

DOCKET NO. 315 – Optasite, Inc. and New Cingular Wireless PCS, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility at 29 Bogus Hill Road in New Fairfield, Connecticut.	} } }	Connecticut Siting Council
--	-------------	--

September 28, 2006

Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, operation, and maintenance of a telecommunications facility including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application and therefore directs that a Certificate of Environmental Compatibility and Pubic Need, as provided by General Statutes § 16-50k, be issued to Optasite, Inc. for the construction, maintenance and operation of a wireless telecommunications facility to be located at Site B at 29 Bogus Hill Road in New Fairfield, Connecticut. The Council denies certification of Site A located at 29 Bogus Hill Road in New Fairfield, Connecticut.

The facility shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and subject to the following conditions:

1. The tower shall be designed as a monopole and shall be constructed no taller than 130 feet above ground level to provide telecommunications services to both public and private entities. The tower’s design shall incorporate a yield point in order to reduce the size of the setback radius.
2. The location of the tower shall be adjusted within the lease parcel to maximize the distance from the tower to the nearest property to the north of the site.
3. No on-site construction work shall take place between December 31 and March 1 to avoid disturbing bald eagles that may be in the vicinity.
4. During construction, large cover objects such as logs and moveable rocks shall be moved out of the way of heavy machinery to minimize any potential harm to hognose snakes that might be in the area.
5. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of New Fairfield and all parties and intervenors, as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:

- a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas mountings, equipment building, access road, utility line, and landscaping; and
 - b) construction plans for site clearing, water drainage, and erosion and sedimentation control consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
6. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of electromagnetic radio frequency power density is submitted to the Council in the event other carriers locate at this facility or if circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
 7. Upon the establishment of any new state or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
 8. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
 9. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of New Fairfield municipal antennas, provided such antennas can be accommodated and are compatible with the structural integrity of the tower.
 10. If the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
 11. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
 12. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.

13. Any request for extension of the time periods referred to in Conditions 10, 11, and 12 shall be filed with the Council not later than sixty days prior to the expiration date of this Certificate and shall be served on all parties and intervenors and the Town of Hartland, as listed in the service list. Any proposed modifications to this Decision and Order shall likewise be so served.

14. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction and the commencement of site operation.

Pursuant to General Statutes § 16-50p, we hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the Danbury News-Times and in The Fairfield Citizen-News.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors in this proceeding are:

Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	Optasite, Inc. New Cingular Wireless PCS, LLC	Lucia Chiochio, Esq. Cuddy and Feder, LLP 90 Maple Avenue White Plains, NY 10601 Ms. Jennifer Young Gaudet 345 Taylor Street Talcottville, CT 06066
Party <i>(approved on 5/17/06)</i>	Edward J. Hannafin Malcolm McCluskey	Thomas W. Beecher, Esq. Collins, Hannafin, Garamella, Jaber & Tuozzolo, P.C. 148 Deer Hill Avenue Danbury, CT 06810 (203) 744-2150 (203) 791-1126 - fax tbeecher@chgjtlaw.com
Intervenor <i>(approved on 7/12/06)</i>	Tax District of Bogus Hill	Allan Deutscher P.O. Box 8240 New Fairfield, CT 06812