

**DOCKET NO. 272** – The Connecticut Light and Power }  
 Company and The United Illuminating Company application } Connecticut Siting Council  
 For a Certificate of Environmental Compatibility and Public }  
 Need for the Construction of a New 345-kV Electric }  
 Transmission Line and Associated Facilities Between Scovill }  
 Rock Switching Station in Middletown and Norwalk }  
 Substation in Norwalk, Connecticut Including the }  
 Reconstruction of Portions of Existing 115-kV and 345-kV }  
 Electric Transmission Lines, the Construction of the Beseck }  
 Switching Station in Wallingford, East Devon Substation in }  
 Milford, and Singer Substation in Bridgeport, Modifications } JUNE 2, 2006  
 at Scovill Rock Switching Station and Norwalk Substation }  
 and the Reconfiguration of Certain Interconnections. }

**COMMENTS OF THE  
MIDDLETOWN ROYAL OAK RESIDENTS**

**I.  
INTRODUCTION**

The Middletown Royal Oak Residents consist of a number of homeowners and residents in the Middletown portion of the “unique”<sup>1</sup> Royal Oak Park neighborhood. They woke up one morning in mid-May to discover that a beautiful forest that buffers more than half of their neighborhood would be replaced by a major transmission line. These residents had no reason to believe that anything that CL&P was proposing in this Docket, or anything the Siting Council had ordered, would unduly and adversely affect their properties and quality of lives. See Plea of the Middletown Royal Oak Residents, attached hereto as Exhibit 1. Moreover, the Siting Council also had no reason to believe that a Decision, in which it took

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<sup>1</sup> See Siting Council’s Opinion, P. 15.

great pride, would result in a Development and Management (D&M) Plan that would cause great disruption to a neighborhood that it sought to preserve and protect.

For the following reasons, the Siting Council should reject the proposed Royal Oak Bypass presented by CL&P in its May 12, 2006 D&M Plan as not in compliance with its Decision, and not in compliance with the statutory requirements governing the approval of new electric transmission facilities.

## **II. ARGUMENT**

### **A. THE ROYAL OAK “BYPASS” PLAN IN CL&P’S D&M PLAN IS NOT THE BYPASS PLAN APPROVED AND AUTHORIZED BY THE SITING COUNCIL**

The Siting Council’s Decision is very specific as to what it was referring to when it used the term “Royal Oak Bypass”. There are references to maps, descriptions in Findings of Fact, and a very substantial understanding by all the parties in Docket No. 272, as to where this Bypass easement was to be located. However, the entity with the best understanding of what was being referred to by the term “Royal Oak Bypass” in the Decision is the Siting Council itself.

The Council believed that it had made an extraordinary effort to insure that its Decision would protect residential neighborhoods. In announcing<sup>2</sup> its April 7, 2006 Decision,

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<sup>2</sup> The Siting Council’s public notification of its Decision is in the web site documents in this Docket, and is attached hereto as Exhibit 2.

the Siting Council cited its handling of the Royal Oak neighborhood, as a major “highlight” of the Decision:

“No Change to Royal Oaks The Royal Oaks subdivision, in Durham, includes about 80 homes, 15 of which are alongside the right of way. These homes have, for the most part, been in place for some twenty years or more and there are scores of children in the neighborhood. **Out of recognition and respect for these homeowners and families, the Council’s decision that the 345-KV corridor will bypass this neighborhood** and instead run through an undeveloped area north of the Royal Oaks neighborhood. **Thus, the Royal Oaks neighborhood will remain unchanged.”** See Exhibit 2, P. 5 (Emphasis Added).

Is there anyone who seriously believes that the Royal Oak Bypass contained in CL&P’s D&M Plan bears any resemblance to the above description? The “Bypass” proposed by CL&P doesn’t “bypass this neighborhood”. It encircles the neighborhood like a noose. The Royal Oak neighborhood will not “remain unchanged” by CL&P’s proposed “Bypass”. CL&P’s “Bypass” would now encircle the neighborhood with two transmission lines, where the Siting Council thought that there would be only the unchanged, existing 115KV line, and a larger line way off into the woods.

In the Siting Council’s notice to parties and interveners, dated May 17, 2006, its Chair states that:

“It should be noted that the Council decision does not specify exactly where the utility poles would be placed on the Wilson property. Generally, such post-decision details are examined and approved by the Council in Development & Management

Plan (D&M Plans) which implemented the decision approving a project.

It is certainly understandable that the exact location of “utility poles” would be reserved to the D&M Plan. There may be ledge, wetlands, and historical artifacts that would weigh in favor of a specific pole being located in a slightly different location within the easement. But we do not read the above letter as suggesting that a D&M Plan can change the easement location to an entirely new location from that specified in the Decision.

There is a big difference between submitting a D&M Plan that conforms to the Decision, and requesting, as CL&P has done, to have the Decision conform to the D&M Plan. The first is legal, and the second is not. CL&P is requesting the Siting Council to change its Decision as to the Royal Oak Bypass, without hearing and without giving any justifiable reason why the Decision should be changed.

First, let’s erase any doubt that the “Royal Oak Bypass”, referred to in the Siting Council’s Decision, had a specific easement location. It didn’t hug the Royal Oak neighborhood in a loop.<sup>3</sup> CL&P’s witness, Ms. Bartosewicz, testified that the Bypass went “through the middle of that forest”, and was documented by an “aerial photograph”. Transcript (“Tr.”), 6/2/04, Pp. 227-8, attached hereto as Exhibit 3. This aerial photograph was specifically referenced by the Siting Council in Finding of Fact No. 527. This Finding of Fact goes on to note that there are only three structures within 300 feet of the Royal Oak Bypass.

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<sup>3</sup> CL&P categorically denied in its testimony that the Bypass was “a loop”. See Transcript of June 2, 2004, P. 225, attached hereto as Exhibit 3.

A map of the Royal Oak Bypass was included in the Appendix to the Findings of Fact, P. 4 of 21, attached hereto as Exhibit 4.

CL&P had a professional firm prepare a detailed map of the Royal Oak Bypass for inclusion in its first D&M Plan. See Exhibit 5, Burns & McDonnell Map, dated August 4, 2005, included as Segment 1a, Sheet 5 of 7, in the November of 2005 D&M Plan. The Burns & McDonnell Map was not only put on public display to show the public the exact location of the Royal Oak Bypass, but it is identical to the map set forth in the Siting Council's Appendix, as well as every other map of the Bypass included in the official record of this Docket.

The parties and intervenors in this Docket all understood that the Royal Oak Bypass was in the "middle" of the forest, bisecting the Wilsons' property. The Wilsons "vehemently opposed" the Royal Oak Bypass, noting that the "...Bypass would bisect the Wilsons 25 lot subdivision and cross over 14..." of their proposed subdivision lots. See Brief of the Wilsons, P. 5 (March 16, 2005), attached hereto as Exhibit 6. The Wilsons were able to show exactly which lots of its proposed subdivision would be affected by the Bypass – down to the foot. Id., Map attached to Brief of the Wilsons. Again, the Wilsons' Map is identical to that included in the Siting Council's Appendix, and CL&P's Burns & McDonnell Map.

Both CL&P and the Siting Council were aware of the Wilsons' proposal for a 25 lot residential subdivision. See, i.e., Siting Council Finding of Fact No. 539. The Siting Council, however, determined that the needs of a "unique" existing residential neighborhood, took

precedence over an “undeveloped” and “uninhabited” area. See Opinion (April 7, 2005), P. 15. This undeveloped area could provide “...a reasonable corridor to protect the public health and safety of an existing neighborhood.” Id.

Both CL&P and the Wilsons recognized that the easement necessary to facilitate the Royal Oak Bypass would “...have to be acquired by eminent domain” due to the Wilsons’ opposition. See CL&P’s Brief, P. 118 (March 16, 2005); Brief of the Wilsons, P. 5 (Exh. 6). Notwithstanding the potential need for eminent domain, CL&P supported the Royal Oak Bypass. See Tr. 7/27/04, Pp. 58-9; Tr. 2/1/05, P. 166.

The availability of an undeveloped area to facilitate the Royal Oak Bypass was heaven sent, since the Siting Council had maxed out on the amount of the transmission line that could be buried. The General Assembly has set forth a presumption that transmission, lines should be buried, if possible. See Opinion, P. 3. The clear presumption of Public Act 04-246, which the Siting Council found to be applicable to this Docket<sup>4</sup>, is that proposals for transmission lines running adjacent to, and into residential neighborhoods can be adverse to the health and safety of such neighborhoods. Since CL&P has totally changed the location of the Royal Oak Bypass, there are no longer findings of fact or conclusions in the Decision which have any relevance to this unlawful bypass. The Siting Council’s Opinion, Decision, and Findings of Fact, no longer set forth, in accordance with Public Act 04-246, “...a specification of every

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<sup>4</sup> Opinion, P. 2.

significant adverse effect, including, but not limited to, *electromagnetic fields*". See Opinion, P. 3.

CL&P doesn't deny that the new Royal Oak Bypass Plan in its D&M Plan is contrary to that approved by the Siting Council. In fact, CL&P admits its transgression, noting that it has made unilateral "modifications". See D&M Plan, Segment 1b. There is no pre-filed testimony by CL&P elaborating on the reasons why it determined to make these "modifications", or the full effect of these "modifications" on the health and safety of Royal Oak Park. Tucked away in Section 2-1 of Segment 1b of the D&M Plan, there is only the statement that:

"One of the parcels impacted by the Royal Oak Bypass is owned by Linda Wilson and Ralph Wilson, Trustee ("the Wilsons"). The Wilsons filed an administrative appeal of the Council's April 7, 2005 decision. CL&P and the Wilsons have reached a settlement agreement that will result in the withdrawal of the administrative appeal."

There is nothing in the D&M Plan about the numerous other parcels in Royal Oak Park that are now affected by the new Bypass loop that strangles the neighborhood. CL&P does not state why it determined to abandon its support for the Royal Oak Bypass that was approved by the Siting Council after hearing and evidence. CL&P knew, when it supported this Bypass, that the Wilsons would oppose it and that an eminent domain proceeding was likely. Nothing has changed since the Siting Council issued its Decision and Order, except

that CL&P has refused to stand by the original Bypass design that it supported and the Siting Council ordered.

Regardless of what motivated CL&P to flaunt the Siting Council's Decision, CL&P has no right to redraw and relocate a transmission line. A transmission line that the Siting Council approved, and represented would leave the 80 home neighborhood of Royal Oak Park "unchanged"<sup>5</sup>, changes that neighborhood dramatically in CL&P's D&M Plan. A Bypass that was mapped and publicly shown as being in the middle of the woods is now surgically attached to the backyards of a number of Royal Oak residents.

The Siting Council can moot the Request for Declaratory Rulings by the Middletown Royal Oak Residents by simply denying CL&P's unilateral changes to the Royal Oak Bypass approved by the Siting Council in its Order and Decision. The Siting Council should order CL&P to redraft and resubmit its D&M Plan of the Royal Oak Bypass to bring it into compliance with the original, approved Bypass. If the Siting Council does not summarily deny CL&P's unlawful Royal Oak Bypass, it should grant the declaratory rulings requested by the Middletown Royal Oak Residents that said, proposed Bypass is not in compliance with, and violates, the Siting Council's Decision and Order, as well as the statutory mandates, set forth in Sections 16-50l and 16-50 p of the Connecticut General Statutes ("C.G.S."), as well as Public Act 04-246.

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<sup>5</sup> See Exhibit 2, P. 5.

When the Siting Council denies CL&P's proposed violation, it should also rebuke CL&P for the insult it cast upon the Siting Council. CL&P attempted to turn a genuine Siting Council desire to save a "unique" residential neighborhood into a mere transferal of pain from one set of residents unto another. This was not, and could not have been, the intent of the Siting Council. The noose-loop that CL&P has now proposed makes a mockery of the Siting Council's public pronouncement that "...the Royal Oaks neighborhood will remain unchanged."<sup>6</sup>

**B. CL&P'S PROPOSED ROYAL OAK BYPASS IN ITS D&M PLAN VIOLATES THE DUE PROCESS RIGHTS OF PETITIONERS AND THE UNIFORM ADMINISTRATIVE PROCEDURES ACT**

Docket No. 272 is a contested case, as that term is used in Section 4-177, C.G.S. The Royal Oak Bypass was subjected to testimony, exhibits, cross-examination and notice to interested parties. At no time were the petitioners herein, the Middletown Royal Oak Residents, ever provided with any notice or knowledge that a major transmission line would run alongside, and affect their homes. See Plea of the Middletown Royal Oak Residents, attached hereto as Exhibit 1.

When the petitioners herein first discovered that CL&P was going to propose a major, new Bypass adjoining their homes, it was more than a year after the Siting Council issued its final Decision. Petitioners were told that the opportunity for hearing and to present evidence

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<sup>6</sup> See Exhibit 2, P. 5.

was long over. In other words, the mandate in Section 4-177(a), C.G.S., that “(i)n a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice” had bypassed them.

CL&P performed its lawless cartography with no pre-filed testimony, no notice to the public or affected property owners, and no hearing on the impact of its new transmission line on the Royal Oak neighborhood. It is unknown whether the Siting Council was an active party in the Wilsons’ administrative appeal, and whether it is CL&P’s claim that the Siting Council approved its professed settlement with the Wilsons. The settlement with the Wilsons is not even part of any record in this proceeding.

When the Middletown Royal Oak Residents first discovered, in the exercise of extraordinary diligence, that their homes were threatened, they moved with the speed of light to implore the Siting Council to lend dignity to its Decision and Order. They have clearly been denied the opportunity to participate in a contested case by virtue of CL&P’s unilateral and lawless actions. They would have immediately intervened in this Docket if they had any reasonable notice that CL&P would contemplate locating a transmission line adjacent to their homes. See Exhibit 1.

The April 7, 2005 Opinion concludes with the statement that:

“The Connecticut Siting Council appreciates the extraordinary public participation in this docket. We further appreciate the dedicated efforts of all elected officials and experts for their significant contributions to this docket in addressing public health and safety concerns.” Opinion, P. 21.

By virtue of CL&P's last minute, lawless change, the Siting Council has been deprived of any meaningful, much less "extraordinary" participation by the persons most affected by this change. All of the public officials and experts who appeared before the Siting Council were deprived of the opportunity to address, in a formal proceeding, the "public health and safety concerns" of the new, proposed Royal Oak Bypass.

It should be noted that the instant opportunity to comment, while appreciated, is no substitute for the right to introduce and challenge evidence and testimony. Petitioners herein will not even have the opportunity to know, much less reply to, CL&P's unverified comments as to why it proposed such a radically different Bypass from that contained in the Siting Council's Decision and Order. While the undersigned has spoken to CL&P's attorney concerning this issue, such a conversation between attorneys is neither evidence nor disclosable in a legal memorandum.

Perhaps CL&P made an unsuccessful overture to purchase the entire Wilsons property, believing that it could flip those portions of the property not necessary for the Bypass to private developers. Perhaps CL&P thought that if it exercised eminent domain the Wilsons would claim, contrary to CL&P's position in this proceeding, that the transmission lines would destroy the entire value of the surrounding property.

But "unique" residential neighborhoods shouldn't be destroyed, and the integrity of administrative decisions shouldn't be sacrificed, for unsupported speculation and hidden agenda, where the law requires hearings, evidence and specific administrative findings.

Again, the Siting Council can moot the requests for declaratory rulings by the Middletown Royal Oak Residents as to lack of notice, violation of due process, and violations of Sections 4-177 and 16-501, et seq., C.G.S. These declaratory rulings may be rendered moot by a denial of CL&P's lawless loop and a directive to comply with the Royal Oak Bypass approved by the Siting Council. If the Siting Council does not so moot this Bypass issue, then all of the proposed requests for declaratory ruling, as set forth in Petitioners' initial May 17, Petition for Declaratory Rulings, and their May 25th Supplement, should be granted.

**III.**  
**ADDITIONAL RELIEF REQUESTED**

In addition to denying CL&P's proposed Royal Oak Bypass in its D&M Plan, and ordering CL&P to comply with the original Bypass proposal approved by the Siting Council, Petitioners request that the Siting Council provide them with party status in this Docket, or, in the alternative, special and specific intervention rights with respect to any further proceedings held with respect to the Royal Oak Bypass.

Respectfully submitted,

**PETITIONERS, MIDDLETOWN  
ROYAL OAK RESIDENTS**

By   
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**CERTIFICATION**

This is to certify that a copy of the foregoing has been mailed, postage prepaid, to all parties and intervenors set forth on the Service List in this Docket, this 2<sup>nd</sup> day of June, 2006.

  
Barry S. Zitser  
Commissioner of the Superior Court



June 1, 2006

State of Connecticut  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

Re: Docket No. 272  
Royal Oak Bypass

Dear Council Members,

I have been designated to write a letter on behalf of all the Middletown Royal Oak Residents, represented by Attorney Zitser, who have petitioned for you to reject CL&P's revised Royal Oak Bypass plan. We would first like to thank the Council for the opportunity to comment with regard to Docket No. 272 and the Development and Management (D&M) plan submitted to you by Connecticut Light & Power Company (CL&P) and United Illuminating (UI) on May 12, 2006.

We are a diverse group of neighbors. Some of us came to the USA from other countries and from outside the continental U.S. Some of us have owned our homes for more than 20 years. Some of us remember years when buying a take-out pizza strained the family budget. When we purchased our dream homes on Acorn Drive, the land north of our properties, now owned by the Wilson family, was unused farm land with mature trees on our boundary. Although we were aware that this property could be developed into other homes, there were no power lines or plans for power lines on this land.

When our neighbors in Royal Oak Park living on the existing CL&P right of way became concerned about the construction of a New 345-kV electric transmission line through the middle of our development, we understood their concerns. When the Siting Council listened to them, the decision to approve the Royal Oak Bypass and to move the proposed upgrade to the middle of undeveloped land was a reasonable solution. The original map of this Bypass D&M plan that was made public, was viewed by us as not being unduly adverse to our homes especially since it saved the properties and quality of life of our neighbors on the Middletown Durham line. We had no reason to oppose it. The original map of the Bypass clearly displayed the easement and line far enough away from our properties and at a lower location, where our lives would not be disrupted. If we could have reasonably known that the D&M plan before you today would contain a Bypass so dramatically different from the Bypass that we believed you approved in your Decision, we would have banded together since day one.

If the Council approves the revised Royal Oak Bypass in CL&P's D&M plan before you today, the homeowners on Acorn Drive will be looking at one set of power lines when they walk out their front doors and another set when they look out their back windows. The power lines now proposed by CL&P, unlike the Bypass that we believed that the Council approved in its Decision, will destroy the quiet enjoyment of our homes. The privacy and wooded views that we currently enjoy, add to the value of our homes. We have been told that if prospective buyers can see power lines, our homes will be difficult to sell and the value of our homes, our most significant asset, will be dramatically reduced. More importantly, the transmission line in this proposed new right-of-way seems very likely to expose us and our young children to a much greater risk of harm resulting from higher electromagnetic fields and other safety concerns because of the very close proximity of the right-of-way to our homes. (It is worth noting that CL&P did not provide the Siting Council with any EMF calculations relating to the right-of-way proposed in the new D&M plan although it was certainly within its ability to do so).

We do oppose the Bypass in the D&M plan submitted to you by CL&P on May 12, 2006 due to significant changes that have been made which will negatively impact our properties and quality of life; the very thing the Siting Council wanted to avoid by the Royal Oak Bypass approval. In the new D&M Plan, the poles and power lines are approximately sixty (60) feet off of our boundaries; the minimum clearance allowed between our properties and the new poles. The mature trees on our boundaries will have to be cut down. Double poles are proposed in places where the power lines need to curve; so that they bend to hug our boundaries.

We were alarmed and shocked to discover that an issue that so directly impacts our lives was suddenly thrust on us long after the opportunity to defend our homes was over. Our City officials apparently made a decision in Feb. 2006 to support the new Bypass plan, 3 months before CL&P submitted the D&M plan in front of you for consideration on May 12, 2006. At no time did these officials contact us to advise that they were considering giving such approval, although the homeowners and residents of Middletown who now petition the Siting Council to reject this proposal are clearly the persons most affected by that decision.

The rumors in early May that a lawsuit involving the Wilson family had been privately settled and an inquiry to CL&P led representatives from our group to view the new D&M at our Mayor's office on May 9, 2006. If the Siting Council had not sent out information on May 17, 2006 some of the Acorn Drive residents negatively affected by this plan may not have been aware of it until construction began; far too late to register with the Council their strong opposition to this new surreptitious proposal.

We are disheartened by the recent prediction by CL&P spokesman, Frank Poirot (published in the Hartford Courant on May 23, 2006) that they are "at a point in the process where we're not making major changes. Any movement [of the power lines on the Wilson property] would be measured in feet, not yards." CL&P has it backwards. It is CL&P which has dishonored your Decision of a Bypass that was designed to meet the needs of all the residents of Royal Oak Park. We, the residents who will have to live with this power line, seek only to have your decision honored, not changed.

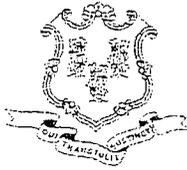
We do not believe that the Council intended to simply transfer hardship from one set of neighbors to another. We ask that you again order the original Bypass be implemented for the benefit of all of our neighbors in Royal Oak Park.

Sincerely,

A handwritten signature in cursive script, appearing to read "P. Tucker".

Pat Tucker, duly authorized  
Representative of the  
Middletown Royal Oak Residents  
Recipient of Chairman Katz' letter dated May 17, 2006





# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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**FOR IMMEDIATE RELEASE**  
**Thursday, April 7, 2005**

For More Information:

Derek Phelps

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The Connecticut Siting Council (Council) made an important ruling today by issuing a final Decision and Order involving the construction of a high-voltage electric transmission line that will stretch from Middletown to Norwalk. The project was a joint application of the Connecticut Light & Power Company (CL&P) and the United Illuminating Company (UI).

By way of a 9 to 0 vote, the Council found that the 69-mile long project will improve system reliability by enhancing interconnections between southwest Connecticut (a 54-town area) and the remainder of New England, eliminate generation restrictions, eliminate short circuit problems at substations, and eliminate nearly all violations of national and regional standards regarding thermal overloads. This means that the project will significantly improve the reliability of service in the highly-congested load pocket of Fairfield County and its surrounding area.

### **Project Overview**

The project will extend approximately 69 miles, crossing through 18 municipalities in Middlesex, New Haven, and Fairfield Counties. The proposed transmission line will be overhead for approximately 45 miles, from CL&P's existing Scovill Rock Switching Station (in the City of Middletown) to CL&P's proposed East Devon Substation (in the City of Milford). The overhead transmission line would be located primarily within CL&P's existing 115-kV and 345-kV transmission



rights of way. Only a small amount of privately owned land in Middletown and Haddam will have to be acquired for the overhead portion of the project. The line will be underground, primarily beneath public roadways, for approximately 24 miles, from East Devon Substation to UI's proposed Singer Substation (in the City of Bridgeport) and from Singer Substation to CL&P's existing Norwalk Substation (in the City of Norwalk).

The project includes the construction of the proposed East Devon and Singer Substations and the new Beseck Switching Station (in the Town of Wallingford), as well as modifications to the existing Norwalk Substation and the existing Scovill Rock Switching Station. Transition stations, which are required at points where the overhead lines change to underground cable, will be established within the East Devon Substation, where the underground and overhead components of the project connect. The project also includes reconfiguration of certain interconnections and the reconstruction of some existing 115-kV and 345-kV transmission lines.

The amount of the approved transmission line that will lie within each of the 18 municipalities is illustrated below:

#### Line Length by Municipality

Line Length by Municipality	Route Length (miles)	Line Length by Municipality	Route Length (miles)
Bethany	2.6	Middletown	3.1
Bridgeport	6.6	Milford	5.5
Cheshire	0.9	Norwalk	3.1
Durham	5.0	Orange	5.9
Fairfield	3.6	Stratford	2.8
Haddam	0.2	Wallingford	11.5
Hamden	3.7	West Haven	0.1
Meriden	2.3	Westport	5.5
Middlefield	0.7	Woodbridge	6.2



B'Nai Jacob Congregation/ Ezra Academy and the Jewish Community Center in Woodbridge and the Royal Oaks neighborhood in Durham. In keeping with the tenets of P.A. 04-246, which requires that transmission lines be installed underground wherever possible near such facilities, the Council determined that additional undergrounding was "technologically infeasible.

- DPH Consultation The Council availed itself to the best evidence available concerning related to public health, especially with regard to matters involving electric and magnetic fields (EMF). Indeed, beyond simply looking to the evidence related to EMF brought into the record by participants in the proceeding, the Council proactively sought the advice of the state Department of Public Health (DPH). DPH testimony contributed greatly to the Council's decision to approve a variety of EMF mitigation strategies including selected pole placement, pole height, and placement of conductors to reduce electric and magnetic fields.
- EMF / Prudent Avoidance Although the evidence concerning the effects of EMF remains inconclusive, the Council wishes to err on the side of caution with regard to public health and safety. To that end, the Council has embraced the concept of "prudent avoidance," by ordering minimal levels of EMF readings where people congregate and homes are located. An example of such EMF levels include 1.7 mG alongside the southeast boundary of the right of way at the B'Nai Jacob Congregation/ Ezra Academy in Woodbridge.

Editors: "Through the innovative and cutting-edge measures contained in our decision today, the Council has clearly ordered several actions that serve to protect public health and safety."  
[Pam Katz, Chairman.]

- No Taking of Homes and No Restrictions on Land Use The Council's decision results in no taking of homes through eminent domain. Despite early concerns that various methods for route designs or changes in the right of way would result in

dozens of residents losing their homes, the decision approved today any such unfortunate outcome. The Council's decision also places no restrictions upon the use of land along the right of way by landowners.

- No Change to Royal Oaks The Royal Oaks subdivision, in Durham, includes about 80 homes, 15 of which are alongside the right of way. These homes have, for the most part, been in place for some twenty years or more and there are scores of children in the neighborhood. Out of recognition and respect for these homeowners and families, the Council's decision directs that the 345-KV corridor will bypass this neighborhood and instead run through an undeveloped area north of the Royal Oaks neighborhood. Thus, the Royal Oaks neighborhood will remain unchanged.

### **Municipal Collaborations**

The Decision made today by the Council resolves several important issues related to need, environmental effects, the amount of transmission line that will be installed underground, maximum permissible EMF levels, and other critical points. However, in recognition of the importance of local input, the Council wishes to continue to involve the affected communities and municipal leaders in every way possible until the transmission line structures are built and are put into service. To facilitate this important and vital process, the Council will use a collaborative process of Council staff working with local leaders to assemble plans that will further codify the exact details of the construction design. Examples of such details include precise tower heights and locations, and environmental and aesthetic mitigation measures including landscaping designs.

### The Council's Appreciation

This docket proceeding was, by far, the most challenging application to ever come before the Council. There were more than 40 parties and intervenors and some 35 days of public hearings. The record is, quite simply, enormous.

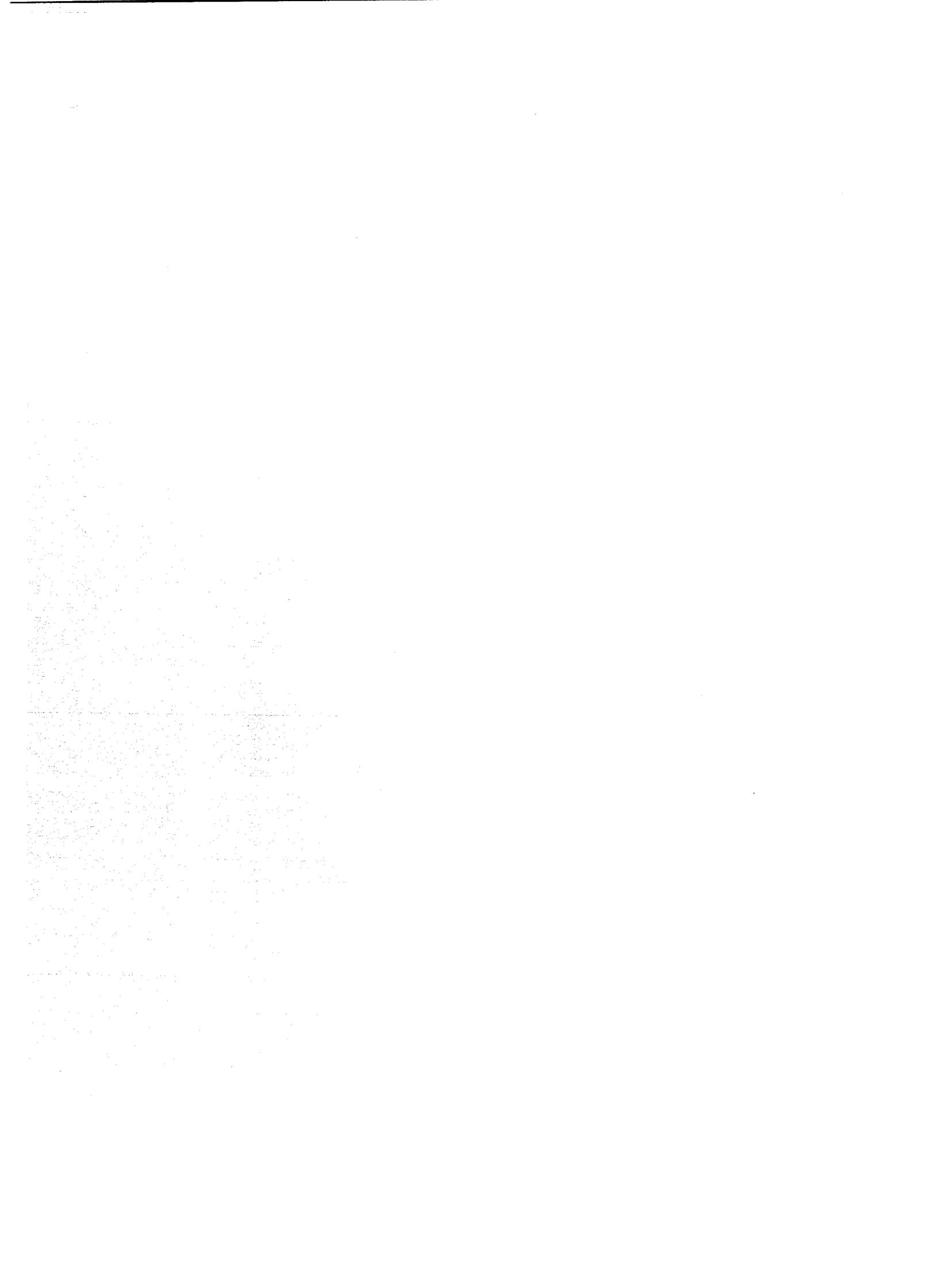
The Council wishes to thank the hundreds of people who attended the public input sessions that were held in the communities and the various citizens groups who participated in various capacities. Special thanks is extended to the many municipalities who brought thoughtful and meaningful suggestions to the table to help fashion the decision that was issued today which we feel is fair and balanced and is an appropriate compromise for all sides. Thank you!

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The Connecticut Siting Council (Council) has jurisdiction to objectively balance the statewide public need for adequate and reliable services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the State. The Council is funded through application fees and assessments, and administrative assessments of the electric utilities, hazardous waste generators, and telecommunications providers of the State. The agency website is [ct.gov/csc](http://ct.gov/csc)

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The Findings of Fact, Opinion, and Decision and Order related to Council docket 272 will be posted to the Council's website ([ct.gov/csc](http://ct.gov/csc)) once the Certificate package is released, which is expected to occur by close of business Monday, April 11, 2005.



HEARING RE: CL&P and UI  
JUNE 2, 2004

1 MR. EMERICK: Two.

2 MR. ZAKLUKIEWICZ: The transfer between  
3 East Devon and East Shore, or East Devon and Beseck,  
4 requires the same 1200-megawatt capability taking into  
5 account a contingency of one of those cables, so you need  
6 three cables, Mr. Emerick.

7 MR. EMERICK: Three cables, okay. Thank  
8 you.

9 CHAIRMAN KATZ: Mr. Boucher.

10 MR. BOUCHER: Thank you, Madam Chairman.  
11 I'd like to start with the loop around Royal Oak that was  
12 the subject of the presentation this morning.

13 CHAIRMAN KATZ: Is that loop entirely in  
14 Durham or does that cross the town line, the jog around  
15 Royal Oak?

16 MS. BARTOSEWICZ: It's not a loop. It's -  
17 - I was going to call it a bypass.

18 CHAIRMAN KATZ: A bypass.

19 MS. BARTOSEWICZ: And is it -- your  
20 question is, is it all in Durham?

21 CHAIRMAN KATZ: Yes.

22 MS. BARTOSEWICZ: No. Actually, the Royal  
23 Oak neighborhood is kind of split in half with the  
24 southerly half in Durham and the northerly half in

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1 Middletown. North of the Royal Oak neighborhood is where  
2 there is the mature hardwood forest, that would be in  
3 Middletown. I believe it is -- this entire bypass would  
4 be in Middletown.

5 CHAIRMAN KATZ: Okay, thank you.

6 MR. BOUCHER: Thank you --

7 MR. ZAKLUKIEWICZ: Middlefield --

8 MS. BARTOSEWICZ: I'm sorry. And once you  
9 cross -- once you cross 17 --

10 MR. ZAKLUKIEWICZ: You're in Middlefield -

11 -

12 MS. BARTOSEWICZ: -- you're in  
13 Middlefield.

14 CHAIRMAN KATZ: Okay, understood.

15 COURT REPORTER: One moment.

16 (Pause)

17 A VOICE: Madam Chairman, do you want us  
18 to do it on the wall or something, so when you talk about  
19 it --

20 CHAIRMAN KATZ: No, we're going to --

21 A VOICE: -- you guys can see it?

22 CHAIRMAN KATZ: We're going to ask you for  
23 a little more on this, so that's alright.

24 MR. BOUCHER: Alright. Has the company or

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1 the Applicants determined how many homes would be passed  
2 or that would be abutted by that particular route?

3 MS. BARTOSEWICZ: I guess I would need ask  
4 you what you mean by abut before I can answer your  
5 question.

6 MR. BOUCHER: Well to the extent the route  
7 has been delineated, has the company figured out how many  
8 lots it would either cross or homes it would be nearby?

9 MS. BARTOSEWICZ: From the -- from the  
10 aerial photograph, the -- in Middletown it goes through a  
11 hardwood forest, through the middle of that forest.  
12 Certainly there are properties in Royal Oak that also  
13 abut the hardwood forest. I would have to do a scale to  
14 tell you how many feet their property line edge is from  
15 where we might be able to put this bypass in, but the new  
16 right-of-way area that we're looking at --

17 MR. FITZGERALD: I think you -- in the  
18 presentation this morning you spoke of -- forget about  
19 property lines, the question is -- I think Mr. Boucher is  
20 asking about structures, and what can you say from what  
21 you know so far about the proximity of structures to what  
22 would be the new right-of-way?

23 A VOICE: Maybe less than half a dozen.

24 MS. BARTOSEWICZ: Less than half a dozen.

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1 And they might be structures.

2 MR. TAIT: Are these residential  
3 structures or structures -- are these structures or are  
4 these residential structures?

5 MR. ZAKLUKIEWICZ: Two are commercial,  
6 four are residential.

7 MS. BARTOSEWICZ: Right. Two are  
8 commercial and four would be residential.

9 MR. TAIT: Thank you.

10 MR. BOUCHER: Now is this -- is this  
11 bypass something the companies are now currently taking a  
12 look at?

13 MS. BARTOSEWICZ: In an effort to answer  
14 Chairman Katz's questions, we started thinking out of the  
15 box and this is one of the alternatives, one of the  
16 routes that we looked at. And we will provide -- with  
17 today's presentation will be an aerial photograph of just  
18 what we showed this morning. And to answer Chairman  
19 Katz's question, there's a couple of modifications on the  
20 west end to answer the Chairman's questions from this  
21 morning.

22 MR. BOUCHER: Okay. Now is that  
23 presentation something that's going to be submitted --

24 MS. BARTOSEWICZ: It will be filed in the

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1 morning.

2 MR. BOUCHER: Okay.

3 CHAIRMAN KATZ: Mr. Boucher, the Council  
4 staff is developing interrogatories on the Royal Oak  
5 bypass and we'll be getting into that in the July --  
6 probably the July hearings --

7 MR. BOUCHER: Alright --

8 CHAIRMAN KATZ: -- we'll take some time.

9 MR. BOUCHER: Thank you.

10 MS. BARTOSEWICZ: Excuse me, I've been  
11 told that the data file for this electronic filing is too  
12 big to e-mail, so that we would ask -- we can provide a  
13 disk to anyone who would like these aerial photographs.

14 CHAIRMAN KATZ: Understood.

15 MR. BOUCHER: Thank you.

16 MR. ASHTON: Can I ask one more question  
17 in that vein? In laying out the bypass, you had the  
18 bypass returning to the existing right-of-way more or  
19 less parallel to Route 17 and immediately west of it  
20 behind those structures that are on west -- that are on  
21 the west side of 17. If the bypass was continued to just  
22 where -- roughly where the greenhouse is as you  
23 characterized it, a little further to the west, wouldn't  
24 that leave a little -- wouldn't that make it so it's not

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1 right up against the structures, the old former mission  
2 station and so forth, there would be a little clearance  
3 between the line --

4 MR. ZAKLUKIEWICZ: Yes --

5 MS. BARTOSEWICZ: Correct --

6 MR. ASHTON: -- and those structures  
7 lining 17?

8 MS. BARTOSEWICZ: In the drawing that we  
9 will file tomorrow, we'll include that exact  
10 configuration.

11 MR. ASHTON: Okay, thank you.

12 CHAIRMAN KATZ: Great. So we will get the  
13 -- the Council staff will get those interrogatories out  
14 on the Royal Oak bypass. And I highly encourage Durham,  
15 Middlefield and Middletown to respond to those and tell  
16 us what you think of that concept.

17 MR. BOUCHER: Thank you, Madam Chairman.  
18 I -- would I be correct in assuming that that bypass from  
19 a reliability standpoint would be just as reliable as the  
20 preferred route?

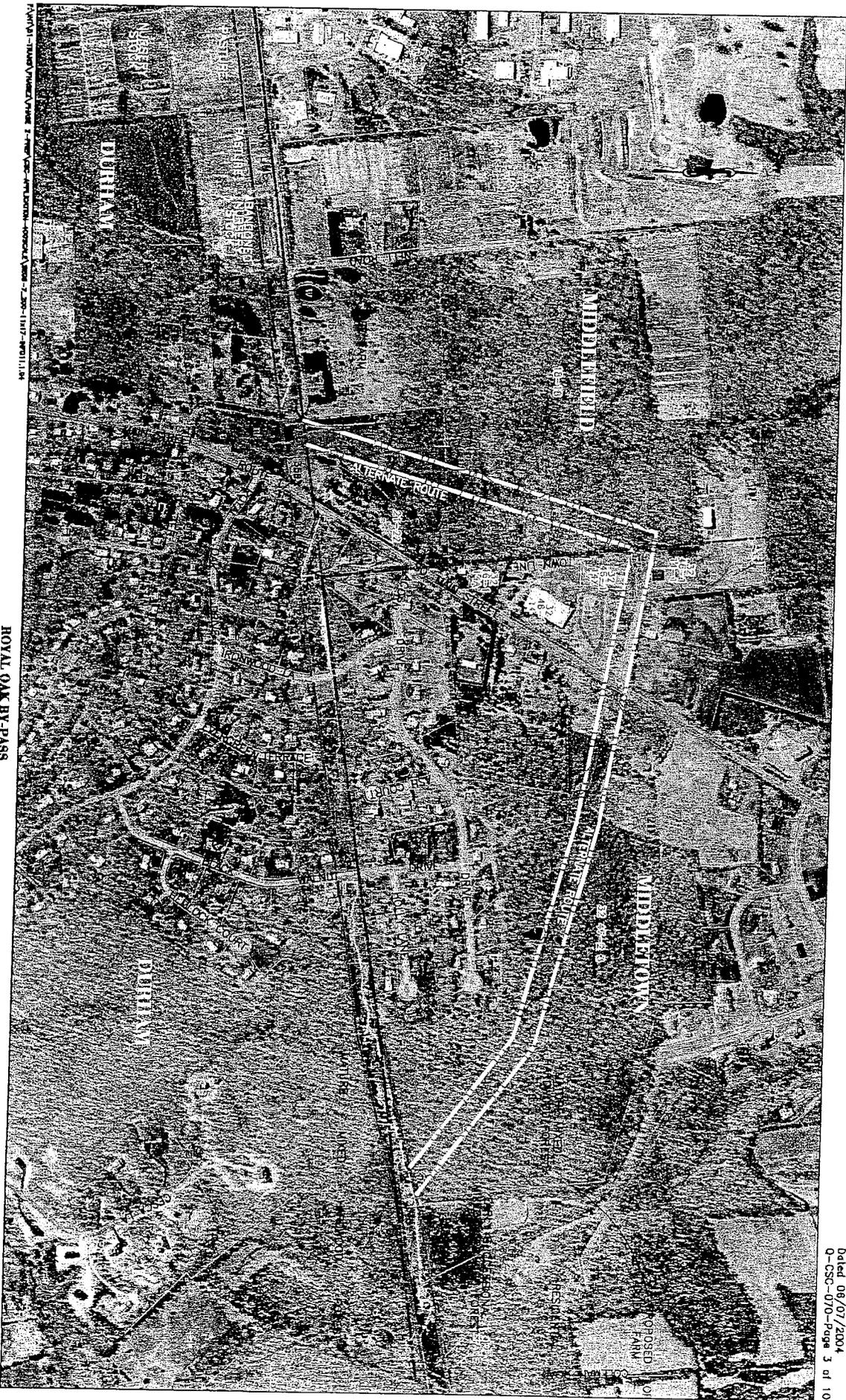
21 MS. BARTOSEWICZ: That's correct.

22 MR. ZAKLUKIEWICZ: Yes.

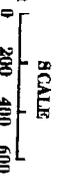
23 MR. BOUCHER: Okay. I have a few  
24 questions about the northerly route that was also the

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## **Royal Oak By-Pass**



Appendix to Findings of Fact  
 Page 4 of 21

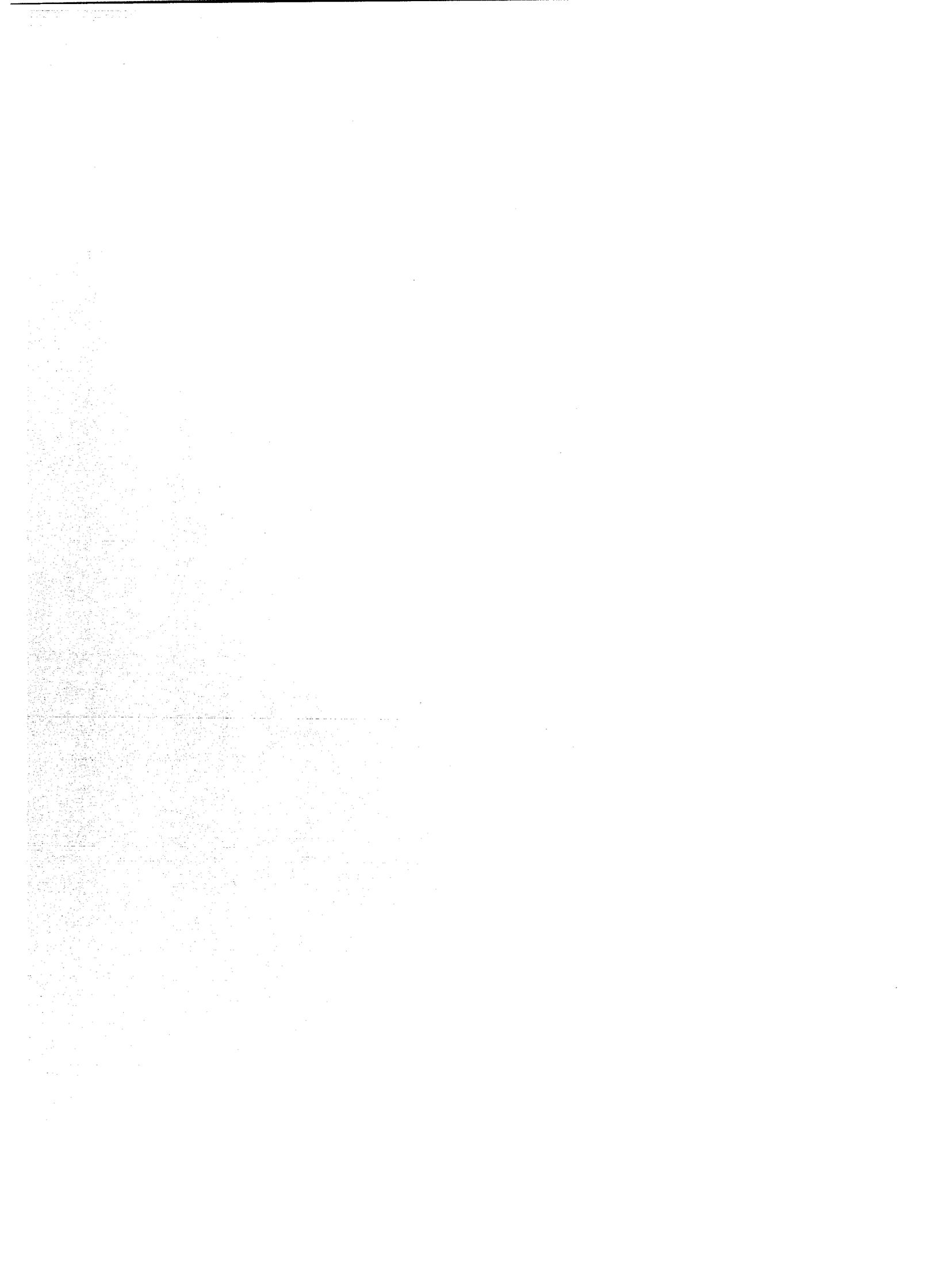


**ROYAL OAK BY-PASS**  
 MIDDLETOWN-NORWALK  
 845-L TRANSMISSION LINE  
 CITY OF MIDDLETOWN  
 TOWNS OF DURHAM  
 AND MIDDLEFIELD

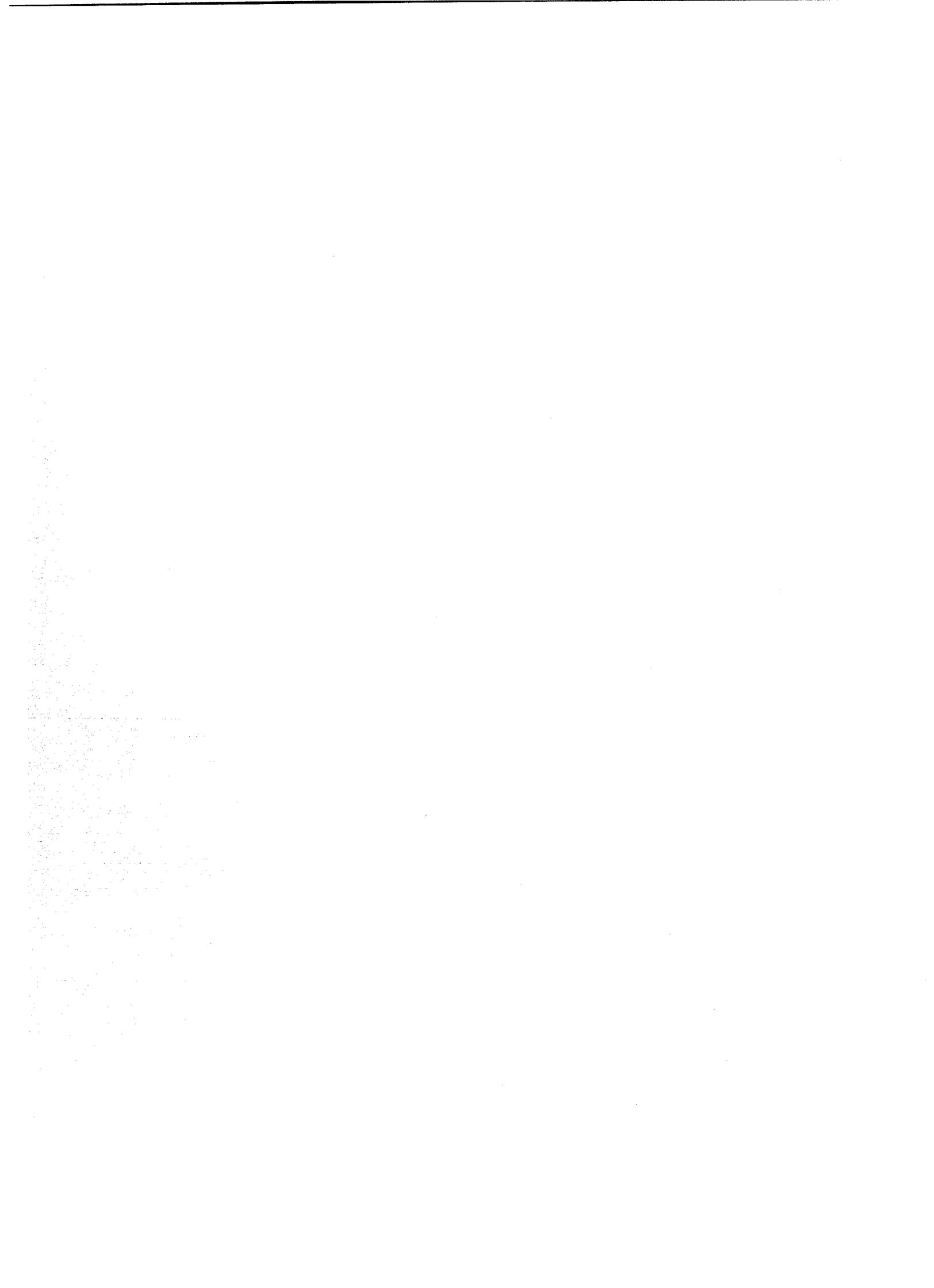
MAP SCALE 1:2000  
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 32-48-1-14-4  
 18-18  
 21-22

OWNERS  
 W. SON LINDA D.  
 BOGDANSKI INVESTMENTS  
 HANCOCK INVESTMENTS, LLC  
 MIDDLETOWN, WYOMING, WY  
 MOSS, JOHN T.

OWNER ADDRESS  
 991 BOW LN., MIDDLETOWN, CT 06467  
 31 LAURENTE DR., MIDDLETOWN, CT 06467  
 2301 SOUTH MAIN ST., MIDDLETOWN, CT 06467  
 200 FINE CROFTWOOD RD., BRANFORD, CT 06405







STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

The Connecticut Light and Power : DOCKET NO. 272  
Company and the United Illuminating :  
Company Application for a Certificate :  
of Environmental Compatibility and :  
Public Need for the Construction of a :  
New 345-kV Electric Transmission Line :  
and Associated Facilities between the :  
Scovill Rock Switching Station in :  
Middletown and the Norwalk Substation :  
in Norwalk, Connecticut : MARCH 16, 2005

RECEIVED  
MAR 17 2005  
CONNECTICUT  
SITING COUNCIL

**BRIEF OF THE WILSONS IN RESPONSE TO  
THE APPLICANT'S PROPOSED 345 kV TRANSMISSION LINE**

**EXECUTIVE SUMMARY**

The following is the brief Linda Wilson and the South Main Street Irrevocable Trust ("Wilsons") in response to the Applicant's Proposed Aboveground Transmission Line to be located along the existing easement in the so-called Royal Oak Subdivision, which transmission line is partly located in the Towns of Middlefield, Middletown and Durham. This brief is divided into five sections, (1) Wilsons' Preferred Alternatives; (2) Comparison of the Environmental Impact of Transmission Lines and Cables in the Existing Royal Oak Easement and Proposed Royal Oak Bypass through the Wilson's Middletown Parcel; (3) Statutory Construction of the Term "Residential Area" as Used in Section 16-50p(c)(3) and 16-50p(h) of the Connecticut General Statutes; (4) Statutory Construction of the Term "Technologically Feasible" as Used in Section 16-50p(h) of the Connecticut General Statutes; and (5) Discussion of Transmission Line/Cable Costs in Evaluating Alternative Proposals. This brief leaves to

was cognizant that enacting Section 16-50p(c)(3) would result in increased costs due to its underground preference for high voltage cable, it is the Wilson's position that the costs of underground cable in the Existing Royal Oak Easement is insignificant when compared to the overall costs of the transmission line system and, therefore, should not be considered for this segment of undergrounding. The Wilsons do not take a position on the overall undergrounding costs for the entire system as that is not an issue of concern for them.

### ARGUMENT

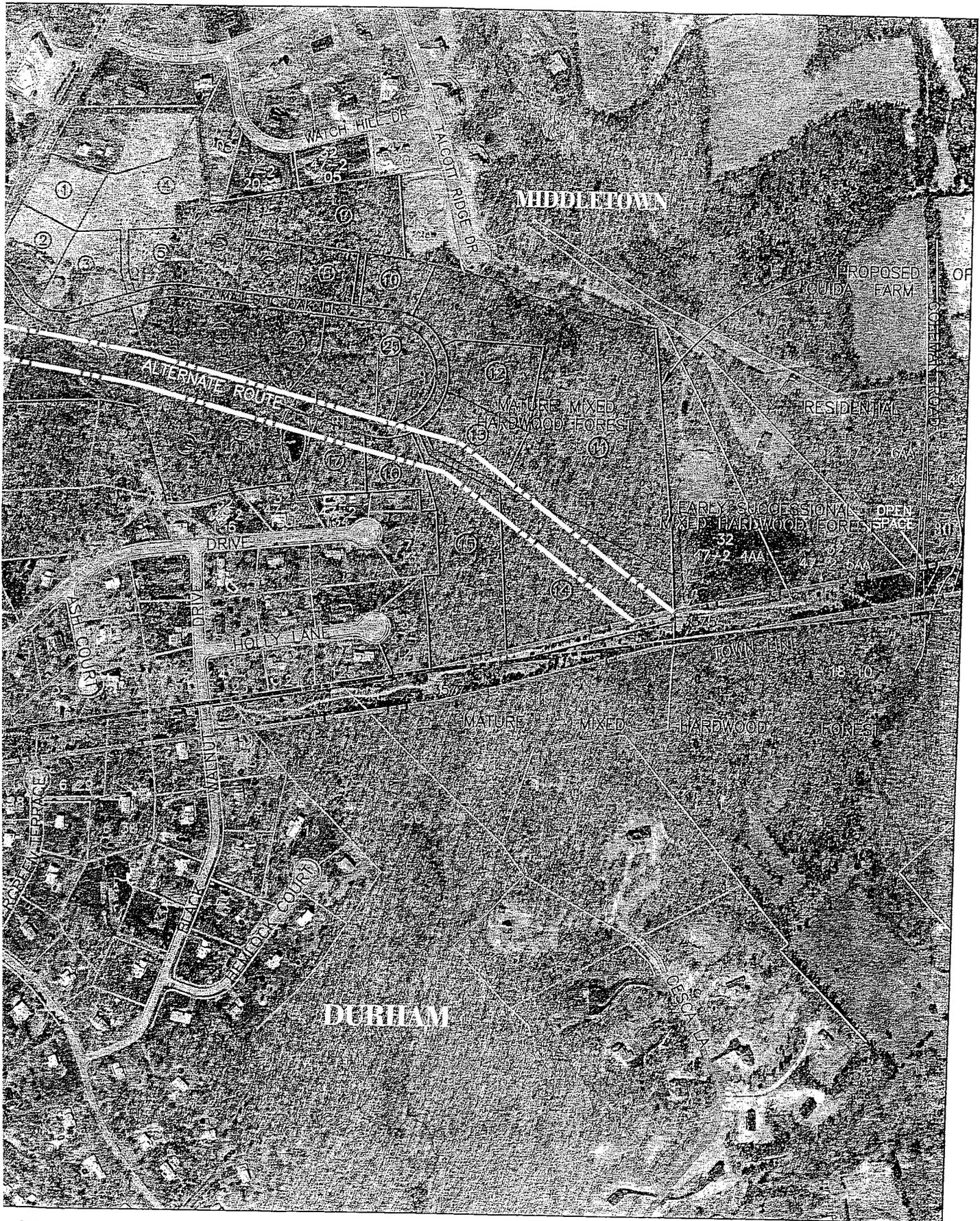
#### I. **Wilson's Preferred Alternatives.**

*The Wilsons are vehemently opposed to the installation of transmission lines/cables along the Proposed Royal Oak Bypass and favor use of the Existing Royal Oak Easement for transmission lines/cables. The Proposed Royal Oak Bypass would bisect the Wilsons 25 lot subdivision and cross over 14 residential lots. Use of the Proposed Royal Oak Subdivision would require the Applicants to condemn the Wilsons' property for purposes of obtaining an easement. This action would not be required if the new transmission lines/cables were placed in the Existing Royal Oak Easement.<sup>1</sup>*

*The Wilsons support the use of XLPE cable in the Existing Royal Oak Easement and, if the residents of the Royal Oak Subdivision concur, would also support the use of GITL cable. The advantage of XPLE cable in the Existing Royal Oak Easement (or along the roadways in*

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<sup>1</sup> The Applicant currently holds an aboveground easement in the Existing Royal Oak Easement. The construction of XLPE or GITL along the Existing Royal Oak Easement would likely require an underground easement, which the Wilsons are prepared to grant.

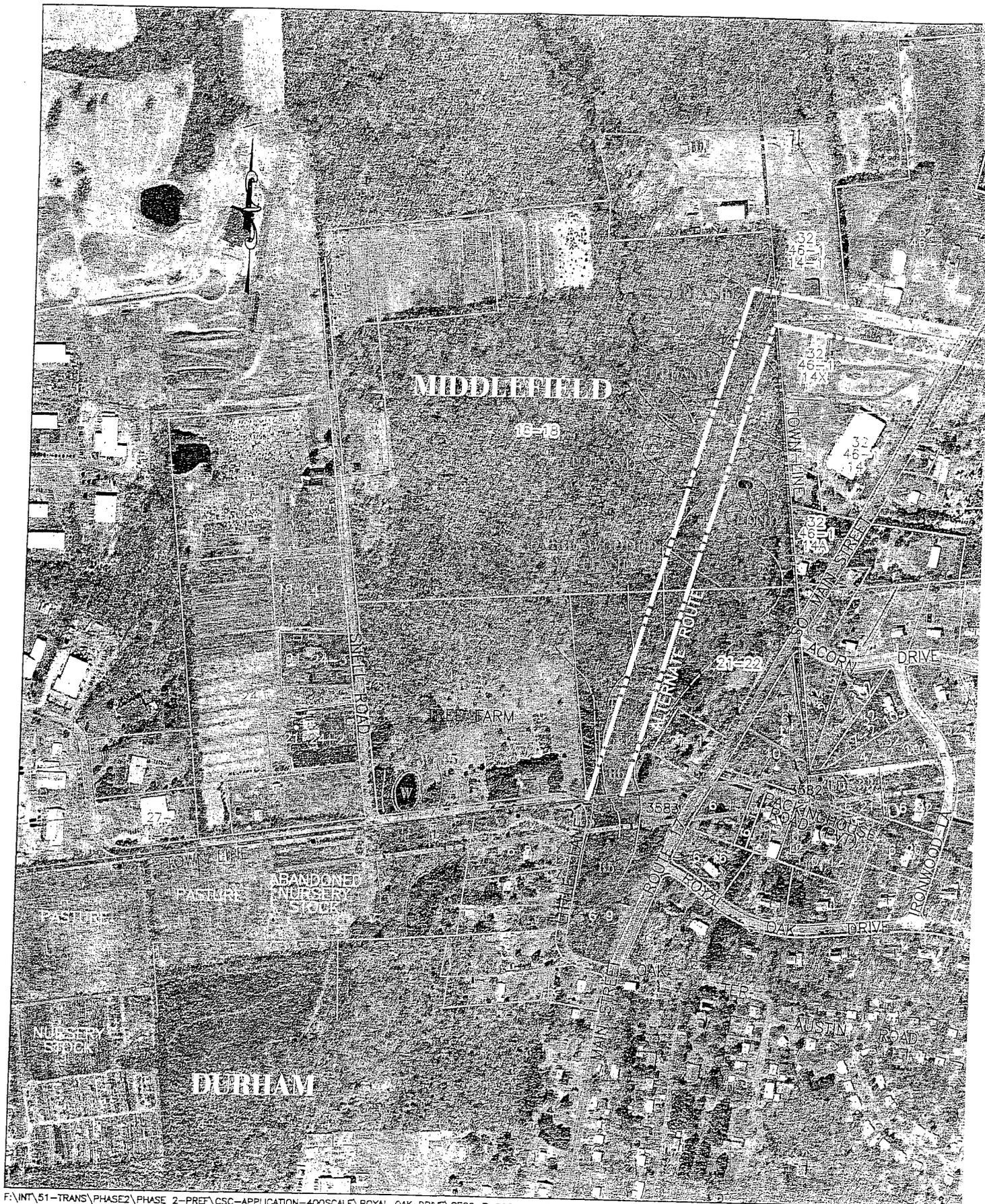


ASS  
WALK  
ON LINE  
WN  
M  
D

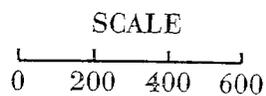
MAP-BLOCK-LOT#  
32 47-2 3  
32 46-1 14-1  
32 46-1 14X  
18-18  
21-22

OWNER  
WILSON LINDA D.  
BOSCARINO NANCY TRUSTEE ETALS  
HAMDEN GREENHOUSE LLC  
MIDDLETOWN WATER CO.  
MOSS, JOHN T.

OWNER ADDRESS  
591 BOW LA. MIDDLETOWN, CT 06457  
31 LAUREATE DR. MIDDLETOWN, CT 06457  
2301 SOUTH MAIN ST. MIDDLETOWN, CT 06457  
DEKOVEN DR. MIDDLETOWN, CT 06457  
200 PINE ORCHARD RD. BRANFORD, CT 06405



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ROYAL OAK  
 MIDDLETON  
 345-kV TRANS  
 CITY OF MIDDLETON  
 TOWNS OF MIDDLETON  
 AND MIDDLETON