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STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

CONNECTICUT  
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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 52 STADLEY ROUGH ROAD,  
DANBURY, CONNECTICUT

DOCKET NO. 366

January 15, 2009

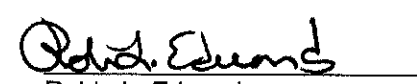
**CITY OF DANBURY'S SUBMISSION  
OF SUPPLEMENTAL INFORMATION**

The City of Danbury respectfully submits this information to supplement the Pre-filed testimony of Richard A. Comi and in response to certain issues raised in the course of this proceeding. Attached hereto is the supplemental pre-filed testimony of Richard A. Comi.

The City of Danbury reserves the right to offer additional exhibits, testimony, witnesses and administratively noticed materials as may be necessary during the hearing process.

Dated at Danbury, Connecticut, this 15<sup>th</sup> day of January 2009.

City of Danbury



Robin L. Edwards  
Assistant Corporation Counsel  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810  
(203) 797-4518

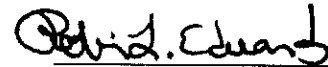
CERTIFICATE OF SERVICE

I hereby certify that the original and twenty (20) copies of the foregoing was delivered to the Connecticut Siting Council via overnight mail, with an electronic copy sent via email, and two (2) copies of the above was mailed to the Applicant's legal counsel via overnight mail, with a copy also electronically delivered, as follows:

Christopher Fisher, Esq.  
Lucia Chioocchio, Esq.  
Cuddy & Feder LLP  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, NY 10601  
[lchioocchio@cuddyfeder.com](mailto:lchioocchio@cuddyfeder.com)  
[cfisher@cuddyfeder.com](mailto:cfisher@cuddyfeder.com)

Dated: January 15, 2009

City of Danbury



Robin L. Edwards  
Assistant Corporation Counsel  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810  
(203) 797-4518

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**DOCKET 366**

**Additional Pre-filed Testimony of**

**Richard A. Comi  
The Center for Municipal Solutions  
Re: Alternate Site Analysis**

**Q. Why have you been asked to provide additional testimony?**

A. At the hearing on December 8<sup>th</sup>, the Siting Council asked the City to identify any properties it either had control of, or knew to be available, as possible alternative locations for the siting of the wireless facility. The information set forth below supports the City's position that there are alternate sites available to the applicant upon which a facility can be constructed and/or alternate technology utilized that would provide coverage similar to, or better than, that desired by the applicants from the facility proposed to be located at 52 Stadley Rough Road.

**Q. What are the parameters of your evaluation?**

A. Our evaluation is based on: 1) a site visit, 2) a visit to the closest residence, 3) a visit to nearby potential alternate sites, 4) review of all material provided on the application, 5) a review of all material concerning Docket 366 posted on the CSC web site as of December 31, 2008, and 6) my knowledge of the telecommunications industry including emerging technologies.

**Q. Please explain how you conducted your evaluation?**

A. I visited the site and surrounding area on November 13, 2008 and obtained information from numerous discussions with the City of Danbury's staff.

**Q. What other site alternatives should be considered?**

A. The City maintains that the following sites are known to be available for consideration, all of which should and could be utilized in conjunction with DAS technology:

- 1.) The water tank at Sterling Woods, City owned tank, privately owned real property;
- 2.) The City-owned real property at 35 Hayestown Road upon which is located the Police Athletic League ("PAL") building;
- 3.) The ConnDOT site, State owned real property at Stadley Rough Road; and
- 4.) The Kaufman water tank site, privately owned real property and tank at 21 Hollandale Road.

Photographs depicting the proposed alternate sites, mentioned above are attached hereto, corresponding to the above list.

**Q. In what configuration could these alternatives be used to provide the coverage that T-Mobile says it needs and will derive from the proposed new facility?**

A. The topography of the proposed coverage area has been reviewed to provide the Council with the City's opinion as to whether there are alternate locations that could be developed with facilities, either individually or in conjunction with facilities at other locations, that would provide relatively similar coverage to that which is proposed by the applicant to be provided from a 140 foot monopole tower containing flush mounted antennas.

## **1. The Water Tank at the Sterling Woods Site:**

By way of background information, with respect to the existing water tank on the Sterling Woods property, as the Council is aware, the City of Danbury holds title to the water tank and has recorded easement and access rights for this utility through the land of Sterling Woods condominiums. The City continues to maintain that the tank is available for consideration, subject to terms and conditions acceptable to the City, as the water tank is City-owned property. However, the right to access a proposed facility that would be located on the water tank and any expansion of the easement rights by the grantor to accommodate such a facility are not rights which the City can grant to the applicant. In order to definitively rule out this site as an alternate location for a wireless telecommunications facility, it is respectfully suggested that the Council require the applicant to obtain written confirmation from the owner of the land at Sterling Woods upon which the easement is located as to whether the owner would or would not consider granting an access easement to the water tank and expand the scope of the easement.

The applicant has stated in the application that a facility at this existing location would serve most of the area to be covered by the proposed facility. Accordingly, if the issues referred to above were resolved by the applicant, then this location appears to be an excellent alternative site.

The reasons stated by the applicant for not wanting to use this site (unavailability and redundancy) have not been fully established. It is Optasite, a tower company that has approached the land owner and it has failed to establish that a fair market value offer to site the facility was extended. As far as overlap with existing sites, T-Mobile has placed on the record that sites in urban areas are as little as two to three blocks apart with no apparent degradation of service. This site would be significantly further from the applicants' closest site on I-84 and could provide capacity relief to I-84 as needed.

If additional coverage is needed to the area northwest of the "ridge", a small number of DAS nodes could be placed on existing telephone poles in that area, or a wireless facility could be placed at the Kaufman water tank.

## **2. The PAL Site - City owned real property at 35 Hayestown Road:**

The PAL site, City owned property, is available for consideration for the location of a wireless facility as is indicated by correspondence from Mark D. Boughton, Mayor, attached hereto. The City of Danbury owns this 3.27 acre parcel located at 35 Hayestown Road (Tax Assessor Lot # 109081). The site is currently developed with a two-story approximately 22,000 square foot building (about 16,000 square foot footprint) owned and operated under a lease agreement by the Police Athletic League. The site area, exclusive of the 22,000 square foot building, is approximately 2.46 acres, which site is also surrounded by other parks and open space of approximately 39 acres. There are approximately 273 surface parking spaces surrounding the building, excluding required handicap spaces. At the entrance to the building there is a flagpole that is approximately 30 feet in height.

The site is located at the southernmost end of Candlewood Lake, across Hayestown Road from Candlewood Town Park/boat launch. It is immediately north of Hatter's Park/Doyle's Pond, a City-owned recreational area over 31 acres in size. There is also a small .63 acre City-owned parcel at 33 Hayestown Road with a structure on it that is rented and utilized by the Danbury Fish & Game Club (Tax Assessor Lot # 109082). The City is currently evaluating the expansion of this building to serve as the offices for the Candlewood Lake Authority. Reconfiguration of a portion of the parking area would also be necessary to accommodate the increased building size.

The City constructed the building and improved the site in 1998 pursuant to a Grant of Special Exception/Site Plan approval (SE # 498) issued by the Planning Commission in 1996. There is an existing lease between the City and PAL for the land upon which the building is located and for a distance slightly beyond the exterior building walls.

The finished elevation of the site appears to be approximately 438 feet AMSL.

The PAL site is a suitable location that could be utilized as a dual site solution in conjunction with the Kaufman water tank site to provide appropriate coverage. Additionally, instead of utilizing the Kaufman water tank site, T-Mobile may utilize a small number of DAS nodes. The nodes should be located to the east of the ridge. If used in conjunction with the PAL site, DAS will accomplish equal to or more coverage than the proposed facility. A tower concealed in a flag pole would be an appropriate facility at this location.

### **3. The ConnDOT Site - State owned property at Stadley Rough Road**

The ConnDOT highway maintenance facility on Stadley Rough Road is available for consideration as a potential site upon which a wireless facility may be located as is indicated in the e-mail correspondence attached hereto between Robin L. Edwards, Assistant Corporation Counsel and William A. Dorn, Supervising Property Agent, Property Management Division, Office of Rights of Way of ConnDOT. In order to determine if a wireless facility could ultimately be located at this site all appropriate applications must be submitted and approvals must be obtained from the State of Connecticut.

The elevation of the site appears to be approximately 385 feet AMSL.

The ConnDOT site is a suitable location that could be utilized as a dual site solution in conjunction with the Kaufman water tank site to provide appropriate coverage. Additionally, instead of utilizing the Kaufman water tank site, T-Mobile may choose to utilize a small number of DAS nodes. The nodes should be located to the west of the ridge. If used in conjunction with the ConnDOT site, DAS will accomplish equal to or more coverage than the proposed facility. A tower concealed in a flag pole would be an appropriate facility at this location.

### **4. The Kaufman Water Tank Site, 21 Hollandale Road:**

The Kaufman water tank site located at 21 Hollandale Road is available for consideration for the location of a wireless facility as is indicated by correspondence from Robert Kaufman, property owner, attached hereto. The elevation of this site appears to be approximately 814 feet AMSL.

The Kaufman property is a suitable location that could be utilized as a dual site solution in conjunction with the PAL site, the ConnDOT site or the Sterling Woods site to provide appropriate coverage. A stand alone wireless facility could be located at this site or antennae could be added to the existing water tank. It is believed that a facility at any of the other locations, in conjunction with the Kaufman site, would provide greater coverage than the proposed facility. As indicated above and in relation to the subject site on Stadley Rough Road, this site is approximately 269 feet higher and therefore, likely to provide more extensive coverage in conjunction with another site or other technology than that proposed by the applicant.

## **5. Alternate Technology Solution-DAS:**

DAS is an alternate technology solution that could be utilized alone. There are telephone poles throughout the area that could be utilized for the nodes. In testimony, the industry representatives have stated that DAS is not utilized for coverage areas that they propose is needed.

It is my understanding that the Siting Council has approved the utilization of DAS for a stretch of over twenty (20) miles of the Merritt Parkway, nearby homes and streets in Connecticut.

In New York State, in the cities of Mount Vernon, Yonkers and the boroughs of New York City, DAS is being installed. In the smallest of the communities, Mount Vernon, the entire city is presently being configured with a DAS system. This system has the ability to handle multiple carriers at each node.

DAS is also a viable alternative to cover some portions of the area if the alternative sites do not provide all the coverage that the applicant needs.

### **Q. How would you summarize the information that the applicants have provided to justify what they have proposed?**

- A. It is imperative to note that to properly evaluate the propagation coverage maps provided by T-Mobile; the input parameters to the modeling must be known. The applicant is unwilling to provide this information as is indicated by its failure to provide the information requested in the data propagation study sheet that the City requested it complete in its second set of interrogatories. Therefore, the Council, and the City as having obtained party status, cannot properly and thoroughly evaluate if other alternatives are better than the applicants' proposal.

In my opinion, the record presented by the applicant:

1. Does not support the need for a new facility in this residential neighborhood;
2. Does not support the need for a new tower at 140' in height. The applicant has noted that Nextel is not a party to the application and therefore, even presuming a need for a new tower could be substantiated, there is no evidence that a height of 140 feet is required to serve the applicants requirements. The applicants have indicated a tower height of 127 feet would service their needs;
3. Does not adequately evaluate alternative sites or technologies in lieu of building the facility at the proposed location; and
4. Additionally, a combination of alternate sites and or new technology would actually provide more and better coverage than the applicant's proposed facility.

The statements above are true and complete to the best of my knowledge.

January 14, 2009

Richard A. Comi  
Richard A. Comi

Subscribed and sworn to before me this 14 day of January 2009.

Nancy Karina Mendick  
Notary Public  
Commission expires:

Nancy Karina Mendick  
Notary Public, State of New York  
Registration #01967343582  
Qualified in Albany County  
My Commission Expires on Jan. 1, 2010





# CITY OF DANBURY

OFFICE OF THE MAYOR  
DANBURY, CONNECTICUT 06810

MARK D. BOUGHTON  
MAYOR

(203) 797-4511  
FAX (203) 796-1666

January 14, 2009

Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

Re: Availability of City Owned Property  
35 Hayestown Road as an Alternate Tower Site in Docket 366

Dear Chairman Caruso and Members of the Council:

I write to let you know that the City of Danbury owns property located at 35 Hayestown Road, which property could potentially be utilized as an alternate site for the telecommunications tower currently proposed to be located at 52 Stadley Rough Road in the above mentioned docket. This City-owned parcel of land is 3.27 acres in size, and is developed with a two story 22,000 square foot building, which is owned and operated by the Police Athletic League. The surrounding land, exclusive of the 22,000 square foot building is approximately 2.46 acres, which is also surrounded by other parks and open space of approximately 39 acres. The site is located at the southernmost end of Candlewood Lake; across Hayestown Road from the Candlewood Town Park.

This alternate site is available for your consideration, subject to terms acceptable to the City, as well as all necessary approvals by the Common Council and any other applicable boards and agencies. Further, we welcome any visit to this property that is necessary to further analyze the viability of the site. City personnel are available to meet immediately with the applicant to discuss this matter in further detail. Thank you for your consideration of this very important matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "M. D. Boughton".

Mark D. Boughton, Mayor

cc: Dennis I. Elpern, Director Planning and Zoning  
Sharon B. Calitro, Deputy Planning Director  
Laszlo L. Pinter, Deputy Corporation Counsel  
Robin L. Edwards, Assistant Corporation Counsel  
Joseph Cavo, President Common Council





"Dorn, William A."  
<William.Dorn@ct.gov>  
01/12/2009 11:55 AM

To "Robin Edwards/LEGAL/COD"  
<R.Edwards@ci.danbury.ct.us>  
cc "Obey, Terry J." <Terry.Obey@po.state.ct.us>, "Hilliard,  
Joseph P." <Joseph.Hilliard@ct.gov>, "Dorn, William A."  
<William.Dorn@ct.gov>  
bcc

Subject RE: Request for information from City of Danbury on Master  
License Agreement for Wireless Communication Facilities:  
Rockwell Drive Facility

History:  This message has been forwarded.

Robin:

As discussed, the Connecticut Department of Transportation (State) maintenance facility located at Rockwell Road may be considered as a potential site to locate a cell tower. A formal application needs to be prepared and submitted to this office for review before a final decision is made by the State. The application should include a description of the cell tower and appurtenances and a site plan showing their proposed location.

Bill  
William A. Dorn, SRWA  
Supervising Property Agent  
Property Management Division  
Office of Rights of Way

State of Connecticut  
Department of Transportation  
2800 Berlin Turnpike  
P.O. Box 317546  
Newington, Connecticut 06131-7546

phone (860) 594-2473  
fax (860) 594-2494  
email [William.Dorn@ct.gov](mailto:William.Dorn@ct.gov)

**From:** Robin Edwards/LEGAL/COD [mailto:R.Edwards@ci.danbury.ct.us]  
**Sent:** Monday, January 12, 2009 11:05 AM  
**To:** Dorn, William A.  
**Cc:** Les Pinter/LEGAL/COD; Sharon Calitro/PLANNING/COD  
**Subject:** Fw: Request for information from City of Danbury on Master License Agreement for Wireless Communication Facilities: Rockwell Drive Facility  
**Importance:** High

Bill:

Please find my e-mail to Mr. Hilliard below which we discussed this morning. Please confirm whether subject to the terms of the CONNDOT Master Lease Agreement and all necessary approvals the DOT facility on Rockwell Road in Danbury would be potentially available for the siting of a wireless telecommunications facility. Thank you for your time.

Robin

Robin L. Edwards  
Assistant Corporation Counsel  
155 Deer Hill Avenue  
Danbury, CT 06810  
Phone: (203)797-4518  
Fax: (203) 796-8043  
r.edwards@ci.danbury.ct.us

The information contained in this transmittal may be privileged and confidential and is intended only for the recipient(s) listed above.

----- Forwarded by Robin Edwards/LEGAL/COD on 01/12/2009 10:59 AM -----

Robin  
Edwards/LEGAL/COD

To joseph.hilliard@po.state.ct.us

CC Les Pinter/LEGAL/COD@Danbury, Sharon Calitro/PLANNING/COD@Danbury

12/30/2008 10:44 AM

Subj Fw: Request for information from City of Danbury on Master License Agreement for Wireless  
ect Communication Facilities: Rockwell Drive Facility

**Dear Mr. Hilliard:**

The City of Danbury has obtained party status in an application before the Connecticut Siting Council for a proposed telecommunications facility (cell tower and appurtenances) which has been filed by Optasite Towers LLC and Omnipoint Communications, Inc., Docket 366. The tower is proposed to be located on a portion of a church property at 52 Stadley Rough Road in Danbury. During the public hearing before the Siting Council, the issue arose regarding alternate sites in the area that may be available for lease by the applicant.

The ConnDOT Office of Rights of Way Property Management Division website's homepage currently contains a "Master License Agreement for Wireless Communications Facilities with CONNDOT-owned Right of Way." Exhibit C, Standard Highway Lease Specifications & Covenants, contained in the Master License Agreement, specifically lists "Highway Maintenance Facilities" as being eligible to be evaluated for the suitability in the location of a facility as proposed.

The ConnDOT facility on Rockwell Drive in Danbury appears to meet the definition of an available ConnDOT right-of-way as it is a "highway maintenance facility".

The City respectfully requests a response as to whether, subject to the terms of the ConnDOT and the Master License Agreement, the ConnDOT facility on Rockwell Drive in Danbury CT would be available for the siting of a wireless telecommunications facility. The next hearing date is January 26, 2009. Please do not hesitate to contact me if you should need any additional information.

Thank you for your time and consideration.

Sincerely,  
Robin L. Edwards

Robin L. Edwards  
Assistant Corporation Counsel  
155 Deer Hill Avenue  
Danbury, CT 06810  
Phone: (203)797-4518  
Fax: (203) 796-8043  
r.edwards@ci.danbury.ct.us

The information contained in this transmittal may be privileged and confidential and is intended only for the recipient(s) listed above.

Robert J. Kaufman  
39 Padanaram Road  
Danbury, CT 06811

203-743-5559  
Fax. 203-790-7011

October 20, 2008

Hon. Daniel F. Caruso, Chairman  
and Members of the Siting Council  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

Re: 21 Hollandale Road, Danbury, CT

Dear Chairman Caruso and Members of the Council:

I am the owner of property located at 21 Hollandale Road in Danbury. My property has a water tank located on it, which tank I believe would be a suitable location for a cell tower telecommunications facility. I also have sufficient land on which to locate the necessary equipment shed. I understand that an application is currently pending before the Siting Council, docket #366, for the location of a facility at 52 Stadley Rough Road and that there is great opposition this location. I believe that my property would be a viable alternate site, and I welcome any visit to my property that is necessary to further analyze the site. I am available to meet immediately with any necessary party to discuss proceeding further and the siting of this equipment on my property. Thank you.

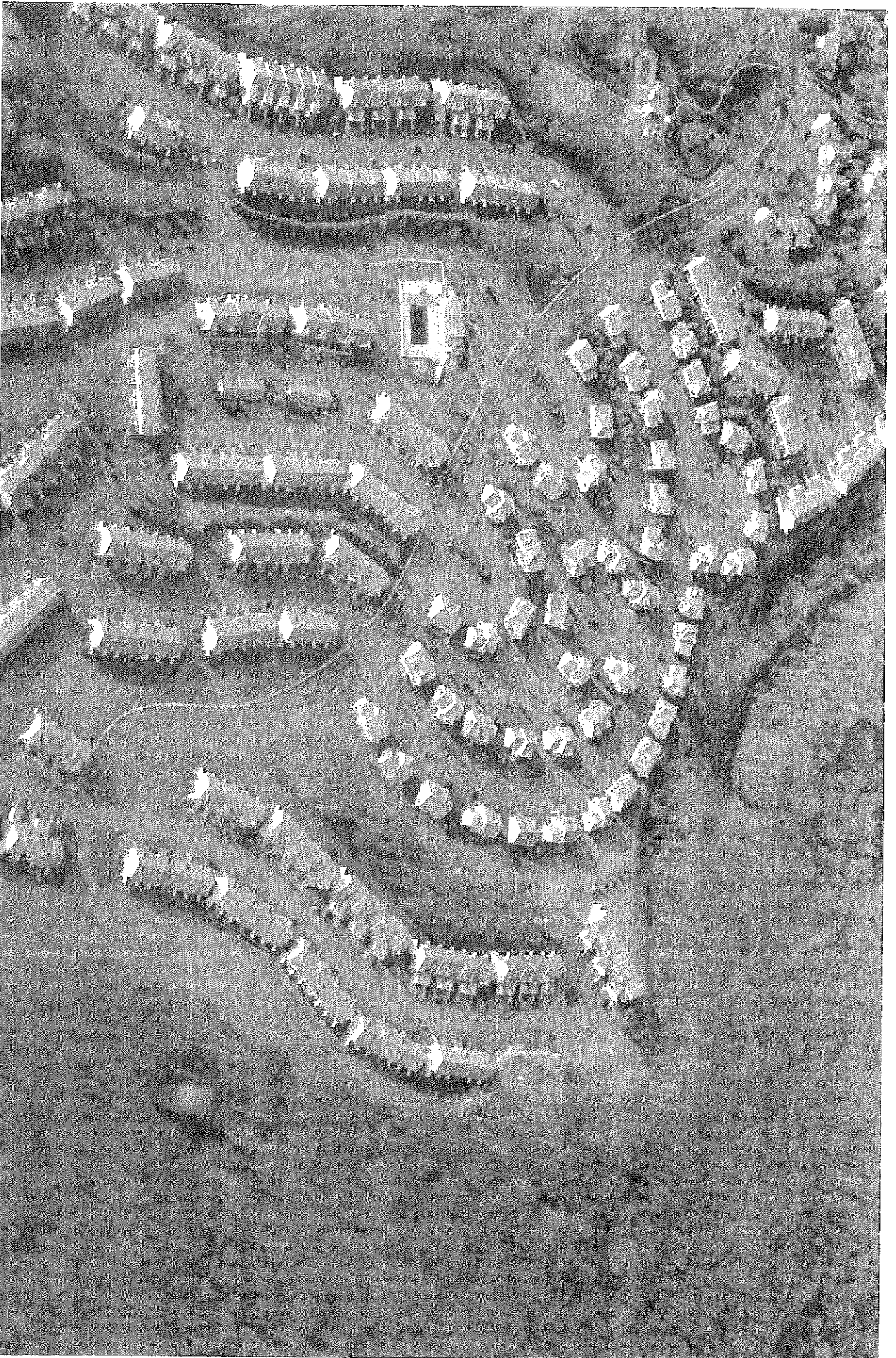
Sincerely,



Robert Kaufman

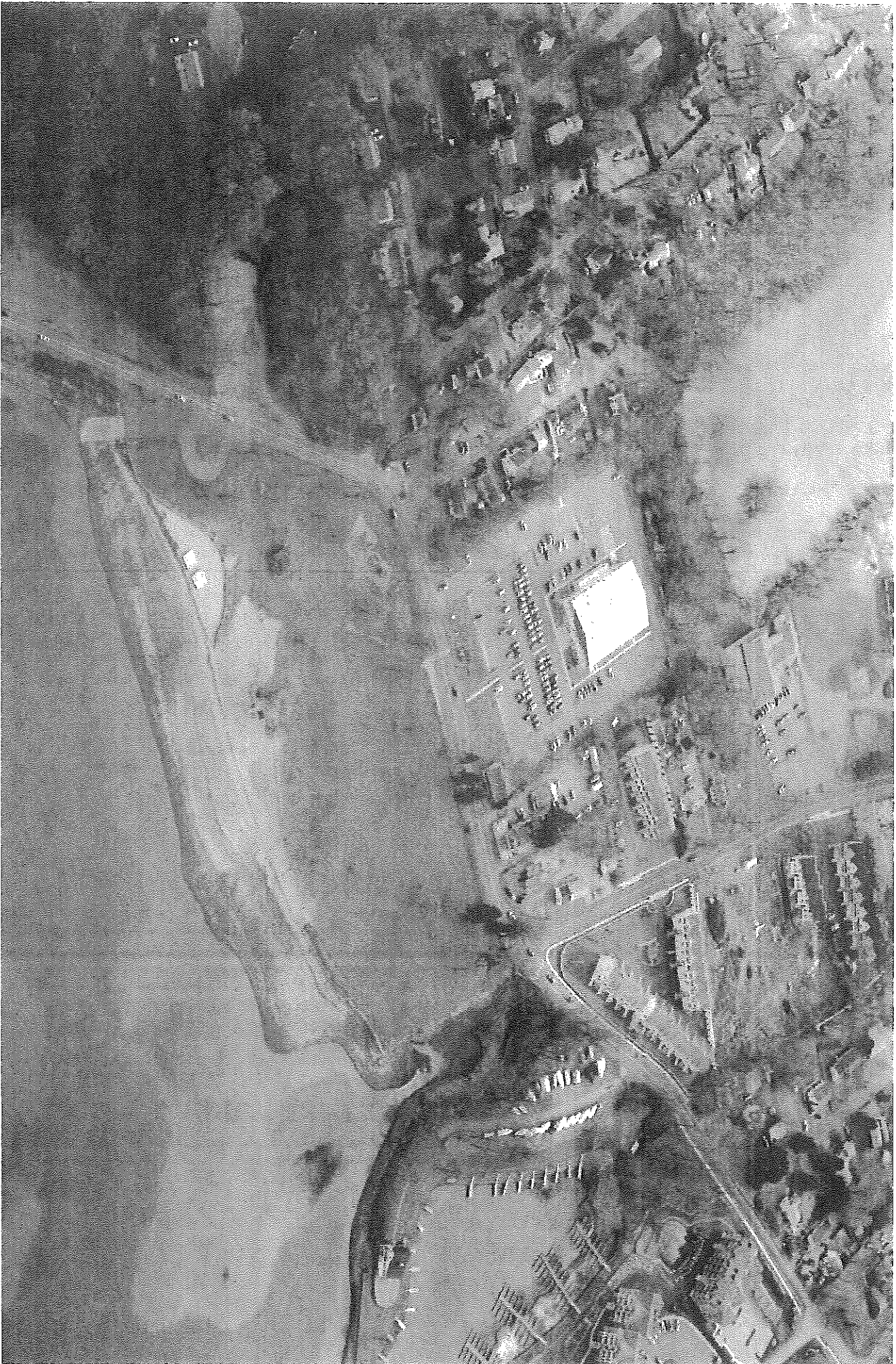
cc: Hon. Mark D. Boughton  
Michael McLachlan, Chief of Staff

1. Water tank at the Sterling Woods site





2. EAL site - 35 Layestown Road







5 • CONN DOT - Fadley Rough Road

Copyright © 2007 Pictometry International Corp.



4. Kaufman site - 21 Jollifdale Road

