

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**RE: APPLICATION OF SBA TOWERS II, LLC  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED FOR  
THE CONSTRUCTION OF A TELECOMMUNICATIONS  
FACILITY AT ONE OF TWO ALTERNATE SITES AT  
RABBIT HILL ROAD, WARREN, CT**

**DOCKET NO. 378**

**Town of Washington's Responses to Siting Council  
Pre-Hearing Interrogatories, Set One**

**Q.1. In the Town's February 26, 2009 correspondence to SBA, the Town requested SBA to investigate the "reservoir in Warren". Where is the reservoir property? How many miles is the property from the sites? Who is the owner of the reservoir property?**

**A.1.** The reservoir property is located in Warren approximately 1 and  $\frac{3}{4}$  miles east and slightly north of the proposed sites, approximately equidistant from Route 202 in Washington as the proposed sites, and is owned by the City of Waterbury.

**Q.2.**

**a) Did the Town respond to SBA's inquiries of September 12<sup>th</sup>, 18<sup>th</sup>, and 29<sup>th</sup> regarding SBA'S offer to attend a public hearing in Washington? If so, how was the request made? For what meeting?**

**A.2.**

**a)** The Town responded to SBA's verbal inquiry of September 11, and letters of September 12, 18 and 29, both verbally in the initial meeting on September 11 and with the attached letter dated September 13<sup>th</sup>, which restates that we had a town meeting on this site previously in 2003, that the minutes of the meeting were on file and had been sent to the Siting Council at that time. SBA was informed that Conservation is responsible for tower issues and meets on the first Wednesday of every month and they were welcome to attend that regularly scheduled meeting.

**b) Did the Town invite SBA to the Conservation Commission in October?**

**b) Yes**

**c) Did SBA respond to this invitation? If so, how?**

**c)** SBA verbally indicated that they would come to the next conservation meeting and at that time was requested to bring an RF engineer to reply to technical questions the Commission would have as one was not present at the Warren informational Town Meeting.

**d) How did the town notify residents of this meeting?**

d) The conversation with SBA took place after the Warren Town Meeting at which many members of the public were present. The residents were informed at that meeting that SBA would be attending the Conservation Meeting the following Wednesday. Notice of the Conservation meetings is posted on our web site and in Town Hall.

**e) Were any members of the public present at this meeting?**

e) Yes both the public and the press were present.

**f) Are there any minutes to this meeting? If so please provide.**

f) Yes. Attached.

**3.**

**a) According to correspondence from the Town to SBA dated Oct. 24, 2008. The Town invited SBA to attend a public Conservation Commission meeting on November 5, 2008. Is this correct?**

a) Yes.

**b) If so, was the meeting publically noticed? What form of notice did the town use? Is this type of notice typical for town meetings?**

b) Yes. The notice of the Conservation Commission meeting is noticed on the town website and in Town Hall as are all commission meetings.

**c) Did SBA respond to this request in any way?**

c) No.

**d) Was a response expected?**

d) Yes.

**e) Were any members of the public present at this meeting?**

e) No.

**f) If not, were members of the public told not to attend? If so, by whom?**

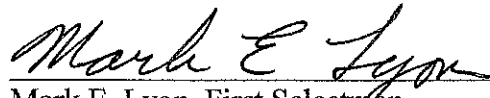
f) Having taken time off from work for the last meeting, members of the public asked for confirmation that SBA would be coming to the next meeting from the Cell Tower Committee Chair. Mr. Lyon, our first selectman was out of town after sending the request and directed inquiries to the Cell Tower Chair.

**g) Are there any minutes from this meeting? If so please provide.**

g) Yes. Attached.

**Q.4. Did any town representative attend the balloon float conducted on November 20, 2008? If so, please list the representatives that attended and provide a synopsis of their assessment of the balloon float.**

- A. Yes. Susan Payne, Chair Conservation Commission, and Linda Frank, Elizabeth Corrigan and Diane Dupuis all attended the balloon float. The consensus of opinion was that the balloon would be visible from many scenic and protected designations. There was not a backdrop to the towers but they were highly visible from scenic roads and scenic destinations such as the pinnacle in Macricostas, from the field in Macricostas, from scenic roads in Washington and scenic view sheds in both towns and from Mt. Tom and other local scenic destinations.



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Ms. Carrie L Larson, Pullman & Comley LLC  
Mr. Charles S Regulbuto,  
Director of Northeast Development Optasite  
Via email  
9.13.08  
Re: Tanner Farm Tower Site Proposal  
Rabbit Hill Road Warren Ct

Dear Ms. Larson and Mr. Regulbuto,

As we discussed at our meeting on Thursday afternoon, we do not consider the siting of a tower on the Tanner Farm to be a legal siting. This is a commercial venture on restricted farmland previously sold to the state for development rights. Only noncommercial, agricultural ventures are allowed on this type of property. A copy of the email received from the Commissioner of the Connecticut Department of Agriculture confirming our understanding was presented to you at that meeting:

"Similar requests have previously been reviewed with the Office of the Attorney General.

The construction of the structure and related outbuildings on such development rights restricted farmlands has been deemed to be a prohibited, commercial, non-agricultural use.

We also advised that we considered Optasite's application insufficient and discussed with you the many areas of inaccuracy and incompleteness contained in your initial report to the town (propagation maps, sight lines, scenic roads and other environmental and technical aspects to name a few). We asked that you resubmit a full and proper application should you feel you wish to continue with this application.

In addition, we advised you that the town of Washington is on record as being opposed to a site in this residential area.

An application was made in November of 2002 by ATT for a tower approximately 400 feet away and at an elevation 110 feet lower than this application site. That site was strongly objected to by the people of town of Washington, its Selectmen, its land use boards, the Steep Rock Land Trust, and other town environmental agencies.

Since 2003 the town of Washington has worked diligently to protect its natural resources in this area, adding protections at the local and state level. This proposed tower would sit in an environmentally sensitive area above our largest aquifer and effect multiple scenic view sheds, including property bought by the Town of Washington, the State of Connecticut and Steep Rock Land Trust, the 238 acre Macrocostas Preserve. In addition to being situated among historic

housing, scenic roads, critical habitats and key areas for recreation, this proposed tower would be in an area of moderate to high archaeological importance.

All letters of our original objections were submitted to the Siting Council in 2003 and are on record there. That 2003 application was made by ATT, who you represent in this application. At our town meeting in 2003, and recorded for the record, when queried about the viability of the Tanner Farm, ATT's representative, Ms. Gaudet, replied "the Tanner property was protected farmland and so was unavailable under the terms of the state protection program."

Since that time, nothing has changed in either the state or Siting Council regulations.

We ask that you take into consideration the town of Washington's objections and the legalities of siting on protected farmland and withdraw your application for a site on Rabbit Hill Road.

Sincerely,

Mark Lyon  
First Selectman  
Town of Washington

Diane Dupuis  
Chair Cell Tower Committee

cc Mr. Joseph Dipple, Dept of Agriculture  
Mr. Anthony Jannotta, Attorney General's Office  
Mr. Robert Marconi, CT Siting Council

# Conservation Minutes October 2008

Posted: December 12, 2008  
**October 1, 2008**

5:00 p.m. **Members Present:** Susan Payne, Kelly Boling, Diane Dupuis

**Guests:** Ann Compton, Ellen Tracey, Henry Dutton, John DeFeo

**Staff Present:** Shelley White

Susan Payne called the meeting to order at 5:05 p.m. and seated members Kelly Boling, Diane Dupuis and herself.

**Consideration of the Minutes:** The September 3, 2008 Regular Meeting Minutes were accepted as amended.

**Motion:** to accept the September 3, 2008 Regular Meeting Minutes of the Conservation Commission by Diane Dupuis, seconded by passed 3-0.

**Referrals or New Projects:** Ms. Payne informed the Commission that there will be no site visit to the Guerts property on June Road because Inland Wetlands had made its decision. The Commission discussed whether or not there was a public access trail to The Pinnacle and if people are trespassing on private property if they hike the trail from June Road. Ms. Payne offered to look into this issue and get back to the Commission.

**Cell Tower Update:** Diane Dupuis introduced the application, received on August 25 from Optasite, requesting to install a cell tower on Rabbit Hill on the Tanner Farm in Warren. The proposed tower site is within 250 ft. of the Washington Town Line. Ms. Dupuis reminded the Commission and the public that another cell tower had been applied for in 2002-2003 in a similar site about 400 ft. below where the current tower is proposed. Ms. Dupuis attended a Warren Town meeting in which the public's concerns and questions were addressed regarding the location of the proposed cell tower. Ms. Dupuis stated that a great deal of the public's questions went unanswered from Optasite as they had a lack of representation. Mr. Boling questioned why this proposed site was on land that is preserved using public funds. Ms. Dupuis stated that the opposing counsel is aware of this and basically this will be a test case if this goes through. Ms. Dupuis stated that another factor is who should receive the money from the contract for the cell tower if it should pass: the Tanners or the public? She has been in contact with the Attorney General's Office, which will be involved if this does become a test case. Ms. Dupuis stated that all roads

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surrounding this property are designated scenic roads and this cell tower would be a 'beacon' above Meeker Swamp. Mr. Boling asked what the Conservation Commission should do. Ms. Dupuis asked that the C.C. hear what the public has to say. In addition, a report should be sent to the representatives of Optasite. Ms. Dupuis and First Selectman Mark Lyon have met with the lawyers and engineers representing Optasite and have stated the opposition of the Town of Washington and that this site has been opposed since the request for a cell tower in 2003, the proposed site is against regulations and both towns are strongly opposed to the proposed site. Ms. Dupuis stated that there have been discussions of moving the tower to another part of the property and the only site that does not go against regulations would be on the Tanner property where the house and barn are located.

Mr. Henry Dutton stated that he was at the Warren Town Meeting and wanted it to be noted that public attendance was historically extensive. He stated that the attitude of the people and the First Selectman was that they would have a town meeting to vote for funds to hire a lawyer if needed. Mr. Dutton asked if Optasite are required to contact all adjoining property owners. Ms. Dupuis said that until the application goes to the Siting Council they are not required

Mrs. Ellen Tracey stated that the representatives of Optasite have found a clause that states that they are able to site things on non-tillable land. The Tanner family stands to receive a lot of money for the monthly lease of the site. Ms. Tracey stated there was a discussion at the Warren meeting of property rights and they cannot be sold twice. She also stated that this cell tower will not benefit the Town of Warren and it will only serve a couple of miles of Route 202. Ms. Tracey went to a forum in Litchfield at the education center. RF Engineers reported that there was no way that this area would be able to receive a 100% coverage. Ms. Tracey feels that Optasite is selfish in wanting to pinpoint this area.

Ms. Dupuis stated that there are too many families around this site. She stated that they were not allowed to talk about the health concerns at the Warren Town Meeting but they are free to talk about it in the forum of the Conservation Commission Meeting. Ms. Dupuis said one of the many reasons they asked Optasite to withdraw the application is because the amended propagation map shows that there is not going to be substantial coverage on Route 202.

Ms. Tracey stated that the tower would be approximately at the same height as her house. It will be approximately 150 ft. above her family's property. She has researched and attended forums on the issue and has learned the ramifications of being at such a close level of exposure could pose health problems to her family as well as the surrounding families.

Ms. Dupuis stated that it is necessary to send all objections from the past and present to Optasite formally. She would also like to inform them that if they are going to move the site anywhere else on the Tanner Property that the towns

need to know. Ms. Tracey stated that she was under the impression that Optasite had to provide a couple of proposed locations for the tower and they do not. Ms. Dupuis said that is true and is not sure why this application does not have more than one proposed site. Mr. Dutton stated at the Warren Town Meeting the public asked why there was not a RF Engineer present to discuss the potential of putting more towers along RT. 202. He explained that they do not want more they just wanted to force the issue of alternative sites. He stated that there were not any answers from the opposing side.

John Defeo questioned how many years need to pass before we can discuss the health issues. He stated that he was under the impression that discussion of health issues were not allowed because there was not enough research to support that there would be health problems due to exposure of the cell towers. Ms. Payne stated that the Europeans have a great deal of scientific data that show the health issues due to cell phone use and cell tower exposure. Mr. Boling and Ms. Payne said that the public would need to work with the congressional level of government to force the health issue as the consideration of health issues and tower site proposals is prohibited by existing legislation. Ms. Tracey stated that the University of Pittsburgh has done a study that recommends that no one under the age of sixteen uses a cell phone.

Commissioners and public continued to discuss alternate sites. Mr. Defeo stated that people should be the main consideration when siting a cell tower, then the other factors. Ms. Dupuis stated that all of Connecticut's representatives are aware of this and are very concerned. Mr. Defeo stated that he remembered a clause from the previous application that stated that the siting of any cell tower would have to meet the regulations of both towns regarding setbacks. Ms. Dupuis said that is why the Commission is involved because they are within the setbacks of both the Town of Washington and the Town of Warren.

5:33 Guests exit.