

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

ORIGINAL

IN RE:

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 39 MAENNERCHOR AVENUE
NORWICH (TAFTVILLE), CONNECTICUT

DOCKET NO. 365

RECEIVED
SEP 23 2008

CONNECTICUT
SITING COUNCIL

Date: SEPTEMBER 22, 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. Optasite, along with co-applicant Omnipoint Communications, Inc. (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 June 11, 2008 for a Certificate of Environmental Compatibility and Public Need ("Certificate") for the construction, operation and maintenance of a 120-foot monopole wireless telecommunications facility ("Facility") at 39 Maennerchor Avenue, Norwich, Connecticut (the "Property"). (Co-Applicants' Exhibit 1 ("App.") at 1).
2. The site is located in the southern portion of the Property and consists of a 65-foot by 65-foot equipment compound in a 70-foot by 70-foot leased area (the "Site"). (App. at 2, Exhibit A, Exhibit B).
3. The purpose of the proposed Facility is to provide wireless coverage service to this area for Omnipoint Communications, Inc., a subsidiary of T-

Mobile USA, Inc. d/b/a T-Mobile (hereinafter "T-Mobile"). (App. at 1, Exhibit G; Co-Co-Applicants' Exhibit 3, Exhibit 8).

4. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on Thursday, August 21, 2008, beginning at 3:00 p.m. and continued at 7:00 p.m., at Norwich City Hall, Room 335, 3rd Floor, 100 Broadway, Norwich, Connecticut ("Hearing"). (Hearing Notice; 3:00 p.m. Transcript ["Tr."] at 2).
5. The Council and its staff made an inspection of the Site on August 21, 2008 at 2:00 p.m. (Hearing Notice).
6. Optasite flew a balloon, four feet in diameter, at a height of 120 feet at the Site from 8 am to 6 pm on August 21, 2008. (7:00 p.m. Tr. at 16, 27; Co-Applicants' Exhibit 10).

Need

7. 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 4-5; Telecommunications Act of 1996).
8. A Facility at the Site will provide coverage for a significant coverage gap experienced by T-Mobile in Norwich specifically along Routes 12, 97 and 169 and the surrounding area. (App. at 5-6, Exhibit G; Co-Applicants' Exhibit 8).
9. AT&T Wireless ("AT&T") has expressed its interest in locating its equipment on the proposed Facility at 107' AGL. (Co-Applicants' Exhibit 2 at Exhibit 2; Co-Applicants' Exhibit 4; 3:00 Tr. at 18).
10. The Norwich Fire Department and Norwich Police Department have both expressed their interest in locating its emergency services on the proposed Facility. (Co-Applicants' Exhibit 2 at Exhibit 1; 3:00 Tr. at 10-11, 20).

Coverage

11. T-Mobile testified that they need to locate at a minimum height of 117 feet on this Facility at the Site to minimize the number and height of future telecommunications towers in this area. (Co-Applicants' Exhibit 8; 3:00 Tr. at 24).
12. T-Mobile testified that, at heights below 117 feet AGL, T-Mobile's predicted coverage would break up and would fall below T-Mobile's minimum coverage thresholds. (Co-Applicants' Exhibit 8).
13. AT&T has expressed its interest in co-locating on the proposed Facility at a minimum height of 107 feet AGL. (Co-Applicants' Exhibit 2 at Exhibit 2).
14. Both the Norwich Fire Department and Norwich Police Department have expressed their need to locate their emergency services equipment on the proposed Facility. (Co-Applicants' Exhibit 2 at Exhibit 1; 3:00 Tr. at 10-11, 20).
15. Optasite has offered the top of the proposed Facility, free of charge, for the Norwich Fire Department and Norwich Police Department. (3:00 Tr. at 20).

Site Search

16. 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 Norwich would be remedied. That included investigation into co-locating on existing CL&P lines in the Norwich/Preston area (App. at 8-9, Exhibit H, Exhibit I; 7; Pre-Filed Testimony of Charles Regulbuto ("Regulbuto Testimony") at 2-3).
17. Only after determining that any existing structures were unavailable for co-location did Optasite search for an appropriate location for a new telecommunications facility. (App. at 8-9; Regulbuto Testimony at 3).
18. 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 the extent of development

that has already occurred in this area of Norwich. (Regulbuto Testimony at 3-4).

19. The Property was uniquely suited for the development of a Facility due to its ground elevation, large size in comparison to the surrounding area, presence of natural screening and its commercial use. (Regulbuto Testimony at 4; Koperwhats Testimony at 4).
20. At the request of the City of Norwich, Optasite had investigated the possibility of locating the proposed Facility at Mohegan Park. T-Mobile rejected Mohegan Park as being too far to the west of its existing coverage gaps to provide coverage. (Regulbuto Testimony at 3-4; 3:00 Tr. at 40, 48).

The Site

21. Optasite proposes to construct the Facility at the Site located in the southern portion of a 7.01 acre parcel of land owned by the Maennerchor Club known as 39 Maennerchor Avenue, Assessors Map 55, Block 2, Lot 43 of the Norwich Tax Assessor's Records. (App. at 3, Exhibit B).
22. The Property is located within the R-20 residential zone. The Norwich Zoning Regulations (the "Regulations") do not prohibit facilities in the Ind. zone. (App. at 2, 15-16; Regulations).
23. The Property is currently developed with a club building and associated parking with large portions of the Property remaining undeveloped and wooded. (App. at 2; 01/29/08 Field Review).
24. The area surrounding the Property is primarily composed of medium density residential uses and commercial uses along the Route 12 corridor. (App. at Exhibit J).
25. The proposed Facility has been designed to accommodate T-Mobile, AT&T and the equipment of two (2) other telecommunications carriers as well as the Town of Norwich Fire Department and Police Department. (App. at 2, Exhibit B; 7:00 Tr. at 8).

26. The proposed Facility will accommodate the antennas and equipment of T-Mobile at an antenna centerline of 117 feet AGL, AT&T at 107 feet AGL and two (2) other wireless carriers at antenna centerline heights of 97 feet AGL and 87 feet AGL. (App. at 2, Exhibit B).
27. The compound area at the base of the Facility will include locations for T-Mobile, AT&T and the equipment of two (2) other telecommunications carriers. The compound will be enclosed by a new eight-foot security fence. (App. at 2, Exhibit B).
28. The Town of Norwich Fire Department and Police Department have expressed their interest to locate emergency service equipment on the proposed Facility. (Co-Co-Applicants' Exhibit 2 at Exhibit 1; 3:00 Tr. at 10-11).
29. Vehicular access is proposed from Beauregard Street over a new gravel driveway. (App. at 2, 10, Exhibit B).
30. The access driveway will not cross over the paper road located at the terminus of Beauregard Street. (3:00 Tr. at 62).
31. The access driveway was routed through the Property in order to avoid any areas where blasting may be required. If any ledge is encountered, Optasite will employ chipping rather than blasting. (3:00 Tr. at 69-70).
32. Utility service will run underground from existing utility service currently located on Beauregard Street. 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).
33. Optasite's total estimated cost of the proposed Facility is approximately \$168,000.00. The total duration of the construction would be approximately eight weeks. (App. at 20-21).

Municipal Consultation

34. Optasite filed its technical report with the City of Norwich on June 28, 2007. (App. at 18).
35. The City of Norwich requested that Optasite attend an informational meeting with the City Council on August 22, 2007 and Optasite did attend that meeting. (App. at 18; Co-Applicants' Exhibit 2 at 2; 3:00 Tr. at 67-69).
36. At the City Council meeting on August 22, 2007, the City Council requested that Optasite explore the possibility of locating the proposed Facility at Mohegan Park. (Co-Applicants' Exhibit 2 at 2). T-Mobile ultimately determined that Mohegan Park was too far west to provide coverage to this area of Norwich. (3:00 Tr. at 47-48).
37. In additional follow-up with the City of Norwich, the City of Norwich has not expressed any comments or concerns regarding the proposed Facility. (3:00 Tr. at 40).

Environmental Considerations

38. The 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 Exhibit K; 3:00 Tr. at 22; Co-Applicants' Exhibit 5).
39. The proposed development will not directly or indirectly affect any wetlands or watercourses. (App. at Exhibit L).
40. The proposed Facility is not located in a floodplain or a floodway. (App. at Exhibit K).
41. The State Historic Preservation Officer (SHPO) has determined that the construction of the Facility will have no adverse effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. (App. at Exhibit K, Exhibit M; 7:00 Tr. at 27-29)).
42. According to an aeronautical study conducted by the Federal Aviation Administration (FAA), the proposed Facility would not require marking or lighting. (App. at Exhibit P).

43. There would be no impact on any known scenic, historic or recreational areas. (App. at Exhibit J, Exhibit K; Co-Co-Applicants' Exhibit 6).
44. A study prepared by T-Mobile indicates that maximum emissions levels from the proposed Facility would be 3.781% of the safety criteria adopted by the FCC. (App. at 13, Exhibit N; 7:00 Tr. at 20-21).

Visibility

45. The Facility is proposed to be located at the Property in order to minimize impact to residential receptors; the Facility will be located as low as it can be 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 Facility. (App. at 11-13; Exhibit J).
46. The proposed Facility at the Site will be visible from only 175 acres within a two-mile radius of the tower, which is just over two percent (2%) of the study area. The majority of the visibility will occur on the Property itself as well as two open fields to the southeast of the Facility. (App. at 12, Exhibit J).
47. The compound area will have a de minimis visual impact as it will be screened by the proposed fencing as well as the existing vegetation at the Property. (App. at 12; Exhibit J).
48. The proposed Facility will be partially visible year-round from approximately thirty (30) residences and partially visible seasonally from an additional fourteen (14) residences. (App. at 12, Exhibit J).

Towersharing

49. This Facility will provide co-location opportunities for public safety communications systems and four (4) wireless carriers, thus avoiding the proliferation of towers. (App. at Exhibit B).
50. The Town of Norwich Fire Department and Police Department have expressed their interest in locating its emergency service equipment on the proposed Facility. (Co-Applicants' Exhibit 2 at Exhibit 1; 3:00 Tr. at 10-11, 20).

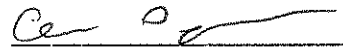
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CERTIFICATE OF SERVICE

I hereby certify that on the date hereof, a copy of the foregoing was delivered by regular mail, postage prepaid, to all parties and intervenors of record.

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