

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

DOCKET NO. 359

APPLICATION OF OPTASITE TOWERS LLC
AND OMNIPOINT COMMUNICATIONS, INC.
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 58 MONTANO ROAD/
618 NEIPSIC ROAD IN THE TOWN OF
GLASTONBURY, CONNECTICUT

Date: JULY 21, 2008

PROPOSED FINDINGS OF FACT

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies, co-applicant Optasite Towers LLC ("Optasite") submits these Proposed Findings of Fact ("Proposed Findings").

Introduction

1. The co-applicants Optasite and Omnipoint Communications, Inc. d/b/a T-Mobile ("T-Mobile") (collectively the "Co-Applicants"), in accordance with provisions of Connecticut General Statutes ("C.G.S.") §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-34 of the Regulations of Connecticut State Agencies ("R.C.S.A."), applied to the Connecticut Siting Council ("Council") on March 17, 2008 for a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, operation and maintenance of a wireless telecommunications facility ("Facility") at one of two locations; 58 Montano Road ("Site A") or 618 Neispic Road a/k/a 497A Wickham Road ("Site B") both in Glastonbury. (Application ("App."). at 2).

2. Site A is located in the northern portion of the 58 Montano Road property (the "Site A Property"). (App. at 2).
3. Site B is located in the southern portion of the 618 Neipsic Road property (the "Site B Property"). (App. at 2).
4. The purpose of the proposed Facility at either Site is to provide wireless coverage service to this area for T-Mobile. (App. at 1, Exhibit H, Exhibit I; T-Mobile Interrogatory Responses; Pre-Filed Testimony of Scott Heffernan ("Heffernan Testimony") at 3).
5. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Thursday, June 19, 2008, beginning at 3:00 p.m. and continued at 7:00 p.m., at the Town Council Chambers, Glastonbury Town Hall, 2155 Main Street, Glastonbury, Connecticut ("Hearing"). (Hearing Notice; 3:00 p.m. Transcript ["Tr."] at 3).
6. The Council and its staff made an inspection of both Sites on June 19, 2008 at 2:00 p.m. (Hearing Notice).
7. The co-Applicants flew a four foot red balloon at a height of 120 feet at Site A and a four foot black balloon at a height of 130 at Site B from 8 am to 5 pm on June 19, 2008. (3:00 Tr. at 32; 7:00 p.m. Tr. at 9-10; Exhibit 10).

Need

8. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services. Through the Federal Telecommunications Act of 1996 (the "Act"), Congress seeks to promote competition, reduce regulation to encourage technical innovation, and foster lower prices for wireless telecommunications services. The Act pre-empts any state or local determination of public need. (App. at 5; 3:00 p.m. Tr. at 3-4; Telecommunications Act of 1996).

9. A Facility at either Site will provide coverage for significant coverage gaps experienced by T-Mobile in Glastonbury specifically along Route 2 and the surrounding area. (App. at 6, Exhibit H, I; T-Mobile Interrogatory Responses, Pre-filed testimony of Scott Heffernan).

10. The Town of Glastonbury's Volunteer Fire Department has indicated its need to locate its emergency services equipment at the Facility at either Site. (Pre-filed Testimony of Charles Regulbuto ("Regulbuto Testimony") at Exhibit 1; 3:00 Tr. at 74).

Coverage

11. T-Mobile testified that they need to locate at a minimum height of 117 feet on the Facility at Site A and a minimum height of 127 feet on the Facility at Site B to minimize the number and height of future telecommunications towers in this area. (Heffernan Testimony at 4; 3:00 p.m. Tr. at 58-59).

12. T-Mobile testified that there it cannot utilize an existing tower located at 1616 New London Turnpike to fill its existing coverage gap along Route 2. (7:00 Tr. at 84; Exhibit 8).

13. T-Mobile testified that at a height below 117 feet at Site A and 127 feet at Site B, it would still have a coverage gap along Route 2 which would result in dropped calls as well as the inability to initiate or maintain an E-911 call. (7:00 Tr. at 84).

Site Search

14. Optasite determined that there were no existing structures of a suitable height or location from which the existing lack of coverage experienced by licensed telecommunications carriers in this area of Glastonbury. That included investigation into co-locating on existing CL&P distribution lines and existing telecommunications facilities. Only after determining that these structures were of insufficient height, were unavailable for co-location or that they

would not provide adequate coverage in this area did T-Mobile search for an appropriate location for a new telecommunications facility. (App. at 8-9; Regulbuto Testimony at 3-4).

15. Optasite conducted a survey of property within the area to identify the best possible location to serve the needs of T-Mobile and other wireless carriers. Optasite's site search was limited by residential development throughout the area. (Regulbuto Testimony at 4-5).

16. The Site A Property and Site B Property were uniquely suited for the development of a Facility due to their size, existence of natural screening and proximity to Route 2, the target coverage area. (App. at 8-9; Regulbuto Testimony at 5).

Site A

17. Optasite proposes to construct the Facility at Site A in the northern portion of a 1.3 acre parcel of land owned by Rose Marie Shaw known as 58 Montano Road, Map G7, Block 4480, Lot S0021 of the Glastonbury Tax Assessor's Map. (App. at 2, Exhibit A).

18. The Site A Property is located within the rural residential zone. The Glastonbury Zoning Regulations (the "Regulations") do not prohibit facilities in the rural residential zone. (App. at 10, 17; Regulations).

19. The Site A Property is currently used for residential purposes with associated structures. (App. at 9-10; 6.19.08 Field Review).

20. The area surrounding the Site A Property is primarily composed of residential land the Route 2 corridor. (App. at Exhibit J, Regulbuto Testimony).

21. The proposed Facility at Site A has been designed to accommodate T-Mobile, and the equipment of three (3) other telecommunications carriers as well as the Town of Glastonbury emergency

services equipment, if requested. (App. at 2, Exhibit A, 4:00 p.m. Tr. at 11-12, 16-17).

22. The Facility at Site A will accommodate the antennas and equipment of T-Mobile at an antenna centerline of 117 feet ALG and three (3) other wireless carriers at antenna centerline heights of 107 feet AGL, 97 feet AGL and 87 feet AGL. (App. p. 2, Exhibit A).

23. The Town of Glastonbury's Volunteer Fire Department has indicated its interested in locating its emergency service equipment on the proposed Facility at either Site A or Site B. (Regulbuto Testimony at Exhibit 1).

24. The compound area at the base of the Site A Facility will be 2,500 square feet and will include locations for T-Mobile, the Glastonbury Volunteer Fire Department and the equipment of three (3) other telecommunications carriers. The compound will be enclosed by a new eight-foot security fence. (App. at 2, 10 Exhibit A).

25. Vehicular access is proposed new gravel access driveway off of Montano Road. Site A would require the construction of a new gravel driveway of approximately 334 feet in length. (App. at 2, 10, Exhibit A).

26. Utility service will run underground from existing utility service currently located on Montano Road servicing the Site A Property. No water or sanitary facilities are required and, once built, the Facility will generate minimal traffic because each of the co-locating entities will only need to visit the Site about once a month to perform routine maintenance and inspection. (App. at 9-12, Exhibit A).

27. The total estimated cost of the proposed Facility at Site A is approximately \$132,100.00. The total duration of the construction would be approximately four to six weeks. (App. at 21).

Site B

28. Optasite proposes to construct the Facility at Site B in the southern portion of a 12.15 acre parcel of land owned by Joanne Sullivan LLC known as 618 Neipsic Road, Map G7, Block 4740, Lot S0016 of the Glastonbury Tax Assessor's Map. (App. at 2-3, Exhibit B).

29. The Site B Property is located partially within the rural residential zone and partially within the AA residential zone. The Glastonbury Zoning Regulations (the "Regulations") do not prohibit facilities in the rural residential zone or the AA residential zone. (App. at 10-12, 17; Regulations).

30. The Site B Property is currently used for residential purposes with two residences and associated structures. (App. at 10-12; 6.19.08 Field Review).

31. The area surrounding the Site B Property is primarily composed of residential land the Route 2 corridor. (App. at Exhibit J, Regulbuto Testimony).

32. The proposed Facility at Site B has been designed to accommodate T-Mobile, and the equipment of three (3) other telecommunications carriers as well as the Town of Glastonbury emergency services equipment, if requested. (App. at 2, Exhibit B, 4:00 p.m. Tr. at 11-12, 16-17).

33. The Facility at Site B will accommodate the antennas and equipment of T-Mobile at an antenna centerline of 127 feet ALG and three (3) other wireless carriers at antenna centerline heights of 117 feet AGL, 107 feet AGL and 97 feet AGL. (App. p. 2, Exhibit B).

34. The Town of Glastonbury's Volunteer Fire Department has indicated its interested in locating its emergency service equipment on the proposed Facility at either Site A or Site B. (Regulbuto Testimony at Exhibit 1).

35. The compound area at the base of the Site B Facility will be 4,900 square feet and will include locations for T-Mobile, the Glastonbury Volunteer

Fire Department and the equipment of three (3) other telecommunications carriers. The compound will be enclosed by a new eight-foot security fence. (App. at 2, 10-12, Exhibit B).

36. Vehicular access is proposed over a new gravel access driveway off of Neipsic Road. Site B would require the construction of a new gravel driveway of approximately 1,412 feet in length. (App. at 2, 10-12, Exhibit B).

37. Utility service will run underground from existing utility service currently located on Neipsic Road servicing the Site B Property. No water or sanitary facilities are required and, once built, the Facility will generate minimal traffic because each of the co-locating entities will only need to visit the Site about once a month to perform routine maintenance and inspection. (App. at 9-12, Exhibit B).

38. The total estimated cost of the proposed Facility at Site B is approximately \$268,800.00. The total duration of the construction would be approximately eight weeks. (App. at 21).

Municipal Consultation

39. The Co-Applicants first met with the Town of Glastonbury on October 25, 2007. (App. at 19).

40. Optasite followed-up with the Town of Glastonbury since the Town had initially indicated it would be interested in locating the proposed Facility on Town-owned property. In follow-up, the Town was no longer interested in that possibility. (Regulbuto Testimony at 4).

41. On April 22 and 24, 2008, Optasite sent correspondence to the Town of Glastonbury's police department and fire department to offer space on the proposed Facility at either Site, free of charge. (Regulbuto Testimony at 4).

42. The Town of Glastonbury's Volunteer Fire Department has indicated that it is interested in locating its emergency equipment on the Facility and is reserving its right to do so. (Regulbuto Testimony at Exhibit 1).

Environmental Considerations

Site A

43. The Site A Property contains no known existing populations of Federal or State Endangered, Threatened or Special Concern Species, according to the Connecticut Department of Environmental Protection Diversity Database. (App. at 20, Exhibit P).

44. The proposed development of the Site A Facility will not directly or indirectly affect any wetlands or watercourses. (App. at 18, Exhibit L; Pre-filed Testimony of Dean Gustafson ("Gustafson Testimony")).

45. The State Historic Preservation Officer (SHPO) has determined that the construction of the Site A Facility will not have an effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (App. at 14, Exhibit N, Exhibit P).

46. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Site A Facility will not require marking or lighting. (Optasite Exhibit 5).

47. There would be no impact any known scenic, historic or recreational areas from the construction and maintenance of Site A. (App. at Exhibit M, Exhibit N; Pre-filed testimony of Michael Libertine ("Libertine Testimony")).

48. A study prepared by T-Mobile indicates that maximum emissions levels from the proposed Site A Facility would be less than 3% of the safety criteria adopted by the FCC. (App. at 14-15, Exhibit O).

Site B

49. The Site B Property contains no known existing populations of Federal or State Endangered, Threatened or Special Concern Species, according to the Connecticut Department of Environmental Protection Diversity Database. (App. at 20, Exhibit Q).

50. The proposed development of the Site B Facility will have no adverse impact on the intermittent watercourse on the Site B Property. (App. at 18-19, Exhibit L; Gustafson Testimony; 3:00 Tr. at 25-28).

51. The State Historic Preservation Officer (SHPO) has determined that the construction of the Site B Facility will not have an effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (App. at 14, Exhibit N, Exhibit Q).

52. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Site B Facility will not require marking or lighting. (Optasite Exhibit 5).

53. There would be no impact any known scenic, historic or recreational areas from the construction and maintenance of Site B. (App. at Exhibit M, Exhibit N; Libertine Testimony).

54. A study prepared by T-Mobile indicates that maximum emissions levels from the proposed Site A Facility would be less than 3% of the safety criteria adopted by the FCC. (App. at 14-15, Exhibit O).

Visibility

Site A

55. The Site A Facility is proposed to be located at the Site A Property in order to minimize impact to residential receptors; the Facility will be located at the minimum height needed while still providing the necessary coverage to the area. The topography and the mature vegetation at the Property will significantly limit the visual impact of the Site A Facility. (App. at 12-14; Exhibit M).

56. The Site A Facility will be visible year-round from only 24 acres within a two-mile radius of the tower, which is less than one percent (<1%) of the study area. (App. at 12-14, Exhibit M).

57. Views from the Site A Facility are expected to be limited primarily to the Property itself, area within .5 miles of the Facility. (App. at Exhibit M).

58. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the vegetative screening provided by the existing vegetation at the Site A Property. (App. at 12-14; Exhibit M).

59. The Site A Facility will be visible seasonally from an additional 7 acres. (App. at 12-14, Exhibit M).

60. The Site A Facility will be visible from 6 residences year round and an additional 4 residences seasonally. (App. at 12-14, Exhibit M).

Site B

61. The Site B Facility is proposed to be located at the Site B Property in order to minimize impact to residential receptors; the Facility will be at the minimum height needed while still providing the necessary coverage to the area. The topography and the mature vegetation at the Property will significantly limit the visual impact of the Site B Facility. (App. at 12-14; Exhibit M).

62. The Site B Facility will be visible year-round from only 19 acres within a two-mile radius of the tower, which is less than one percent (<1%) of the study area. (App. at 12-14, Exhibit M).

63. Views from the Site B Facility are expected to be limited primarily to the Property itself, area within .5 miles of the Facility. (App. at Exhibit M).

64. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the vegetative screening provided by the existing vegetation at the Site B Property. (App. at 12-14; Exhibit M).

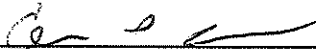
65. The Site B Facility will be visible seasonally from an additional 10 acres. (App. at 12-14, Exhibit M).

66. The Site B Facility will be visible from 9 residences year round and an additional 6 residences seasonally. (App. at 12-14, Exhibit M).

Towersharing

67. The Site A Facility and Site B Facility will provide co-location opportunities for public safety communications systems and four (4) wireless carriers, thus avoiding the proliferation of towers.

The Co-Applicant, Optasite Towers LLC

By: 
Carrie L. Larson
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Telephone 860 424 4300
Facsimile 860 424 4370
Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of July, 2008 a copy of the foregoing was delivered by regular mail, postage prepaid, to all parties and intervenors of record.

Julie D. Kohler
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604

Richard J. Johnson, Town Manager
Town of Glastonbury
P.O. Box 6523
Glastonbury, CT 06033

Eric Knapp
Branse, Willis & Knapp, LLC
148 Eastern Boulevard, Suite 301
Glastonbury, CT 06033-6523

Sarosh Wahla
Wahla & Associates, P.C.
429 Capitol Avenue
Hartford, CT 06106


Carrie L. Larson, Esq.

Hartford/72517.4/CLARSON/316039v1