

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :

APPLICATION OF CELLCO PARTNERSHIP : DOCKET NO. 355
D/B/A VERIZON WIRELESS FOR A :
CERTIFICATE OF ENVIRONMENTAL :
COMPATIBILITY AND PUBLIC NEED FOR :
THE CONSTRUCTION, MAINTENANCE :
AND OPERATION OF A WIRELESS :
TELECOMMUNICATIONS FACILITY AT 359 :
LITCHFIELD ROAD IN NEW MILFORD, :
CONNECTICUT :

APPLICATION OF OPTASITE TOWERS INC. : DOCKET NO. 342
AND OMNIPOINT COMMUNICATIONS, :
INC. FOR A CERTIFICATE OF :
ENVIRONMENTAL COMPATIBILITY AND :
PUBLIC NEED FOR THE CONSTRUCTION, :
MAINTENANCE AND OPERATION OF A :
WIRELESS TELECOMMUNICATIONS :
FACILITY LOCATED AT 425 LITCHFIELD :
ROAD, NEW MILFORD, CONNECTICUT : MAY 5, 2008

PROPOSED FINDINGS OF FACT

I. Introduction

1. Pursuant to Chapter 277a, Section 16-50g, et seq. of the Connecticut General Statutes (“C.G.S.”), as amended and Section 16-50j-a, et seq. of the Regulations of Connecticut State Agencies (“R.C.S.A.”). Cellco Partnership d/b/a Verizon Wireless (“Cellco”) applied to the Connecticut Siting Council (“Council”) on December 7, 2007, for the construction, operation and maintenance of a telecommunications facility on property owned by the Northville Volunteer Fire Department (“NVFD”) at 359 Litchfield Road in the Northville section of the Town of New Milford, Connecticut. (Cellco 1, p. 1).

2. Cellco is a Delaware partnership with an administrative office located at 99 East River Drive, East Hartford, Connecticut. Cellco is licensed by the Federal Communications Commission to operate a wireless telecommunications system in Connecticut. In particular, Cellco is licensed to provide personal communication service (“PCS”) in Litchfield County, Connecticut. The operation of wireless communications systems and related activities are Cellco’s sole business in Connecticut. (Cellco 1, p. 4).

3. The party in Docket No. 355 is the applicant, Cellco. (March 11, 2008 Transcript/afternoon session (“Tr. 1”), p. 4).

4. Optasite Towers LLC (“Optasite”) and Omnipoint Communications, Inc., a subsidiary of T-Mobile Communications, Inc. (“T-Mobile”) is an intervenor in Docket No. 355. (Tr. 1, p. 4).

5. On June 22, 2007, Optasite and T-Mobile filed an Application with the Council for the construction, maintenance and operation of a telecommunications facility on private property at 425 Litchfield Road in the Northville section of the Town of New Milford. (Optasite 1, p. 1).

6. The proposed NVFD Facility and Optasite Facility are located approximately ½ mile apart. (Tr. 3, p. 74).

7. The Council determined that a common hearing with regard to the Cellco Application and Optasite Application would be appropriate pursuant to the provisions of C.G.S. § 16-50m(d) to determine in part whether one tower could meet the mobile telecommunications needs for the entire Northville area. (Tr. 1, pp. 5 and 6).

8. Pursuant to C.G.S. § 16-50m, the Council, after giving due notice thereof, held a combined public hearing on March 11, 2008, beginning at 3:00 p.m. and continuing at 7:00 p.m.

at the New Milford High School, 388 Danbury Road, New Milford, Connecticut. The Council hearing was continued to April 4, 2008. (Tr. 1, p.3; Tr. 3, p. 3).

9. The Council and its staff, as well as the parties and intervenors, conducted an inspection of the NVFD site prior to the March 11, 2008 hearing. Cellco flew a balloon at the NVFD site to simulate the height of the proposed tower between the hours of 8:00 a.m. and 5:00 p.m. (Cellco 1, p. 13; Council Hearing Notice).

10. Pursuant to C.G.S. § 16-50**l**(b), Cellco published notice of its intent to file its Application on December 4 and 5, 2007 in the *Danbury News-Times*. (Cellco 1, p. 5; Cellco 3).

11. In accordance with C.G.S. § 16-50**l**(b), Cellco sent notices of its intent to file the Application with the Council to each person appearing of record as the owner of property abutting the NVFD property. (Cellco 1, p. 6, Tab 5).

12. Cellco posted two signs at the NVFD property on February 21, 2008, one located along the NVFD property's Litchfield Road frontage and the second along Big Bear Hill Road near the proposed driveway access to the cell site. In accordance with Council guidelines the notice signs were posted on the property 12 business days prior to the commencement of the Council hearing. (Tr. 1, p. 20).

II. State Agency Comments

13. Pursuant to C.G.S. § 16-50**l**, the Council solicited comments on Cellco's Application from the following State departments and agencies: Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, and Department of Transportation. (Council Hearing Package).

14. The Connecticut Department of Transportation responded to the Council's

solicitation with no comments. (DOT Letter dated March 11, 2008).

15. The Connecticut Department of Public Health (DPH) drinking water section responded to the Council's solicitation stating that the NVFD Facility would be located approximately 300 feet from the Litchfield County Headstart NTNC Well PWSID No. CT0969363, expressing concern for the protection of this source of public drinking water. Upon further investigation, in a follow-up memoranda dated March 27, 2008, DPH confirmed that the public drinking water well referred to in its February 14, 2008 memorandum was no longer active and that no other public water system is located at the same property. (DPH Memoranda dated February 14, 2008 and March 27, 2008).

III. Municipal Consultation

16. Cellco commenced the 60-day municipal consultation process on October 4, 2007, by filing technical information summarizing the NVFD Facility proposal with Town Attorney D. Randall DiBella. (Cellco 1, p. 18).

17. On February 19, 2008, Cellco made a formal presentation on the NVFD Facility proposal during an informational hearing before the New Milford Zoning Commission.

18. On August 14, 2007, Optasite made a formal presentation on the Docket No. 342 tower proposal during an informational hearing before the New Milford Zoning Commission. (Optasite 1, p. 19; Optasite 7).

19. The Zoning Commission issued formal findings and recommendations on both the NVFD Facility proposal (Council Docket No. 355) and the Optasite Facility proposal (Council Docket No. 342). In its findings and recommendations the Zoning Commission recognized that Optasite and Cellco were presenting two competing proposals for a tower site in the Northville section of New Milford. (Cellco 5; Optasite 7).

20. Due to the benefits realized by the Town's emergency service entities, the Zoning Commission determined that of the two sites being considered, Cellco's proposal to install a telecommunications facility on property at the NVFD was the *preferred* tower location. (Cellco 5).

IV. Public Need For Service

21. In its report and order issued on May 4, 1981, in FCC Docket No. 79-318, the FCC recognized the public need for technical improvement, wide area coverage, high quality service and a degree of competition in mobile telephone service. (Cellco 1, pp. 5 and 6).

22. The Federal Telecommunications Act of 1996 (the "Act"), a federal law passed by the United States Congress, recognized a nation-wide public need for high quality wireless telecommunications services. The Act also promoted competition among wireless service providers, sought to reduce regulation in order to foster lower prices for consumers and encourage the rapid deployment of new telecommunications technologies. (Cellco 1, pp. 5-7).

23. Cellco's proposed NVFD Facility would be a part of its expanding telecommunications network envisioned by the Act. (Cellco 1, p. 7).

24. Cellco holds a license issued by the FCC to provide personal communication service ("PCS") in Litchfield County, Connecticut. (Cellco 1, p. 7, Tab 6).

25. Cellco's proposed NVFD Facility would not enlarge its FCC-authorized service area. (Cellco 1, p. 7).

26. In issuing personal wireless service licenses, the federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. (Council Administrative Notice, Telecommunications Act of 1996).

27. The Telecommunications Act of 1996 prohibits local and state bodies from discriminating among providers of functionally equivalent services. (Council Administrative Notice, Telecommunications Act of 1996).

28. The Telecommunications Act of 1996 prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice, Telecommunications Act of 1996).

29. In an effort to ensure the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999 (the 911 Act). The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (Council Administrative Notice, Wireless Communications and Public Safety Act of 1999).

30. Cellco maintains that there is no equally effective technological alternative that could provide the same service as the facility being proposed. (Cellco 1, p. 9).

31. Cellco currently maintains three telecommunications facilities that surround the Northville area. These facilities include its New Milford cell site (antennas at the 133-foot level on an existing 150-foot tower at 4 Elkington Farm Road in New Milford); its New Milford East cell site (antennas at the 140-foot level on an existing 160-foot tower at 399 Chestnut Land Road in New Milford); and its recently constructed Washington North cell site (antennas at the 160-foot level on an existing 160-foot tower at 6 Mountain Road in Washington, Connecticut).

(Cellco 1, p. 2).

32. None of these existing cell sites can provide Cellco customers with reliable service along Route 202 and portions of Route 109 in Northville. (Cellco 1, Tab 7).

33. Cellco experiences a 1.7 mile gap in reliable service along Route 202 and a 0.5 mile gap in reliable service along Route 109 in the Northville area. (Cellco 1, Tab 7).

34. These existing coverage gaps can be filled with reliable service from Cellco's proposed NVFD Facility with antennas mounted at 150 feet above ground level ("AGL"). Small gaps in coverage along Route 202 and Route 109 would remain if Cellco were to install its antennas at the 140-foot level at the NVFD Facility. (Cellco 1, p. 2, Tab 7; Cellco 4, Response 11).

35. T-Mobile, an FCC licensed PCS service provider has also identified a need for service in the Northville area. (Optasite 1, pp. 5-6, Tab G).

36. Existing T-Mobile service in the Northville area is provided by one existing cell site, T-Mobile's New Milford facility (T-Mobile antennas mounted at the 68-foot level on an existing CL&P transmission line tower off Russeling Road, New Milford). (Optasite 1, Tab H).

37. T-Mobile currently maintains an 18 mile coverage gap along Route 202 between its existing New Milford cell site off Russeling Road and its next existing cell site in the City of Torrington. (Optasite 1, Tab G; Optasite 14; Tr. 3, pp. 36-37 and 63).

38. Beyond the Optasite Facility, T-Mobile has no plans, no candidates, and no funded or unfunded search rings for any new cell site between New Milford and the City of Torrington. (9/10/07 Transcript, pp. 46-47; Optasite 16, Response 4; Tr. 3, pp. 33 and 67).

39. T-Mobile has determined that the recently approved Washington cell site at 6 Mountain Road would provide T-Mobile with a "great compliment" to its network coverage as it

extends north and east along Route 202. (9/10/07 Transcript, pp. 46-47; Tr. 3, p. 67).

40. If T-Mobile were to utilize the existing Washington Facility at 6 Mountain Road and install antennas at the 140-foot level on Cellco's NVFD Facility, T-Mobile could satisfy its coverage objectives in the Northville area and provide coverage that extends approximately 1.3 miles further along Route 202 toward Litchfield that it can provide from the proposed Optasite Facility.

41. Cellco can satisfy its coverage objectives in the Northville area by installing antennas at the 127-foot level on the Optasite Facility tower.

V. Cellco's NVFD Facility

42. Cellco's NVFD Facility would be located on a 3.85 acre parcel at 359 Litchfield Road. This parcel is owned by the Northville Volunteer Fire Department. (Cellco 1, Attachment 1, pp. 1-2 and Project Plans).

43. The NVFD property is zoned R-80 and is surrounded by low-density residential and agricultural land uses. (Cellco 1, p. 16).

44. Cellco's proposed facility would be located in the northerly portion of the NVFD property. Cellco has leased a 100' x 100' area for construction of the cell site. Due to topography on the NVFD property, however, Cellco is proposing the development of a non-traditional site compound that is 36' x 93'. (Cellco 1, p. 2, Tab 1).

45. At the NVFD property, Cellco proposes to construct a 150-foot steel monopole tower within the site compound. (Cellco 1, p. 2, Tab 1).

46. Cellco's radio equipment and a diesel-fueled generator would be housed in a 12' x 30' shelter located within the site compound near the base of the tower. (Cellco 1, p. 2, Tab 1).

47. The NVFD Facility tower would be located at 41° 38' 22.647" N and 73° 23'

31.654" W at a ground elevation of approximately 428 feet AMSL. (Cellco 4, Response 8).

48. Cellco's tower would be designed in accordance with the specifications of the Electronic Industries Association Standard EIA/TIA-222-F "Structural Standards for Steel Antenna Towers and Antenna Support Structures." (Cellco 1, Tab 1, p. 6).

49. Cellco would install 12 panel-type antennas with their centerline at the 150-foot level. The tops of the Cellco antennas would extend to 153 feet AGL. (Cellco 1, p. 2).

50. The NVFD Facility tower would be designed to accommodate three additional wireless carriers and emergency service antennas of the NVFD and Town of New Milford. (Cellco 1, pp. 10-11).

51. Development of the NVFD Facility would require a cut of 1,400 cubic yards and a fill of 1,000 cubic yards. (Tr. 3, p. 24).

52. Vehicular access to the site would extend from Big Bear Hill Road over a new paved driveway to the cell site, a distance of approximately 160 feet. (Cellco 1, p. 2, Tab 1).

53. Utility service would extend from existing service along Big Bear Hill Road along the proposed access driveway to the cell site. (Cellco 1, Tab 1).

54. Cellco does not anticipate the need for blasting to construct the NVFD Facility. (Cellco 4, Response 3).

55. The setback radius of the tower would extend onto adjacent properties to the west and south and onto a portion of Big Bear Hill Road. Cellco would design the tower with a yield point to effectively reduce the potential size of the setback radius keeping it entirely within the NVFD property. (Cellco 4, Response 8).

VI. Optasite's Northville Facility

56. The Optasite Facility would be located on a 28.86 acre parcel located at 425

Litchfield Road. This parcel is privately owned by the Estate of Edward J. Drazl. (Optasite 1, Tab C).

57. The Optasite Facility would be located in the Town's R-40 residential zone district. (Tr. 3, pp. 76-78).

58. The Optasite Facility is surrounded by low-density residential areas and agricultural land uses.

59. Optasite would construct a 140-foot steel monopole tower inside a 70' x 70' compound area within a larger 100' x 100' leased parcel. Clearing of the entire compound and leased parcel together with a substantial area around the leased parcel is required to construct the Optasite Facility. (Optasite 1, Tab B).

60. Access to the Optasite Facility would extend from Litchfield Road over a gravel driveway, a distance of 1,207 feet. (Tr. 3, p. 84).

61. Development of the Optasite Facility would require a cut of 1,900 cubic yard and a fill of 1,700 cubic yards. (Tr. 3, p. 34).

62. Utilities would extend underground from Litchfield Road along the proposed access road to the cell site, a distance of approximately 1,207 feet. (Optasite 1, Tab B).

VII. Environmental Considerations

A. Cellco's NVFD Facility

63. Cellco's design of a long and narrow (36' x 93') compound area allows for site development impacts (clearing, grading, etc.) to be significantly reduced on the NVFD property. The total area of ground disturbance at the NVFD Facility would be approximately 20,000 square feet. (Cellco 1, Tab 1).

64. Cellco's creative site design will require the removal of twenty-six (26) trees with

a diameter of six inches or greater at breast height. (Cellco 1, Tab 1; Tr. 3, pp. 22-29).

65. Supplemental buffer plantings and a textured retaining wall structure will further help the facility blend into the existing terrain. (Tr. 3, pp. 22-29).

66. An intermittent watercourse with a narrow bordering wetland exists in the northerly portion of the NVFD property. All construction activity associated with the NVFD Facility would remain approximately 40 to 45 feet from the existing watercourse. Adequate soil erosion sedimentation controls have been incorporated into Cellco's project plans. Cellco does not anticipate this wetland resource will be impacted by site development activities. (Cellco 1, pp. 17-18, Tab 1, Tab 12; Tr. 3, pp. 30-32).

67. Cellco engineers have completed a stormwater drainage analysis and geotechnical survey of the NVFD property. (Cellco 8; Tr. 3, pp. 20-21).

68. The engineering design of the NVFD Facility incorporates stormwater control measures, including but not limited to a gravel compound surface, riprap swales and stone backfill behind a retaining wall system that results in a decrease in post-construction stormwater run-off from the NVFD property. (Tr. 3, pp. 20-22).

69. Information obtained through the geotechnical survey of the NVFD property does not support the comments from the Town's Wetlands Enforcement Officer regarding depth to groundwater. No groundwater was encountered in Cellco's geotechnical survey. (Tr. 3, pp. 20-21).

B. The Optasite Facility

70. Construction of the Optasite Facility will require the clearing and grading of the 4,900 square foot site compound, the entire 10,000 square foot leased area and the substantial area around the leased area to maintain a level site compound. (Optasite 1, p. 2, Tab B, Sheet

A02; Tr. 3, pp. 34-35).

71. Additional clearing and grading will also be required along the entire length of the 1,207-foot long access road extending from Litchfield Road to the cell site. This additional clearing and grading will be required to improve the existing roadway to the cell site, install roadside drainage swales and install underground utilities as proposed in the Optasite application. (Optasite 1, p. 2, Tab B, Sheet A02; Tr. 3, pp. 34-35).

72. The total area of disturbance proposed as a part of the construction of the Optasite Facility is approximately 40,000 square feet, nearly twice the area of the service required to construct Cellco's NVFD Facility. (Optasite 1, p. 2, Tab B, Sheet A02).

73. Construction of the Optasite Facility will require the removal of approximately 60 to 70 trees with a diameter of six inches or greater at breast height. (Optasite 1, Tab 1, Sheet A02; Tr. 3, pp. 78-80).

74. Optasite has not yet completed a stormwater impact analysis and, therefore, has not incorporated into its project plans presented to the Council a final drainage design for the proposed facility. (Tr. 3, pp. 82-83).

75. Overall, the Optasite Facility will have a more substantial impact on the natural environment than Cellco's proposed NVFD Facility.

C. Visibility

76. The visual impact analyses for both the Optasite Facility and Cellco's NVFD Facility were conducted by VHB, Incorporated. (Cellco 1, Tab 10; Optasite 1, Tab J).

77. Cellco's NVFD Facility would be visible, year-round from approximately 23 acres in the Northville area. (Cellco 1, Tab 10).

78. Optasite's Facility would be visible, year-round from approximately 38 acres in

the Northville area. (Optasite 1, Tab J).

79. Cellco's NVFD Facility would be visible, year-round from 10 residences in the Northville area. Of those 10 residences, only three are located within ½ mile of the NVFD Facility. (Cellco 1, Tab 10).

80. Optasite's Facility would be visible, year-round from 25 residences in the Northville area. Of those 25 residences, 13 are located within ½ mile of the Optasite Facility. (Optasite 1, Tab J).

Respectfully submitted,
CELLCO PARTNERSHIP d/b/a
VERIZON WIRELESS

By 

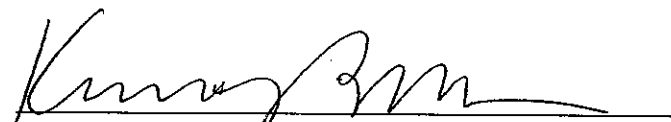
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CERTIFICATION

This is to certify that on this 5th day of May, 2008, a copy of the foregoing was mailed,

postage prepaid, to the following:

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