

TOWN OF FALMOUTH, MAINE

REQUEST FOR CONDITIONAL REZONING APPROVAL
TO INCREASE THE HEIGHT
OF AN EXISTING
TIER II PERSONAL WIRELESS SERVICE FACILITY
LOCATED AT
356 US RTE 1, FALMOUTH, ME

PROPOSAL BY
AT&T MOBILITY

EXHIBIT #5

COMPLIANCE STATEMENT

STATEMENT OF COMPLIANCE WITH CONDITIONAL REZONING REQUIREMENTS

REQUEST FOR CONDITIONAL REZONING APPROVAL TO INCREASE THE HEIGHT OF AN EXISTING TIER II PERSONAL WIRELESS SERVICE FACILITY LOCATED AT 356 US RTE 1, FALMOUTH, ME

Applicant *AT&T Mobility* states that this Conditional Rezoning request complies with the provisions §3.12 of the Zoning and Site Plan Review Ordinance and §8-353 of Art. X Personal Wireless Services Facilities Siting Ordinance as follows;

ZONING AND SITE PLAN REVIEW ORDINANCE

§3.12 CONDITIONAL REZONING

All Conditional Rezonings by the Town Council must:

- 1) be consistent with the Comprehensive Plan and the Open Space Plan;
AT&T's proposed project is consistent with Falmouth's Comprehensive Plan and the Open Space Plan.

LOCAL ECONOMY: The Comprehensive Plan discusses an initiative to increase the amount of commercial activity while maintaining Falmouth's small town character. For instance, there is an intent to capitalize on the advantages of the developed area at Exit 10 of the Maine Turnpike (which is a coverage objective of AT&T's project) while assuring a minimal impact on surrounding properties.

Applicant's proposed extension to the existing tower will facilitate commercial activity. Currently up to 85% of all citizens own cell phones and 22% have replaced traditional land based telephones with cell phones as their only means of communications so many people depend on adequate cell phone service to conduct commercial and routine activities. AT&T's proposed extension to the existing tower will not significantly impact Falmouth's small town character or surrounding properties considering the extension will be only 10' to an existing structure. In comparison, AT&T believes that the alternative of constructing an additional tower near the existing tower would pose a more significant

impact on the character of the area.

PUBLIC FACILITIES: The Comprehensive Plan discusses increased demands placed on public services (including police, fire, and emergency medical services) as a result of growth, development, and changing demographics.

Applicant states that Wireless service from proposed site will assist Falmouth's public emergency services by providing citizens with efficient communications. For instance, last year up to 30% of all calls for emergency services in Maine came from cell phones.

PROPOSED LAND USE AND OPEN SPACE: The Comprehensive Plan and Open Space Plan discusses a goal to manage development in Falmouth so that adequate open space resources are maintained. A significant theme is that development is reducing the amount of informal open space in Falmouth and altering its character. For instance, the Comprehensive Plan states "since the mid-1980s, concern for the loss of open space in town has ranked among the highest growth management concerns of Falmouth citizens."

Applicant's proposed extension to the existing tower will not require any additional ground space development so existing open space on the lot will be retained. In comparison, the alternative of constructing an additional tower near the existing tower would require additional ground development and the loss of open space.

- 2) establish rezoned areas which are consistent with the existing and permitted uses within the original zones; *Applicant states the existing facility is located in a zoning area which allows Personal Wireless Service Facilities, therefore the increase in monopole height and the addition of telecommunications equipment in the compound will not change existing and permitted conditions; and*
- 3) only include restrictions which relate to the physical development or operation of the property. *Applicant will comply with the 10' maximum height increase of the existing monopole, and will paint the extension gray to coincide with existing conditions that were approved by the Falmouth Planning Board on September 5, 2006.*

ART. X PERSONAL WIRELESS SERVICE FACILITIES SITING

SEC. 8-351. ZONING

- a) Tier I Facilities. *Not Applicable.*
- b) Tier II Facilities. *Not Applicable.*

- c) Tier III Facilities. May be allowed by Conditional Rezoning as approved by the Town Council pursuant to Section 3.12 of the Zoning and Site Plan Review Ordinance upon a showing by the Applicant that:
- (i) Except for the height limitations on Tier I and Tier II Facilities, the provisions of this Article X have been met; *See Existing Tier II Facility Plans, Exhibit 19.*
 - (ii) It is impractical to meet coverage and/or capacity needs of the applicant through one or more Tier I or Tier II Facilities; *See Coverage Map for Alternative Site at Woods Road, and Radio Frequency Interference Analysis, Exhibits 6 & 7;* and
 - (iii) The visual impact of a single facility would be less than the visual impact of the number of Tier I and/or Tier II Facilities required to meet such need. *See Balloon Test Results, Exhibit 8 (Photos will be provided upon completion of balloon test).*

SEC. 8-353. PERMIT REQUIRED

(1) APPLICATION FOR APPROVAL

- a) A Completed Application Form.

*The Town of Falmouth has not yet developed an application form for Personal Wireless Service Facilities, therefore, as suggested by the Town of Falmouth Assistant Planner, applicant has included the **Planning Board Request for Hearing Form, Exhibit 1.***

See Also, Right, Title, or Interest (Lease), Exhibit 14.

Parcel Owner: William Skoolicas
50 Winds Road
Portland, ME 04102

Facility Owner: Lighttower Wireless, LLC
80 Central St.
Boxborough, MA 01719

- b) Boundary Survey.

*The existing Tier II Personal Wireless Service Facility was approved by the Falmouth Planning Board on September 5, 2006, as constructed by **GridCom**. Therefore, Applicant requests a waiver from this requirement.*

- c) Name and Information of Applicant.

AT&T Mobility
Bolton Office Park
580 Main Street
Bolton, MA 01740

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- d) Scaled Plans and Scaled Elevation View that Includes the Following;
(i) location and dimensions of all existing and proposed improvements on the parcel including access roads and structures, location and dimension of significant natural features, and maximum height of the facility; (ii) elevation; (iii) design of the facility; (iv) paint color; (v) topography (not required as this will be attached to an existing structure); (vi) tree survey information (not required as this will be attached to an existing structure); (vii) setbacks; (viii) existing access ways and proposed access ways; (ix) residential and commercial structures on site and within 200' of the facility (not required as this will be attached to an existing structure). See Site Plans/Structural, Exhibit 18.
- e) Photographs or perspective drawings of the facility. *The proposed plans show the perspective drawings of the facility. Applicant's proposal would add a 10' extension to the existing monopole and an equipment shelter within the existing compound. See Plans/Structural, Exhibit 18.*
- f) Balloon Test. *Applicant agrees to conduct a balloon test in accordance with the ordinance requirements. On August 29, 2008, Applicant will request that a balloon test be conducted. Each councilor will be notified as to the date and time of the test so they may view it if they so choose. Applicant will include photos of the balloon test taken from various viewpoints in Falmouth. See Balloon Test Results, Exhibit 8 (Photos will be provided upon completion of balloon test).*
- g) All existing antennas and other equipment on the structure as well as ground equipment will be identified by owner, type, and size. *The two carriers presently on the facility are T-Mobile® and Sprint®. Sprint's equipment is housed in an Equipment Shelter and is mounted on a 12'1" x 12'1" concrete pad. Sprint uses Andrews antennas, model UMWD 09016 R2DH that measure 81" x 6.8" x 3.5". T-Mobile's equipment is housed In an Equipment Shelter mounted on a 12' x 20' concrete pad. T-Mobile uses RFS antennas, model number APXV 18-209014. These antennas measure 59" x 11.8" x 7.9".*
- h) Scaled map (1 inch equal to or less than 2000 feet) showing location along publicly used roads illustrating where the tower will be visible based on the results of the balloon test. *Applicant will comply with this provision. See Balloon Test Results, Exhibit 8 (Photos will be provided upon completion of balloon test).*

- i) Copy of recorded deed of easement if proposed facility located on a conservation or open space easement. *Not Applicable as the existing facility is not located on a conservation or open space easement. Applicant further states that a Warranty Deed on the property owner by William Skoolicas at 356 US Rte. 1, references a "beautification easement" to the State of Maine that is recorded in the Cumberland County Registry of Deeds, Book 3087, Page 593. For review, this easement deed is attached to the **Warranty Deed, Exhibit 21.***

(2) **SETBACKS**

Not Applicable in accordance with §8-353 (6), for a Tier III Facility requiring Conditional Rezoning Approval by the Town Council.

(3) **FACILITIES NOT PERMITTED IN CERTAIN AREAS**

Not Applicable as the installation of the proposed Tier III Facility will be on an existing Tier II Personal Wireless Service Facility.

(4) **STANDARDS FOR TIER I FACILITIES**

Applicant's Tier III proposal includes complying with the Ordinance's Standards for Tier I Facilities.

The proposed facility meets all of the requirements for Tier I Facilities as follows;

- a) Compliance with Subsection (3).
Not Applicable as the existing facility is a Tier II Facility.
- b) Facility to be designed, constructed, and maintained as follows;
- (i) guy wires are not permitted;
 - (ii) outdoor lighting used only during maintenance periods;
 - (iii) equipment cabinets screened from all lot lines;
 - (iv) a grounding rod installed at the top of the facility will comply with the requirements;
 - (v) applicant will provide a statement certifying the height of all components to the Code Enforcement Officer within one month after completing the installation. *Applicant will comply with this provision.*
- c) Equipment will be attached to the exterior of a structure only as follows;
- (i) the total number of arrays of antennas attached to the existing structure not to exceed three, and each antenna proposed to be attached shall not exceed 1,152 square inches; *Each Powerwave Antenna used by Applicant measures 55" x 11" or 605 square inches. Therefore, Applicant complies with this provision. See Antennas, Exhibit 12.*
 - (ii) no antenna will project from the structure beyond the minimum required by the mounting equipment and in no case more than 12 inches from the existing structure; *Applicant will comply with this provision.*
 - (iii) the color of each antenna and equipment shall match the existing structure. *Applicant will comply with this provision to the extent feasible. Applicant states that the Tower Mounted Amplifier (TMA) used cannot be painted. However, if possible the TMA will be mounted directly behind*

each antenna to minimize any color difference that might be seen. See Plans/Structural, Exhibit 18.

- d) any fence needed for the facility shall blend with its surroundings and shall fence in the minimum area necessary to protect equipment and protect the owner from liability. *Applicant will comply with this provision as all equipment installed will be within the existing fenced in compound area.*

(5) STANDARDS FOR TIER II FACILITIES

Applicant's Tier III proposal includes complying with the Ordinance's Standards for Tier II Facilities.

- a) The facility will comply with subsection (3) and (4). *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*
- b) The site shall provide adequate opportunities for screening and the facility will be sited to minimize visibility from adjacent parcels and streets regardless of their distance from the facility. *Applicant will comply with this provision.*
- c) The facility will not have an unreasonable adverse visual impact on resources identified in the town's open space plan. *Applicant's proposal will have no impact on the Town of Falmouth's Open Space Plan since the proposal does not require any additional ground space development.*
- d) The facility will not be located so that it and three or more existing or approved personal wireless service facilities will be within an area having a radius of two hundred (200) feet. *Not Applicable as this will be an installation on an existing facility.*
- e) *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*
- f) *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*
- g) Each monopole shall be a color that will blend into the surrounding trees. The antennas, supporting brackets, and any other equipment attached to the monopole will be a color that matches that of the monopole. The ground equipment, including the equipment shelter and concrete pad will not be visible from any other parcel or public or private street. *Applicant will comply with this provision.*
- h) *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*

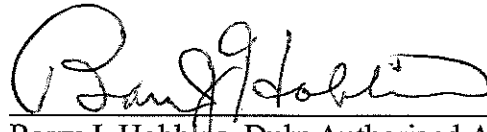
- i) *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*
- j) *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*
- k) Applicant will provide all information needed for the Town to send Notice to the owners of each lot abutting the lot and the owners of lots located within a 750' radius on which the proposed facility will be located. *Applicant will comply with this provision.*
- l) *Not Applicable as stated in Subsection (6), Standards for Tier III Facilities.*

(6) STANDARDS FOR TIER III FACILITIES

- a) The Facility shall comply with subsection (3), subsection (4), and subsection (5)(b), (c), (d), (g), and (k). *Applicant will comply with this provision.*
- b) In no event shall a Tier III Facility exceed 200 feet above grade level. *Applicant will comply with this provision as the proposal is to extend the height of the existing structure from 90' to 100'.*
- c) Tier III Facilities that are not subject to special painting or lighting standards of any federal agency shall meet as far as practical the visual standards for Tier II Facilities. *Applicant will comply with this provision.*
- d) Unless existing vegetation provides a buffer strip the width of the required fall zone, all property lines along roadways or visible to existing abutting or nearby buildings (within ¼ mile radius) be landscaped according to the Ordinance. *Applicant will comply with this provision if it is determined that an insufficient buffer strip exists.*

* * *

Respectfully Submitted:



Barry J. Hobbs, Duly Authorized Agent for
AT&T Mobility