

MONTE E. FRANK

PLEASE REPLY TO: Danbury
E-Mail Address: mfrank@cohenandwolf.com

September 29, 2009

VIA REGULAR MAIL

Ms. Marilyn M. Ozols
Planning and Zoning Administrator
8 Campus Drive
Madison, CT 06443-2563

**Re: Proposed Development of a Telecommunications Facility
15 Orchard Park Road, Madison, Connecticut**

Dear Ms. Ozols:

As you know, this Firm represents Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc. d.b.a. T-Mobile ("T-Mobile") in connection with the above-captioned proposed telecommunications facility at 15 Orchard Park Road (the "Facility"). T-Mobile intends to file an application for certificate of environmental compatibility and public need regarding the Facility in the next few days. I write in response to your letter on behalf of the Planning and Zoning Commission ("PZC") dated August 14, 2009.

Although the municipal consultation period provided for in the Connecticut General Statutes expired on or about July 28, 2009, T-Mobile held off on filing the application with the Connecticut Siting Council so it could engage in an interactive process with the Town in an effort to best balance the need for telecommunications services in this area of Madison against the possible environmental impacts.

On May 28, 2009, T-Mobile provided the Town with a technical report "concerning the public need, the site selection process and the environmental effects of the proposed facility." General Statutes § 16-50j (e). The technical report addressed each of these subjects in detail.

On July 27, 2009, T-Mobile (including its soil scientist) met with the Town's Conservation Commission and, as requested, provided it with a visual resource evaluation report and viewshed analysis, additional requested propagation plots detailing existing and expected coverage at various heights, site plans and an aerial map of the proposed Facility. On August 3, 2009, the Conservation Commission issued a letter recommending two conditions intended to protect a wetlands system near the proposed Facility. (A copy of the August 3, 2009 Letter is attached hereto as Exhibit A.) T-Mobile agreed to incorporate these

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conditions into its plans along with the measures already included to protect the nearby wetlands system.

On August 6, 2009, T-Mobile appeared before the PZC and responded to questions from the PZC regarding the Facility. Prior to that meeting, on July 27, 2009, T-Mobile provided PZC with its technical report, visual resource evaluation report, viewshed analysis and additional propagation plots at various heights, as had been requested. T-Mobile also conducted two balloon floats — one in connection with the visual resource evaluation report on July 7, 2009 and another on July 11, 2009, at the request of the Town. Notice of the second balloon float was published so that concerned citizens could attend and ask questions. PZC members admittedly did not attend.

T-Mobile has cooperated with the Town in earnest, and provided substantial additional information beyond the technical report, and even conducted additional balloon floats.

As a further display of good faith and cooperation with the Town, while T-Mobile intended to file its application with the Connecticut Siting Council in August, as was its right, it delayed the filing so that it could meet with PZC, and, subsequently, so it could explore the items in your August 14th letter in detail, which it has, as set forth below:

1. *Whether T-Mobile could locate the Facility on the property owned by the Sunshine House on Fort Path Road.* T-Mobile engaged in discussions with Amy Kuhner, the Executive Director of the Sunshine House, and provided requested information. Ms. Kuhner reported back that she circulated the information to the Sunshine House Board and it decided not to pursue a lease with T-Mobile for a tower on its property.

2. *Whether T-Mobile could locate the Facility on Town owned property on Nathan's Lane.* Following the PZC meeting, T-Mobile analyzed this property. T-Mobile's RF engineer determined that this candidate is located too far to the west of the coverage objective for the proposed facility. The coverage from this candidate provides approximately 50 percent redundant coverage with T-Mobile's on air site CT11028A, located at 119 Tanner Marsh Road in Guilford. As such, even with a site at Nathan's Lane, the proposed Facility would still be needed to satisfy T-Mobile's coverage objectives in this area. Accordingly, this suggested site is untenable.

3. *Additional site considered.* During the PZC meeting, the PZC discussed an another potential site at the Bus Fueling Yard (Off Fort Path Road) . Even though this site was not mentioned in your letter, for purposes of completeness, T-Mobile also explored the

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suitability of a facility at this location. This location, however, is adjacent to T-Mobile's on air site CT11167A, a monopole located at 8 Old Route 79 in Madison, CT. T-Mobile is located at 120 feet on this 148 foot tower. The majority of coverage potential from this candidate is redundant coverage with T-Mobile's existing on air coverage footprint and would not be considered an appropriate candidate for the search ring at issue with the proposed Facility.

4. *The Town's Historic Commission Letter, dated January 9, 2009.* The Historic Commission confirmed that the Facility would not be located in the Historic District. Significantly, T-Mobile received a *No Effect* letter from SHPO in January. Your letter, nonetheless, raised some concerns regarding visibility. Each of those concerns is addressed in turn.

a) *Whether the Facility would be visible from the Historic District.* T-Mobile's visibility experts, Vanasse Hangen Brustlin, Inc. ("VHB"), evaluated the potential visual impact of the Facility on the Madison Green Historic District in connection with the balloon float. Based upon this assessment, which are consistent with the findings of VHB's computer analysis, the Facility would not be visible from the Historic District.

b) *Whether the Facility would be visible from properties with historical and architectural significance on Route 1.* Although some properties along Route 1, in the immediate vicinity of the Facility, would have views of the Facility, there would not be any views from registered properties.

c) *Whether the Facility would be visible from certain properties on Stony Lane, Fort Path Road, Johnson Lane, Easterly Farms Road and Stonewall Lane.* VHB determined that: (1) a limited number of properties along Stony Lane and Johnson Lane (seasonal) would have views of the Facility; and (2) there would not be visibility from Fort Path Road, Easterly Farms Road or Stonewall Lane.

5. *Simulations of towers at heights other than 100 feet.* T-Mobile proposes a telecommunications facility with a 100 foot monopole tower. The detailed visual analysis, the viewshed map and simulations address the Facility as proposed. These materials satisfy the requirements under General Statutes § 16-50g *et seq.* If the Facility is approved by the Council, T-Mobile would cooperate to the extent required by the Council should anyone seek to modify the Facility to accommodate other carriers. Please also note that you did not ask for these simulations at any time prior to the hearing on August 6, 2009, notwithstanding that the

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Technical Report was filed on May 28, 2009. Please also keep in mind that preparing photo simulations at different heights would require balloon floats at varying heights, which is not typically done for a variety of reasons, including, the confusion it would cause to the public.

6. *Whether the Facility could effectively host other carriers.* The Facility would be engineered to accommodate three carriers along with T-Mobile. The regulatory process is ongoing, and at this time, other carriers have not informed T-Mobile of their requisite co-location needs. T-Mobile will conduct a geological investigation to determine whether the site can host a taller tower. A preliminary review of the soil mapping, published by the Natural Resources Conservation Service, suggests that the soil underlying the site consists of Charlton/Chatfield soils. These subterranean conditions would not necessarily preclude the installation of a taller structure. As requested, T-Mobile will to the extent possible engineer the foundation and tower so that it can be expanded in the future if a carrier can demonstrate to the Siting Council that a height above 100 feet is needed.

7. *Whether the Facility could be located further away from the nearby wetlands system.* T-Mobile retained VHB to determine whether the proposed Facility would impact the nearby wetlands system. VHB's soil scientist concluded that the Facility would not impact the nearby wetlands if certain measures are implemented. The Conservation Commission suggested additional protective measures, which T-Mobile has incorporated into its plans. The Facility cannot be moved in any manner that would significantly increase the distance between it and the wetlands system. Ultimately, the site plan, as drafted, will avoid any adverse impact to those wetlands.

T-Mobile has gone to great lengths to accommodate the Town's requests and address all of the Town's questions. T-Mobile has conducted a thorough investigation of the potential sites in this area of Madison. Based upon this analysis, T-Mobile has concluded that the Facility will best address the intended coverage area and provide enhanced wireless service to the residents of Madison and to the Amtrak rail line with the least impacts to the Town's environmental resources, which T-Mobile has worked hard to mitigate.

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We appreciate your comments, and believe that we have addressed them fully.

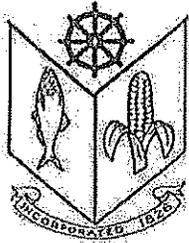
Very truly yours,

Monte E. Frank 

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Enclosure

cc: Alfred Goldberg, First Selectman
Ms. Christine Poutot, Planning & Zoning Chairman
Mr. S. Derek Phelps, Connecticut Siting Council



TOWN OF MADISON
CONNECTICUT
CONSERVATION COMMISSION

8 CAMPUS DRIVE MADISON,
CONNECTICUT 06443-2563

Ms. Christine Poutot, Chair
Planning and Zoning Commission
8 Campus Drive

3 August 2009

Dear Ms. Poutot,

The Conservation Commission met on 27 July and discussed the cell phone tower proposed for 7 Orchard Park. Representatives of the applicant were present. We recommended to them the following considerations should the project be approved:

1. The ground on which the tower will stand should be graded so that it will drain southward, away from the adjacent wetland.
2. During construction, extra measures should be taken to ensure that soil is not washed into the wetland. The engineer for the applicant suggested that double silt fencing could be used in a "belt and suspenders" approach to this issue. We agree.

Sincerely,

George McManus,
For the Conservation Commission