

APPLICABLE STANDARDS

REQUEST FOR CONDITIONAL REZONING APPROVAL
TO BUILD A TIER III WIRELESS SERVICE FACILITY
LOCATED AT

121 FIELD ROAD, FALMOUTH, ME

(pursuant to Section 3.12 of the Zoning and Site Plan Review Ordinance and Article X, Sections 8-351 and 8-353 of the Wireless Ordinance)

Section 3.12 of the Zoning and Site Plan Review Ordinance

Sec. 3.12(1)

All conditional rezoning by the Town Council must be consistent with the Comprehensive Plan and Open Space Plan.

RESPONSE. The Falmouth Comprehensive Plan seeks to balance goals of encouraging orderly growth and development in appropriate areas while preserving certain areas of town. The Comp Plan also seeks to encourage economic development in a reasonable and thoughtful manner. Residents and businesses are increasingly becoming dependent on wireless telecommunication, for both voice and data transmissions. Adequate service coverage is important in all areas, including residential, business, and transportation corridors. The proposed Facility will meet these goals by improving wireless service in Falmouth with a project that is designed to minimize visual and other impacts on the community.

Sec. 3.12(2)

All conditional rezoning by the Town Council must establish rezoned areas which are consistent with the existing and permitted uses within the original zones.

RESPONSE. The impacts of the proposed use will be consistent with Amateur Radio Towers and Public Utilities, both of which are existing and permitted uses in the Residential B district. The proposed use will likely have less of an impact (due to traffic, noise, and other impacts) than Congregate Housing, Extractive Industries, Health Institutions, Multiplexes, Neighborhood Variety/Convenience Stores, and Roadside Stands.

Sec. 3.12(1)

All conditional rezoning by the Town Council must only include restrictions which relate to the physical development or operation of the property.

RESPONSE. Verizon Wireless is willing to discuss any conditions that the Town Council determines are necessary as part of the conditional rezoning.

Section 8-351 of the Wireless Ordinance

Sec.8-351(c)(a) Except for the height limitations on Tier I and Tier II facilities, the provisions of this article X have been met.

RESPONSE. Please see the responses below regarding compliance with the applicable provisions of Article X.

Sec.8-351(c)(b) It is impractical to meet coverage and/or capacity needs of the applicant through one (1) or more Tier I or Tier II facilities

RESPONSE. Please see the RF report attached at Exhibit 10 for a discussion of how the proposed Facility fits into the network in Falmouth and why it is necessary for Verizon Wireless to provide adequate service coverage. Further, Tier II facilities are not permitted in the Residential B district, where the Facility must be located and there is no existing structure in the vicinity of the proposed Facility upon which a Tier I facility could be installed.

Sec.8-351(c)(c) 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.

RESPONSE. As noted above, given the restrictions on citing Tier I and Tier II facilities in this area of town it is not possible to provide coverage with a combination of such facilities. Please also see the RF report attached at Exhibit 10 for a further discussion of the need for the proposed Facility. Finally, the height of the proposed Facility is as low as possible to meet the coverage objectives and, as shown in the photo simulations attached at Exhibit 11, there are options to camouflage the tower to further minimize visual impacts.

Section 8-353 of the Wireless Ordinance

Sec.8-353(2)(a) Setbacks. The tower or other mounting structure shall be set back from all property lines by a distance of one hundred (100) percent of the total facility height, provided, however, the planning board may authorize a facility to be located closer to any lot line if there are no structures used as dwelling units, places of employment or shelter for animals within the facility's fall zone and if the applicant obtains an easement or other recordable document, acceptable to the town attorney, prohibiting such structures on the portion of the abutting parcel that is within the facility's fall zone (e.g., the setback of an eighty-foot tall facility could be reduced to thirty (30) feet if an easement is established prohibiting development on the abutting lot within a fifty-foot fall zone). If the right-of-way for a public street is within the fall zone, the town public works department and/or the Maine Department of Transportation shall be included in the staff review in lieu of recording an easement or other document for the right-of-way. However, the planning board may waive this requirement for facilities which are mounted on or contained within a structure used for another purpose.

RESPONSE. Please see the Site Plan attached at Exhibit 7 for setbacks from all property lines. Also, please see the fallzone easement granted by the adjacent property owner (also the owner of the project site) which is attached with the Memorandum of Lease at Exhibit 6.

Sec.8-353(3)(a) Personal wireless service facilities shall not be sited or built on land shown to be in the flood way or coastal high hazard area on the flood boundary of flood insurance rate maps of the town.

RESPONSE. The proposed Facility is not located in a flood way or coastal high hazard area.

Sec.8-353(3)(b)(i) Personal wireless service facilities shall not be sited or built on land which is unsuitable for development in its natural state because of topography, drainage, or subsoil conditions. Specific conditions include but are not limited to: areas having unstable soils subject to slumping, mass movement, or accelerated erosion.

RESPONSE. The proposed Facility is not located on unstable soils. Following issuance of all local permit approvals, Verizon Wireless' contractors will conduct a full evaluation of soil conditions and will design an appropriate foundation system for the proposed tower.

Sec.8-353(3)(b)(ii) Personal wireless service facilities shall not be sited or built on land which is unsuitable for development in its natural state because of topography, drainage, or subsoil conditions. Specific conditions include but are not limited to: areas classified as wetlands by state or federal law.

RESPONSE. The proposed Facility will not be constructed in an area classified as wetlands. The closest jurisdictional wetland is 190 feet from the tower site.

Sec.8-353(3)(b)(iii) Personal wireless service facilities shall not be sited or built on land which is unsuitable for development in its natural state because of topography, drainage, or subsoil conditions. Specific conditions include but are not limited to: areas characterized by “coastal wetlands” as that term is defined in 39 M.R.S.A. subsection 472(2).

RESPONSE. The proposed Facility is not located in a coastal wetland.

Sec.8-353(3)(b)(iv) Personal wireless service facilities shall not be sited or built on land which is unsuitable for development in its natural state because of topography, drainage, or subsoil conditions. Specific conditions include but are not limited to: land in resource protection districts.

RESPONSE. The proposed Facility is not located on land in a resource protection district.

Sec.8-353(4)(b) The facility shall be designed, constructed and maintained as follows: (i) guy wires shall not be permitted; (ii) outdoor lighting for the facility shall be permitted only during maintenance periods, regardless of the lumens emitted; (iii) any equipment cabinet not located within an existing structure shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation approved by the code enforcements officer with the advice of a landscape architect; (iv) a grounding rod, whose height shall not exceed two (2) feet and whose width shall not exceed one (1) inch in diameter at the base and tapering to a point, may be installed at the top of the facility or the structure; and (v) within one (1) month after the completion of the installation of the facility the applicant shall provide a statement to the code enforcement officer certifying that the height of all components of the facility complies with this regulation.

RESPONSE. The proposed tower does not require guy wires and the tower will not be lit. Given its location within the lot, the equipment shelter will be screened from view by existing topography and vegetation. Any grounding rod will comply with this provision and Verizon Wireless will provide a statement to the code enforcement officer in compliance with this requirement.

Sec.8-353(4)(c) Equipment shall be attached to the exterior of a structure only as follows: (i) the total number of arrays of antennas attached to the existing structure shall not exceed three (3), and each antenna proposed to be attached shall not exceed the size shown on the application, which size shall not exceed one thousand one hundred fifty-two (1,152) square inches; (ii) no antenna shall project from the structure beyond the minimum required by the mounting equipment, and in no

case shall any point on the face of an antenna project more than twelve 912) inches from the existing structure; and (iii) each antenna and associated equipment shall be a color that matches the existing structure. For purposes of this section, all types of antennas and dishes regardless of their use shall be counted toward the limit of three arrays.

RESPONSE. Please see the Site Plan attached at Exhibit 7 and Antenna Specifications attached at Exhibit 8 for information regarding compliance with these provisions.

Sec.8-353(4)(d) Any fence needed for the facility shall blend with its surroundings and shall fence in the minimum area necessary to protect equipment and to protect the owner from liability.

RESPONSE. The proposed fenced area is the minimum area necessary to house and protect the equipment. The fence will not be visible from any abutting properties.

Sec.8-353(5)(b) The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. If the facility would be visible from a river, bay or lake, regardless of whether the site is adjacent thereto, the facility also shall be sited to minimize its visibility from such river, bay or lake. If the facility would be located on lands subject to a conservation easement or an open space easement, the facility shall be sited so that it is not visible from any natural feature specifically identified for protection in the deed of easement.

RESPONSE. Please see the photosimulations attached at Exhibit 11. The Facility will not be visible from any river, bay or lake, and it has been designed at the lowest possible height to minimize visual impacts. The site may also be constructed as a “monopine” as shown on the simulations if such design is elected by the Council or the Board to minimize visual impacts.

Sec.8-353(5)(c) The facility shall not have an unreasonable adverse visual impact on resources identified in the town’s open space plan.

RESPONSE. The proposed facility is not visible from any identified resource in the town’s open space plan.

Sec.8-353(5)(d) A facility may not be located so that it and three (3) or more existing or approved personal wireless service facilities would be within an areas comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet.

RESPONSE. No existing or approved personal wireless facility is located within two hundred (200) feet of the proposed Facility.

Sec.8-353(5)(g) Each monopole shall be a color that will blend into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole shall be a color that closely matches that of the monopole. The ground equipment, the ground equipment cabinet, and the concrete pad shall also be a color that closely matches that of the monopole, provided that the ground equipment and the concrete pad need not be of such a color if they are enclosed within or behind an approved structure, façade or fencing that (i) is a color that closely matches that of the monopole, (ii) is consistent with the character of the area, and (iii) makes the ground equipment and concrete pad invisible at any time of the year from any other parcel or public or private street.

RESPONSE. Please see the photosimulations for representations of the color of the proposed monopole. Also, at Exhibit 12 we have attached representative photos of the equipment shelter and fencing that has been designed to be consistent with the character of the area and will screen much of the base of the tower from view from adjacent areas.

Sec.8-353(6)(b) In no event shall a Tier III facility exceed two hundred (200) feet above grade level.

RESPONSE. The proposed monopole is 120 feet above grade level.

Sec.8-353(6)(c) Tier III facilities that are not subject to special painting or lighting standards of any federal agency shall meet as far as is practical the visual standards for Tier II facilities and at a minimum shall have a galvanized finish or be painted in a sky tone above the top of surrounding trees and shall be painted in an earth tone below treetop level or should be camouflaged by a “stealth” treatment.

RESPONSE. Please see our responses above and the photosimulations at Exhibit 11. The Facility may be constructed as a stealth monopine if such design is elected by the Town.

Sec.8-353(6)(d)(i) Unless existing vegetation provides a buffer strip the width of the required fall zone, calculated as the equivalent of the facility’s height, the planning board shall require that all property lines along roadways or visible to existing abutting or nearby buildings (within one-fourth (1/4) mile radius) be landscaped as follows: with six (6) to eight (8) foot evergreen shrubs planted in an alternate pattern, five (5) feet on center and within fifteen (15) feet of the site boundary.

RESPONSE. Verizon Wireless will comply with this provision if it is determined that an insufficient buffer strip exists.

Sec.8-353(6)(d)(ii) Unless existing vegetation provides a buffer strip the width of the required fall zone, calculated as the equivalent of the facility’s height, the planning board shall require that all property lines along roadways or visible to existing abutting

or nearby buildings (within one-fourth (1/4) mile radius) be landscaped as follows: with at least one (1) row of deciduous trees, not less than two and one-half (2½) inch to three (3) inch caliper measured three (3) feet above grade, and spaced not more than twenty (20) feet apart and within twenty-five (25) feet of the site boundary.

RESPONSE. Verizon Wireless will comply with this provision if it is determined that an insufficient buffer strip exists.

Sec.8-353(6)(d)(iii) Unless existing vegetation provides a buffer strip the width of the required fall zone, calculated as the equivalent of the facility's height, the planning board shall require that all property lines along roadways or visible to existing abutting or nearby buildings (within one-fourth (1/4) mile radius) be landscaped as follows: with at least one (1) row of evergreen trees at least four (4) to five (5) feet in height when planted, and spaced not more than fifteen (15) feet apart within forty (40) feet of the site boundary.

RESPONSE. Verizon Wireless will comply with this provision if it is determined that an insufficient buffer strip exists.

Sec.8-353(6)(d)(iv) In lieu of the foregoing, the planning board may determine that the existing vegetation must be supplemented to meet an equivalent means of achieving the desired goal of minimizing the visual impact. To assist in making that determination, the planning board may require the applicant to provide a visual impact analysis by a qualified professional.

RESPONSE. Verizon Wireless will comply with this provision if it is determined that an insufficient buffer strip exists.