and assisting in the leasing, zoning, permitting and construction of wireless communications facilities and specifically in the investigation of all feasible alternatives and options locating a wireless communications facility within a search ring which would fill a significant gap in wireless coverage.
3. I have participated directly through my present and past employment in the development and analysis of hundreds of such facilities, including wireless communication facilities similar to the proposed Site.
4. I have personally visited the Property, and the areas surrounding the Property, on numerous occasions. I submit this affidavit based on my personal knowledge of the Property and the surrounding areas, while also working together with the experience and documentation provided by civil and radio frequency engineers, environmental consultants and based on my professional experience in the development of wireless communication facilities.
5. Part of my site acquisition and development duties include identifying potential candidates within an area identified as having a significant gap in coverage. The candidate identification process includes reviewing the applicable zoning ordinance with legal counsel, engineers, wetland scientists, and other professionals to identify areas where the proposed Site is allowed and feasible. First, I explore the area to determine whether there are any existing structures of sufficient height and structural capacity from which an antenna installation on such a structure would provide sufficient coverage. If there are no such existing structures, I identify properties, located within the narrowly defined search area, that appear to be suitable for the installation of a communications facility, while also eliminating certain properties that would not be suitable due various limitations or concerns related but not limited to, parcel size, access issues, landlocked parcels, conservation restrictions, wetlands, visibility, elevation, terrain and constructability. In order to be viable, a candidate must (i) provide adequate coverage to the identified significant gap in coverage and (ii) have a willing landowner with whom commercially reasonable lease terms may be negotiated. Preference is given to locations that closely comply with local zoning ordinances, or in the event no viable candidates are found within the search area, I attempt to identify other potentially suitable properties, with preference always given to existing structures.
6. In connection with this site, I have provided site acquisition services, including

researching the area, and identifying potential alternative candidates to the leased ground space on the Property.

7. Based on my personal knowledge of the proposed Site and the surrounding area, there are no potential alternative candidates located within this geographically driven search ring that would be considered superior to the proposed Site. In addition, based on my experience, in my professional opinion, the proposed PWSF to be located at 1034 Pond Street is the least intrusive and only available and viable alternative to adequately meet the coverage objective to fill this significant gap in coverage.

Executed this 25th of August, 2025.

*Brendan Gill*

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Brendan M. Gill  
Vertex Towers, LLC

# VT-MA-0124A Franklin Pond Street Existing Sites Overview Map

1 Mile

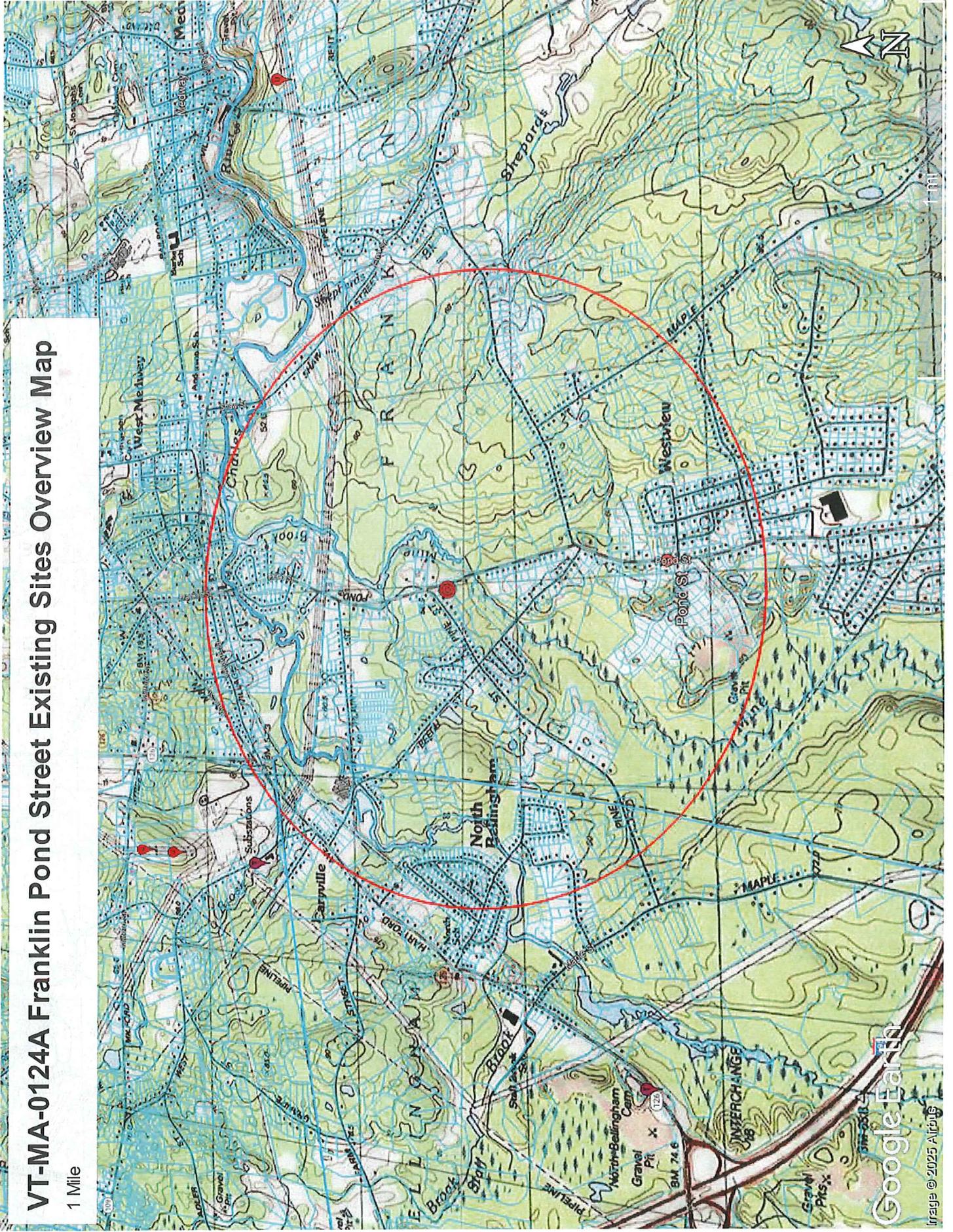


Google Earth

Image © 2025 Airbus

# VT-MA-0124A Franklin Pond Street Existing Sites Overview Map

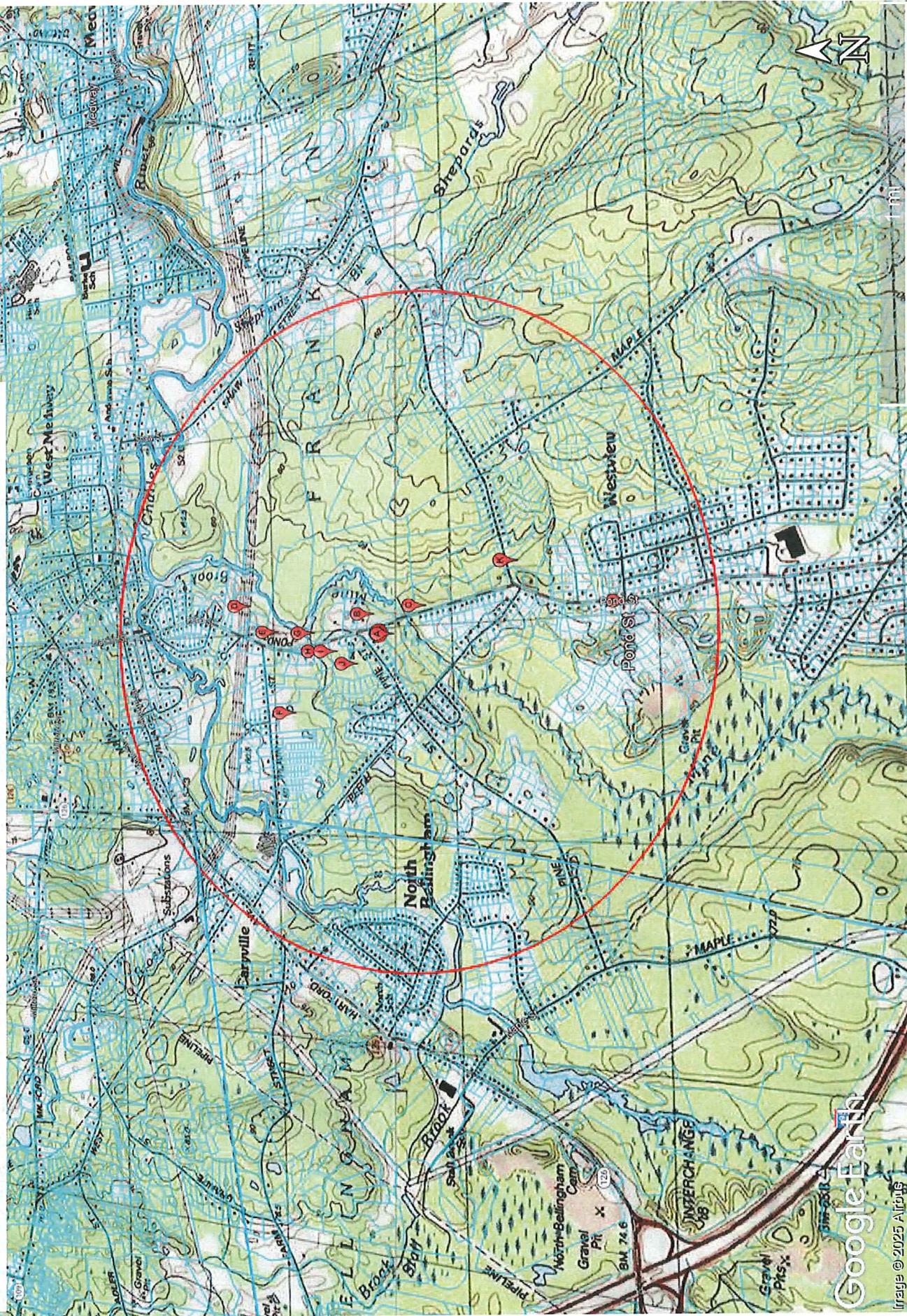
1 Mile





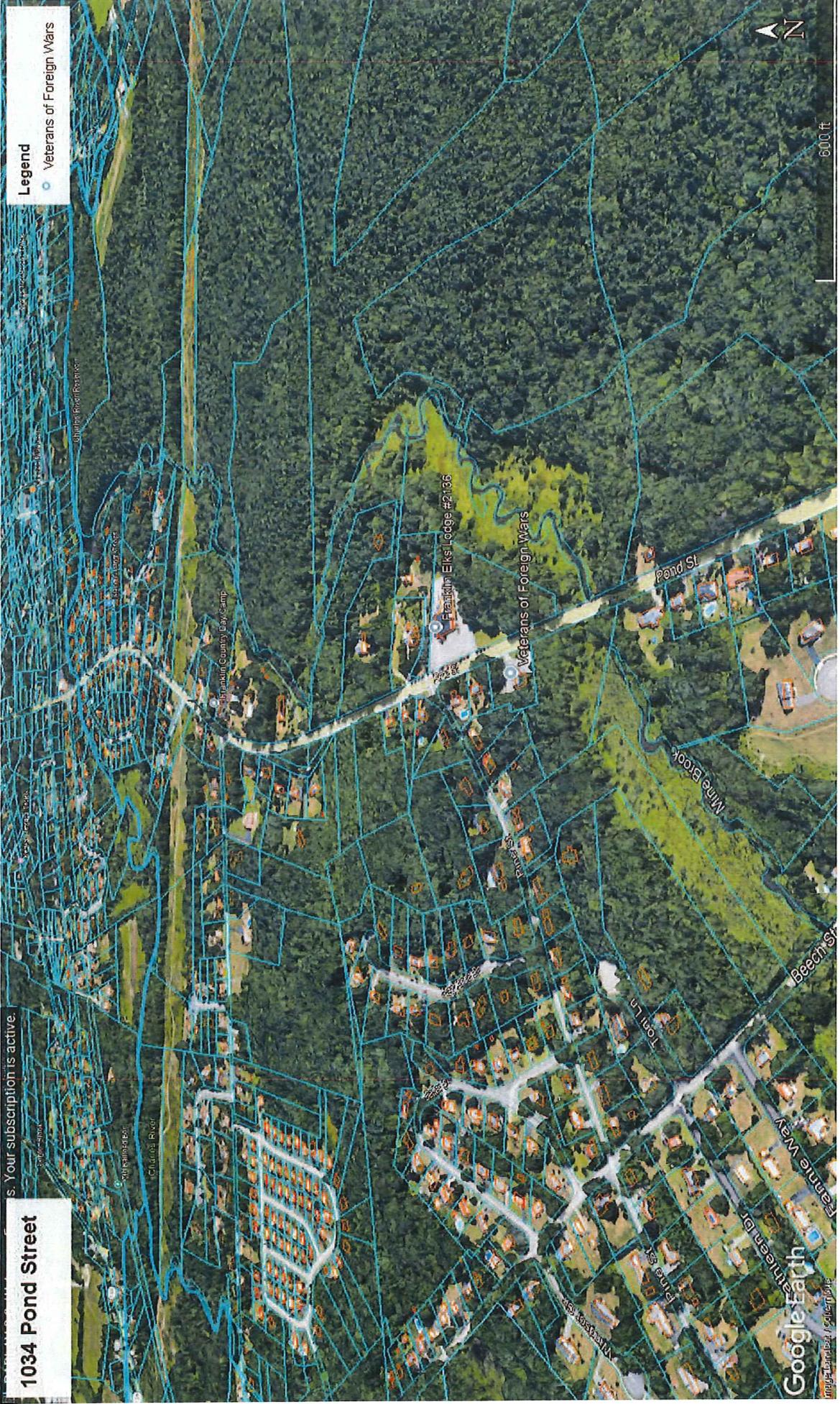
# VT-MA-0124A Franklin Pond Street ASA Overview Map - Topo

1 Mile





9



1034 Pond Street

Your subscription is active.

Legend  
○ Veterans of Foreign Wars

600 ft

Google Earth  
Imagery © 2014

Your subscription is active. Zoom in to view parcels.

1034 Pond Street

**Legend**

-  Veterans of Foreign Wars



Google Earth

© 2025 Google

5.88 ft

**10**