

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

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IN RE:

APPLICATION OF OPTASITE, INC. AND  
OMNIPOINT COMMUNICATIONS, INC.  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED FOR  
THE CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A TELECOMMUNICATIONS  
FACILITY AT 940 MERIDEN ROAD IN THE  
CITY OF WATERBURY, CONNECTICUT

DOCKET NO. 321

DATE: DECEMBER 21, 2006

**POST-HEARING BRIEF OF OPTASITE, INC. AND OMNIPOINT  
COMMUNICATIONS, INC.**

Pursuant to § 16-50j-31 of the Regulations of Connecticut State Agencies ("R.C.S.A."), Optasite, Inc. and Omnipoint Communications, Inc. (the "co-applicants") submit this post-hearing brief in support of the above-captioned application. This brief is limited to (1) the public need for this telecommunications facility, (2) the lack of environmental impact of the proposed facility, and (3) consistency with the mandate of the Connecticut Legislature to avoid the unnecessary proliferation of towers in the state. The co-applicants also submit their Proposed Findings of Fact in conjunction with this Post-Hearing Brief.

**I. BACKGROUND**

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 September 13, 2006 for a Certificate of Environmental Compatibility and Public Need ("Certificate").

Co-applicant Optasite, Inc. ("Optasite") proposes to construct a 110-foot steel monopole telecommunications facility in the north central portion of a 104 acre parcel of land owned by the Pine Grove Cemetery known as 940 Meriden Road (also known as 850 Meriden Road), Map 0302, Lot 0377, Lot 0070 of the Waterbury Tax Assessor's Map ("Site"). The 3,600 square foot leased area will include a 60-foot by 60-foot fenced compound area and a monopole tower designed to accommodate the antenna arrays and associated equipment of Omnipoint Communications, Inc. ("T-Mobile"), Sprint/Nextel and the equipment of two (2) other telecommunications carriers ("Facility").

The purpose of this Facility is to provide wireless telecommunications services to Waterbury, including along Meriden Road and surrounding areas. Both T-Mobile and Sprint/Nextel currently experience either significant gaps in coverage or inadequate coverage in the area. In addition, both T-Mobile and Sprint/Nextel are currently experiencing capacity problems, resulting in inadequate coverage in the area. A Facility at the Site will provide wireless coverage service to this area which is currently experiencing inadequate coverage.

**II. A SIGNIFICANT PUBLIC NEED EXISTS FOR A TELECOMMUNICATIONS FACILITY IN THIS AREA**

Connecticut General Statute ("C.G.S.") §16-50p(a) mandates that the Council "shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need..." C.G.S. §16-50p(a). There can be no dispute that there is a significant public need for this Facility.

There are no other telecommunications facilities in this area of Waterbury/Wolcott, and no utility structures or other suitably tall structures on which to locate a telecommunications facility. Adequate and reliable telecommunication capabilities are beneficial to persons who are traveling through, working, or living in the area. These communications issues can be alleviated with the construction of this Facility, which will provide benefits for both the residents and businesses in the City .

Both T-Mobile, a co-applicant, and Sprint/Nextel, who intervened in this docket, have established that they are currently experiencing significant coverage gaps and capacity problems which result in inadequate coverage in this area. A Facility at the proposed Site will alleviate that inadequacy.

### **III. THE FACILITY WILL HAVE A MINIMAL ENVIRONMENTAL IMPACT**

In addition to demonstrating the public need for the Facility, the co-applicants have identified “the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning, the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife...” as required by C.G.S. §16-50p(a). Indeed, the record in this matter convincingly demonstrates that the Facility will have a minimal environmental impact on the surrounding areas, and will not conflict with any environmental policies of the State of Connecticut. Several Court decisions have affirmed the issuance of Certificates for similar facilities and projects that involved comparable or greater

environmental impacts than that proposed in the present Application. Westport v. Connecticut Siting Council, 47 Conn. Sup. 382 (2001), Aff'd, Westport v. Connecticut Siting Council, 260 Conn. 266, 796 A.2d 510 (2002); Nobs v. Connecticut Siting Council, 2000 Conn. Super. LEXIS 1156 (April 28, 2000).

The co-applicants conducted a complete and comprehensive environmental analysis of this proposal, which can be found at Exhibits: J (Wetlands Report), K (Visual Resource Evaluation) L (State Agency Correspondence) and N (NEPA Compliance documentation). The State and Federal Agencies contacted as part of this environmental analysis provided substantive responses and conclusions. The environmental analysis concluded that:

- i. No wetlands within 300 feet of the Site; neither the access nor the compound are located within any wetlands or designated upland area; no direct or indirect impact on wetlands or watercourses (See Exhibit J);
- ii. No species of concern on Site (See Exhibit N);
- iii. The Site is not located in a designated wilderness or wildlife preserve area (See Exhibit N);
- iv. No listed species or designate critical habitats occur on or near the site. (See Exhibit L, Exhibit N);
- v. According to the State Historic Preservation Office, there will be no adverse impact on cultural resources, including historic areas (See Exhibit L);
- vi. The Site is not located on lands belonging to any federally recognized Indian tribe in Connecticut (See Exhibit N);
- vii. The Facility will be located outside of the 100 year flood zone; (See Exhibit N); and
- viii. The tower will not be lit (See Exhibit).

As far as the Facility's potential visibility, the Facility is proposed to be located on the Site in order to minimize impact to residential receptors. The topography and the mature vegetation at the Site will significantly limit the visual impact of the Facility. In addition, the size of the Site itself will assist in reducing the visual impact of the Facility. The Site is 104 acres in size and much of the anticipated visibility will occur on the Site itself.

Views of the Facility are expected to be limited to primarily within 0.5 miles of the Site and the proposed Facility will be visible from only 33 acres within a two-mile radius of the tower, which is less than one half percent (<.5%) of the study area. Of note, there will be no visibility from any scenic roads or areas, state parks or cultural or recreational receptors. In addition, the proposed Facility will be visible from approximately eight (8) residences year-round and thirty-six (36) residences will experience limited seasonal views of the Facility.

As the foregoing demonstrates, any environmental impacts associated with the Facility will be extremely limited. Further, the Facility will eliminate the need for a additional facilities in this area of Waterbury, thereby reducing the cumulative environmental impact on the City to the greatest extent possible.

**IV. A CERTIFICATE SHOULD ISSUE FOR THE PROPOSED FACILITY TO AVOID THE UNNECESSARY PROLIFERATION OF TOWERS**

The Connecticut legislature has declared that the sharing of towers to avoid the unnecessary proliferation of towers is in the public interest. C.G.S. §16-50aa. In addition, §16-50p(b) directs that, when issuing a certificate for a telecommunications tower, the Council "may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of such facilities and avoid the

unnecessary proliferation of such facilities in the state.” “The sharing of facilities is encouraged, if not required by General Statutes §16-50p(b)(1)(A).” Nobs v. Connecticut Siting Council, 2000 Conn. Super. LEXIS 1156 (April 28, 2000).

Certification of the proposed Facility will help to avoid the unnecessary proliferation of telecommunication facilities in this portion of the state. There are no other existing facilities or structures in this area from which the carriers could co-locate to provide such coverage. Accordingly, the issuance of a Certificate will help avoid the construction of new telecommunications tower(s) in this area of Connecticut. Because all major telecommunications carriers could utilize the Facility as well as local emergency services, if requested, approval by the Council will uphold the state mandate to avoid the unnecessary proliferation of towers.

**V. CONCLUSION**

It is clear from the evidence presented in the docket that approval of the Facility in this area of Waterbury is necessary to provide adequate wireless coverage. The co-applicants have demonstrated that utilization of the Site provides the best location for a Facility in this area of Waterbury. This Facility is the optimal solution for the lack of coverage in this area, with the least amount of environmental impact. As such, the co-applicants, Optasite, Inc. and Omnipoint Communications, Inc. respectfully urge the Council to issue a Certificate for the proposed Facility.

OPTASITE, INC.  
OMNIPOINT COMMUNICATIONS, INC.



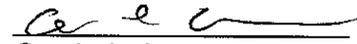
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**CERTIFICATE OF SERVICE**

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

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