

NAVISITE INC
Form S-8
February 15, 2008

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As filed with the Securities and Exchange Commission on February 15, 2008

Registration No. 333-_____

**UNITED STATES
 SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549
 FORM S-8
 REGISTRATION STATEMENT
 UNDER
 THE SECURITIES ACT OF 1933
 NAVISITE, INC.
 (Exact Name of Registrant as Specified in Its Charter)**

**Delaware
 (State or Other Jurisdiction of
 Incorporation or Organization)**

**52-2137443
 (I.R.S. Employer
 Identification Number)**

**400 Minuteman Road, Andover, Massachusetts
 (Address of Principal Executive Offices)**

**01810
 (Zip Code)**

**Amended and Restated 1999 Employee Stock Purchase Plan
 (Full Title of the Plan)**

**Monique Cormier, Esq.
 General Counsel and Secretary
 NaviSite, Inc.**

**400 Minuteman Road
 Andover, Massachusetts 01810
 (Name and Address of Agent for Service)
 (978) 682-8300**

(Telephone Number, Including Area Code, of Agent for Service)

Copies to:

**Thomas B. Rosedale, Esq.
 BRL Law Group LLC
 31 St. James Avenue, Suite 850
 Boston, Massachusetts 02116
 (617) 399-6931**

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|--------------------------------------|-------------------------------|-------------------------------------------------------|-------------------------------------------------------|-------------------------------------|
| Common Stock, \$.01 par value | 500,000 shares | \$ 4.06(1) | \$ 2,030,000.00(1) | \$ 79.78 |

- (1) Estimated solely for the purpose of calculating the registration fee, and based on the average of the high and low prices of the Common Stock on the Nasdaq Capital Market on February 12, 2008 in accordance with Rules 457(c) and 457(h) under the Securities Act of 1933.
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EX-5 Opinion of BRL Law Group LLC

EX-23.2 Consent of KPMG LLP, Independent Registered Public Accounting Firm

EX-23.3 Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm

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Statement of Incorporation by Reference:

In accordance with General Instruction E to Form S-8, this Registration Statement on Form S-8 incorporates by reference the contents of the Registration Statement on Form S-8 (File No. 333-89987) filed by the Registrant on October 29, 1999 and the Registration Statement on Form S-8 (File No. 333-56454) filed by the Registrant on March 2, 2001, relating to the Registrant's Amended and Restated 1999 Employee Stock Purchase Plan (the Plan), except as to the item set forth below. This Registration Statement provides for the registration of an additional 500,000 shares under the Plan.

Item 8. Exhibits

The Exhibit Index immediately preceding the exhibits is incorporated herein by reference.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the Town of Andover, Commonwealth of Massachusetts on February 15, 2008.

NAVISITE, INC.

By: /s/ Arthur P. Becker
Arthur P. Becker
Chief Executive Officer and President

POWER OF ATTORNEY

We, the undersigned officers and directors of NaviSite, Inc., hereby severally constitute Arthur P. Becker, James W. Pluntze and Monique Cormier, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, the Registration Statement on Form S-8 filed herewith and any and all subsequent amendments to said Registration Statement, and generally to do all such things in our names and behalf in our capacities as officers and directors to enable NaviSite, Inc. to comply with all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by said attorneys, or any of them, to said Registration Statement and any and all amendments thereto.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on February 15, 2008.

| Signature | Title |
|-----------------------|-------------------------------------------------------------------------------|
| /s/ Andrew Ruhan | Chairman of the Board of Directors |
| Andrew Ruhan | |
| /s/ Arthur P. Becker | Chief Executive Officer, President and Director (Principal Executive Officer) |
| Arthur P. Becker | |
| /s/ James W. Pluntze | Chief Financial Officer (Principal Financial and Accounting Officer) |
| James W. Pluntze | |
| /s/ James H. Dennedy | Director |
| James H. Dennedy | |
| /s/ Thomas R. Evans | Director |
| Thomas R. Evans | |
| /s/ Larry W. Schwartz | Director |
| Larry W. Schwartz | |

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EXHIBIT INDEX

Exhibit

Number Description

- 4.1 Amended and Restated Certificate of Incorporation is incorporated herein by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended October 31, 1999 (File No. 000-27597).
- 4.2 Certificate of Amendment of Amended and Restated Certificate of Incorporation, dated as of January 4, 2003, is incorporated herein by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended January 31, 2003 (File No. 000-27597).
- 4.3 Certificate of Amendment of Amended and Restated Certificate of Incorporation, dated as of January 7, 2003, is incorporated herein by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended January 31, 2003 (File No. 000-27597).
- 4.4 Amended and Restated By-Laws is incorporated herein by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended October 31, 1999 (File No. 000-27597).
- 4.5 Certificate of Designation of Rights, Preferences, Privileges and Restrictions of Series A Convertible Preferred Stock, dated as of September 12, 2007, is incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on September 18, 2007 (File No. 000-27597).
- 4.6 Waiver to the Certificate of Designation of Rights, Preferences, Privileges and Restrictions of Series A Convertible Preferred Stock, dated as of September 25, 2007, is incorporated herein by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended October 31, 2007 (File No. 000-27597).
- 4.7 Specimen Certificate of Common Stock, \$.01 par value per share, of the Registrant is incorporated herein by reference to Exhibit 4.1 of the Registrant's Registration Statement on Form S-1 (File No. 333-83501).
- 4.8 Specimen Certificate of Series A Convertible Preferred Stock of NaviSite, Inc. is incorporated herein by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on September 18, 2007 (File No. 000-27597).
- 5 Opinion of BRL Law Group LLC.
- 23.1 Consent of BRL Law Group LLC (included in Exhibit 5).
- 23.2 Consent of KPMG LLP, Independent Registered Public Accounting Firm.
- 23.3 Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.
- 99.1 NaviSite, Inc. Amended and Restated 1999 Employee Stock Purchase Plan is incorporated herein by reference to Appendix I to the Registrant's Definitive Proxy Statement on Schedule 14A filed November 13, 2007 (File No. 000-27597).