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March 31, 2011

Board of Selectmen
Town of Jackson
c/o Mr. Andy Chalmers
3277 White Mountain Highway
P.O. Box 2480
North Conway, NH 03860

Re: AT&T Personal Wireless Communications Facility at Black Mountain Road
Application for Building Permit & Request for Denial

Dear Board Members:

New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (“AT&T”), appearing by and through Downs Rachlin Martin PLLC, its attorneys, and with the assistance of Site Acquisitions, Inc. (“SAI”), its consultants, seeks to install a personal wireless service facility to be located at Black Mountain Road, Map 17, Lot 31 B (the “Property”). By this letter, AT&T submits an application for a building permit, with a check in the amount of \$325 for associated permit fees, pursuant to Section 14.4 of the Jackson Zoning Ordinance (“JZO”) and, for the reasons provided below, requests that the Board of Selectmen deny the application so that AT&T may apply to the Zoning Board of Adjustment (“ZBA”) for a variance from JZO Section 14.6.3.3.

By way of background, AT&T originally submitted an application for approval of a telecommunications facility on October 26, 2009, which involved installation of a new tower and related equipment. On March 25, 2010, the Board of Selectmen denied this application, in part because a variance was required from JZO Section 14.6.3.3. As the Board is aware, this provision expresses a preference for siting a facility within the designated Telecommunications Overlay Zone (i.e., an area within 200 feet on either side of NH Route 16).

On October 4, 2010, in response to the Board’s denial, AT&T submitted a new building permit application to install a different facility on the Property. In particular, AT&T proposed to

enlarge an existing telecommunications facility located on top of a ski lift tower at the Black Mountain Ski Resort. While this application was pending, AT&T obtained approval to install a temporary facility at this location to provide some interim coverage to the ski area and the immediate surroundings.

After installing the temporary facility, and in response to a concern expressed by the Building Inspector, AT&T determined that its proposal to extend the height of the lift tower and install additional antennas would not be feasible from a structural perspective. As noted in the email correspondence attached to this application as Exhibit A, Black Mountain's engineer Nils Ericksen has indicated that an additional three antennas could compromise the integrity of the ski lift tower.

Accordingly, AT&T now submits this application for a building permit to construct a new 45' tall monopole communications tower with antennas, in accordance with the Zoning Drawings attached as Exhibit B, to be located immediately adjacent to the existing equipment shelter shown in the two prior applications, and AT&T will also remove all antennas from the lift tower. Based on the previous denial by the Board of Selectmen in March of 2010, however, AT&T acknowledges that a variance from JZO Section 14.6.3.3 will be required for this proposed project.

It is our understanding, based on correspondence with town representatives, that the ZBA will not consider granting a variance until an application for a building permit has first been denied. In the interest of efficiency, AT&T respectfully requests that the Board of Selectmen consider proceeding as follows. First, AT&T requests that the Board deny the attached building permit application on the grounds that it is incomplete and that a variance from JZO Section 14.6.3.3 is required. This will enable AT&T to submit a request for a variance with the ZBA. Upon receipt of a variance, AT&T will submit a new, complete application for a building permit for review by this Board.

Again, AT&T makes this request for denial to promote efficiency, and to be able to address the substantive requirements of the Town's regulations regarding the siting of telecommunications facilities in the correct forum. If you have any questions or concerns, please do not hesitate to contact me. Thank you in advance for your attention to this important project.

Sincerely,



Lisa A. Fearon

Enclosures

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