

<p><b>DOCKET NO. 315</b> – 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.</p>	<p>} Connecticut          } Siting          } Council</p>
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September 28, 2006

### Opinion

On April 7, 2006, Optasite, Inc. and New Cingular Wireless PCS, LLC (Cingular) applied to the Connecticut Siting Council (Council) for the issuance of a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a wireless telecommunications facility at 29 Bogus Hill Road in New Fairfield, Connecticut. The applicants sought to develop a facility at one of two locations on property owned by the Girl Scout Council of Southwestern Connecticut, Inc. The applicants’ objectives in locating a facility in this area were to provide service in the Towns of New Fairfield and Sherman along State Route 39, over parts of Candlewood Lake and Squantz Pond State Park, as well as in adjacent areas. In addition to the applicants, Edward J. Hannafin and Malcolm McCluskey and the Tax District of Bogus Hill participated as intervenors in this proceeding. The Tax District withdrew as an active participant after the public hearing held on July 12, 2006.

Optasite and New Cingular proposed two possible locations on the 90 acre parcel owned by the Girl Scouts. Proposed Site A was located in the southwestern portion of the property. Proposed Site B was located in the north-center portion of the property. At either location, the applicants proposed developing a 70-foot by 70-foot fenced-in compound within a 100-foot by 100-foot lease parcel and erecting a 150-foot monopole tower. The tower would be designed to accommodate up to five carriers.

At Site A the proposed tower’s setback radius would lie completely within the Girl Scout property. At Site B the tower’s setback radius would extend approximately 50 feet onto the adjacent property to the north. Optasite could reduce or eliminate this encroachment by moving the location of the tower within the lease parcel. Utilities would be brought to either site overhead along existing roads and then along a new access drive built to the proposed site.

Although each tower would be visible on a year-round basis from a relatively large area — 859 acres for Site A and 778 acres for Site B — much of the areas of year-round visibility would be over the waters and along the shore lines of Candlewood Lake and Squantz Pond. A tower at Site A would have a greater visual presence than Site B at Squantz Pond State Park. Thirty-two homes would have a year round view of a tower at Site A. Twenty-seven homes would have a year round view of a tower at Site B.

Thirty-one trees with 6” diameter at breast height (dbh) or greater would be removed to develop an access road for Site A, and 15 such trees would be removed to develop the compound. At Site B, fifteen trees with a 6” dbh or greater would be removed to develop an access road and 18 such trees would be removed to develop the compound. Developing Site A would require 140 cubic yards of cut and 65 cubic yards of fill. Site B would require 72 cubic yards of cut and

120 cubic yards of fill. The average slope of the access road to Site B would be approximately 6.7 percent. Building the access road to Site B would be more difficult than to Site A because of the steeper topography in the vicinity of Site B and the presence of rock outcroppings.

The federally threatened and state endangered bald eagle (*Haliaeetus leucocephalus*) and a Species of Special Concern, the Eastern hognose snake (*Heterodon platirhinos*), occur within the vicinity of Optasite's proposed sites. The bald eagles use the lands adjacent to Candlewood Lake and Squantz Pond as feeding and perching areas in the winter. To help protect the eagles and their habitat, the Department of Environmental Protection (DEP) recommended that no on-site work take place between December 31 and March 1 and that all old growth trees at or exceeding 12" dbh should be left standing especially near the waterside. Optasite hired a consultant to conduct a herpetological study of the area in the vicinity of the two proposed sites to determine if there was any habitat favored by the hognose snake. The consultant determined that the area near the two sites did not contain any snake habitat. Nevertheless, the DEP recommended that, during construction, large cover objects such as logs and moveable rocks should be moved out of the way of heavy machinery in case some snake habitat was overlooked and snakes are sheltered underneath. Neither site would have any effect on Connecticut's archaeological heritage.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined radio frequency power density levels of the antennas proposed to be installed on the tower have been calculated by Council staff to amount to 6.9% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies. If federal or state standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency 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.

Although Site A would provide slightly better coverage along Route 39, it would also have a greater visual presence for the nearest residential areas and Squantz Pond State Park than Site B. In this instance, the Council deems it important to protect the aesthetic qualities of Squantz Pond State Park from the visual intrusion a tower at Site A would present. The Council feels that the requested tower height of 150 feet was unwarranted by the record and that a tower 130 feet high at Site B would be sufficient to meet New Cingular's coverage needs.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, operation, and maintenance of the proposed 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 policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate for the construction, operation, and maintenance of a 130-foot monopole tower at the proposed Site B at 29 Bogus Hill Road in New Fairfield, Connecticut.