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May 31, 2017

Falmouth Planning Board
c/o Ethan Croce, Town Planner
Town of Falmouth
271 Falmouth Rd.
Falmouth, ME 04105

RE: Conditional Rezoning for Proposed Verizon Wireless Tier III Wireless Service Facility; 175 Falmouth Rd.

Dear Members of the Planning Board:

On September 6, 2016, Verizon Wireless filed an application for conditional rezoning to construct a Tier III wireless telecommunications facility on property located at 175 Falmouth Road. Following an initial review by the Town Council, Verizon's application was referred to the Planning Board for review and recommendations. On October 4, 2016, Verizon met with the Planning Board for a preliminary review of the proposed project. During this initial meeting the Board asked several questions regarding the proposal, and took comment from several members of the public.

Also, prior to the October 4th meeting, town staff had circulated comments and questions regarding the application. At the close of the October 4th meeting, Verizon agreed to collect additional information responsive to questions and comments by town staff, the Board, and abutters, and to submit a response prior to the next review by the Board. Since last October we have also provided the Town with supplemental information regarding our need for the proposed site, and the Town's 3rd-party consulting engineer has reviewed our submittals and has submitted a report to the Town.

With regard to the staff comments, I have re-stated the comments below and provided Verizon's responses in **bold**.

We look forward to discussing these issues, and other issues of interest to the Board, at our next meeting.

Town Staff Commentary

1. *Be consistent with the Comprehensive Plan and the Open Space Plan. Neither the Comprehensive Plan nor the Open Space Plan appear to make reference to wireless facilities.*

VZW'S RESPONSE: Verizon agrees with the Staff's comment. The Comprehensive Plan does discuss, in general terms, the importance of balancing residential and commercial developments, and ensuring that each is done in a manner that avoids unreasonable harmful impacts. This project has been designed to significantly improve wireless service in Falmouth while avoiding nearly all impacts, visual and otherwise, to abutting and nearby properties. As such, this proposed facility is consistent with the Town's Comprehensive Plan.

With respect to the Town's Open Space Plan, several abutters have suggested that the Town deny Verizon's request for conditional rezoning so that the subject lot could be set aside as public conservation land. As the parcel is privately owned, there is no provision in the Town's Open Space Plan, or its ordinances, to force a private landowner to donate his or her property for conservation due to objections from abutters concerning an otherwise lawful and permitted development.

2. *Establish rezoned areas which are consistent with the existing and permitted uses within the original zones;*

Tier 3 facilities are listed in the Zoning Ordinance as an allowed use in the Farm and Forest District upon receiving conditional rezoning by the Town Council.

RESPONSE: Verizon agrees with the Staff's comment. Existing and permitted uses within the Farm and Forest District include, as permitted or conditional uses, forestry activities, personal air strips, extractive industries, health institutions, and kennels. Unlike many of these permitted uses, Verizon's project will not result in any noise, light, dust, traffic or other impacts to abutting properties. Further, the subject parcel is of such a significant size as to limit the impacts to abutting properties to a single component of the development—the access drive. The proposed access road is no larger than a road that would be used for farming and forestry activities, and is significantly smaller than an access drive necessary for access to many of the other permitted uses within this zoning district.

3. *Only include restrictions which relate to the physical development or operation of the property.*

Section 19-17.2 of the Zoning and Site Plan Review Ordinance provides examples of certain conditions and restrictions that the Town Council (and in this case the Planning Board) can suggest be attached to any conditional rezoning request including, without limitation, requirements for open space preservation and provision for public access to properties rezoned. It is noted that this property directly abuts ±65 acres of public open space and public trail network owned by the Falmouth Land Trust.

VZW's RESPONSE: This provision appears to be taken from state law regulating conditional and contract zoning (30-A M.R.S.A. § 4352(8)(C)), and provides that conditions imposed in contract or conditional zoning decisions should be tied to mitigating the direct impacts of the proposed development. As discussed herein, the impacts of the proposed new tower are minor, given the size of the lot and the distance to abutting uses. The construction of the proposed facility will not adversely impact town services, and will not reduce or diminish property in conservation, including the use and enjoyment of the abutting conservation property.

4. *Except for the height limitations on Tier 1 and Tier 2 Facilities, the provisions of this Article have been met;*

This provision seemingly requires that the Council (and in this case also the Planning Board) evaluate a proposal under every applicable Tier 3 permitting provision of the Wireless Ordinance. It is noted that, if and when the applicant is successful in obtaining their conditional rezoning request, the applicant will need to return to the Planning Board with a formal Tier 3 permit application that will then need to then be (re)evaluated under these same ordinance provisions. (See staff's analysis related to this "finding #4" below under the bold heading "Tier 3 Facility Wireless Ordinance Permit Requirements)

VZW's RESPONSE: **As the Council may impose conditions or require modifications to the proposed project as part of a conditional zoning determination it is difficult to evaluate what project might come before the Planning Board under site plan review. With that said, Verizon respectfully suggests that, for the reasons set forth in its application, that its proposed facility complies with the requirements of the wireless telecommunications ordinance.**

5. *It is impractical to meet coverage and/or capacity needs of the applicant through one or more Tier 1 or Tier 2 Facilities;*

The applicant has not performed a comparative RF study, rather, only submitted an RF study of the proposed facility's coverage and capacity. The applicant's RF report states that there are no existing structures in town suitable for co-location and states that the applicant was unable to secure a lease for co-locating on either the existing Public Works tower or the existing Town Hall tower. In your packets, please find a memo from the Town Manager, dated 9/27/16, that addresses this contention by the applicant.

On its face, this ordinance provision does not seem to limit the coverage/capacity comparison analysis to existing Tier 1 or Tier 2 facilities. In other words, one could interpret this provision to require an applicant to run a coverage and capacity analysis both for existing Tier 1 and Tier 2 facilities as well as for potential/prospective facilities that might not currently exist today. Tier 2 facilities are only permitted in the VC, BP, MUC, VMU, CO and West Falmouth Crossing Districts so any analysis of existing or potential Tier 2 facilities would presumably be limited to those zoning districts. There is an existing Tier 2 facility at the Public Works property in the MUC district on Woods Road.

There are also several other wireless towers in Falmouth that are not technically classified as either Tier 1 or Tier 2 facilities that could still provide opportunities for co-location. These include two municipal towers at the Police Station and at Town Hall, and also include several towers that were permitted prior to enactment of the tiered tower classification system adopted with the current Wireless Ordinance in 2005. Notwithstanding the fact that this ordinance provision only speaks to performing a comparative coverage and capacity analysis for Tier 1 or Tier 2 facilities, the Town Attorney has confirmed that the Council (and now the Planning Board during this advisory review), through the conditional rezoning process and criteria, has the authority to broaden the scope of this coverage and capacity analysis to require an applicant to explore co-location options on ANY existing tower in town.

Finally, as mentioned earlier in these notes, the Town Council has requested that staff

commission a peer review of the applicant's RF report. The Council has asked the Planning Board to consider the results of that peer review in making its recommendation back to the Council. A peer reviewer has only recently been identified for this project so there will be no opportunity for the Board to review the peer review results at the October Board meeting. It would be helpful for the Planning Board to provide guidance to the applicant and peer reviewer as to the preferred scope of analysis under this "finding #5". (e.g. Should the scope of this comparative coverage and capacity analysis, and scope of the applicant's RF study, include modeling for existing Tier 2 facilities? Should it include potential facilities on lands not yet secured by the applicant? Should it include co-locating possibilities on existing towers in town that are not otherwise classified as Tier 1 or Tier 2 such as the Town Hall tower?)

VZW'S RESPONSE:

Please see the supplement RF report attached at Exhibit "A." As noted therein, given the coverage objectives there are no existing towers or structures, including any Tier 1 facilities, that could accommodate Verizon's proposed installation. Verizon's facility must be located within the so-called "search ring," identified on Sheet C-6A of the Site Plan, in order to meet the coverage objectives. (A revised copy of the site plan is attached at Exhibit "B"). Also, as noted during our initial meeting with the Planning Board, the proposed facility is intended to fill a coverage gap remaining after construction of existing and proposed other facilities, including a new colocation on a tower adjacent to Rt. 295.

With respect to the town-owned DPW tower, the supplemental report notes that this facility cannot provide the coverage needed by the proposed site, and would be too close to another existing tower upon which Verizon is installing a facility. With regard to the proposed, but not permitted or constructed, flagpole project at Town Hall, the report notes that due to the location of Town Hall and limitations on the number of antennas, coverage at the proposed site on Falmouth Road is preferable. We are aware that since this report was generated the Town has terminated its lease agreement with TowerCo, but the larger issue continues to be the location of the Town Hall site, which is too far to the west to meet the coverage objectives of this site.

This assessment has now been confirmed by the Town's 3rd party engineer, who concluded that neither the Town Hall site nor the DPW tower, nor both sites combined, would provide the level of coverage necessary to address the existing coverage gap in this area of Falmouth. This is the case even if a 180 foot high tower was constructed behind Town Hall.

In sum, as part of the site selection process, Verizon Wireless always begins its search by evaluating existing towers or other structures that could address coverage goals through colocation. Colocation is often less expensive, more efficient, and a quicker way in which to improve service for customers. In fact, Verizon Wireless is in the process of improving service coverage in Falmouth by collocating on the existing tower off Rt. 295. In this case, however, and as noted in our initial and supplemental RF reports, there are no existing sites that can adequately address the targeted coverage gap and the Town's third-party engineer has confirmed this.

Finally, Verizon recognizes that this "alternatives analysis" exists to evaluate whether an alternative to Verizon's proposed Tier 3 facility, either a single Tier 1/Tier 2 or a collection of other towers, would reduce the visual impacts associated with the proposed

Tier 3 facility. As discussed below, the visual impacts of the proposed Tier 3 facility are minor, and are certainly less than the visual impacts that would occur with the construction of multiple new Tier 1 or Tier 2 facilities. Tier 2 facilities are also limited to certain zoning districts and are not permitted in the Farm and Forest District, the area overlaying the largest portion of the existing coverage gap.

6. *The visual impact of a single facility would be less than the visual impact of the number of Tier 1 and/or Tier 2 facilities required to meet such need.*

This ordinance provision implies that a comparative visual analysis should be submitted to show the differences in visual impact between the one proposed Tier 3 facility and one or more potential Tier 1 and/or Tier 2 facilities. No such analysis was provided with this application. One could make the argument that this comparative analysis would not be required if there were no visual impacts from the proposed Tier 3 facility. The applicant conducted a balloon test for the proposed Tier 3 facility on September 24, however, the results of that balloon test are not yet available as of this writing. It will, presumably, be difficult for the Planning Board to offer an opinion on this "finding #6" in the absence of any visual analysis.

VZW'S RESPONSE: As shown on the photo simulations attached at Exhibit "C," visual impacts from the proposed facility are minor. The proposed Tier 3 tower is greater than 700 feet from the closest property line, and greater than 1,000 feet from the closest existing residential dwelling. Given the size of the subject parcel (and the fact that no other lots within Verizon's search area are this large) it is very likely that the visual impacts from one or more potential Tier 1/Tier2 would be greater than the proposed Tier 3 facility.

Tier 3 Facility Wireless Ordinance Permit Requirements (See "Finding" #4 above)
Section 8-353.6 lists the standards for Tier 3 facilities. An analysis of the application's conformance with these provisions is below:

- *The applicant has submitted a lease with the property owner for a 100 foot x 100 foot portion of the property where the Tier 3 facility is proposed to be located and for a nonexclusive 20 foot wide access and utility right of way to access the property. The plans show several areas, however, where there are grading, erosion control, and stormwater management improvements located outside of the applicant's lease areas. The applicant will need to demonstrate RTI by documenting that they have obtained rights to install site improvements outside of the aforementioned easement/lease areas.*

VZW'S RESPONSE: Attached at Exhibit "D" is confirmation from the property owner that Verizon has the authority to conduct stormwater and erosion control mitigation measures, to the extent required, outside of the access corridor easement.

- *Section 8-353.1.d.i requires the plans to show the location and dimension of significant natural features on the site. The applicant has submitted a Sheet C-10 "Vernal Pool Plan", however, there appear to be additional vernal pools inventoried on the Town's Vernal Pool Map that are not reflected on the applicant's plans.*

VZW'S RESPONSE: The vernal pools identified on Verizon's plans are based on recent site surveys conducted by experienced engineers and environmental professionals, acting in accordance with the standards and requirements of the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers. Based on this survey work all vernal pools have been identified on the site plan. We are aware that the Town has produced a town-wide map of vernal pools (attached at Exhibit "E"), although we understand that much of this data was derived from aerial pictures, not site assessments. There is one "Tier 1" vernal pool on the Town's map that appears to roughly correspond with an actual vernal pool we have shown that exists on the site, found on the eastern property line approximately half way back to the tower site. No other Tier 1, 2 or 3 vernal pools from the Town's map are located within the project area, including any buffers. There appear to be several vernal pools on the Town's map outside the project area on the subject lot, although we have confirmed, as shown on the site plan, that these are not vernal pools, but wetlands.

- *Section 8-353.1.d.iv requires proposed paint color on the facility to be identified by manufacturer color name and color number with a paint sample provided. The submission simply states that the facility will be painted light grey.*

VZW'S RESPONSE: Please see the photo simulations attached at Exhibit "C."

- *Section 8-353.1.d.v requires that the submission include topography within a one mile radius of the proposed facility. The applicant has requested a waiver to not submit this information, however, the Planning Board does not have any authority to waive this requirement. In any event, the plans only show site elevations in the immediate vicinity of the proposed road. It would be helpful to show elevations on the entire site to better understand the site's topography.*

VZW'S RESPONSE: Please see Sheet C-6A of the revised site plan attached at Exhibit "B."

- *Section 8-353.1.d.vi requires the plans to show the height, crown elevation, caliper, and species of all trees greater than 10 inches diameter at breast height where the drip line is located within 75 feet of the facility. Sheet C-4, however, does not seem to include information related to the height of the trees.*

VZW'S RESPONSE: Although the ordinance is not entirely clear, this provision appears to seek information that is relevant only for a proposed Tier 2 "treetop" facility. Information regarding all trees within the lease area to be removed as part of construction are identified on the site plan.

- *Section 8-353.1.d.vi requires the plans to note all trees that will be adversely impacted or removed during installation or maintenance of the facility regardless of their distance to the facility. It does not appear as if the plans include this information.*

VZW'S RESPONSE: Vegetation will be removed only within the footprint of the access drive and tower compound. Given the size of the parcel this will be a small percentage of the total vegetation on site. Individual existing trees are shown within the tower compound, and given the length of the proposed access drive it is not practical to identify every tree that will be impacted or removed during construction of the access

drive. Tree removal will be limited to that which is necessary to install the 12 foot wide access drive, including any grading work necessary for such a driveway. For the existing vegetation outside the footprint of the proposed development, given the distance of the tower to the nearest property line, this vegetation does not likely provide any visual buffer. Visibility of the new tower will be limited, and will be based primarily on the relative elevation of the viewer and the nature of vegetation in close proximity to the viewer, not the tower.

- *Section 8-353.1.f&h requires the submission of balloon test photographs showing the visual impact of the proposed facility as well as a key map showing all locations along public roadways where the tower will be visible from. The applicant conducted a balloon test on the morning of September 24. The results of that balloon test are not yet available. Balloon test photographs are required to be taken from the nearest residence and from appropriate locations on abutting properties, along each section of a publicly used road from which the balloon is visible, and from other properties and locations as deemed appropriate by the Planning Board. For sections of publicly used roads with view corridors more than one thousand feet (1,000') in length, photographs must be taken at the beginning, middle and end of the corridor.*

(Note: The applicant will be required to conduct another balloon test meeting the strict terms of the ordinance and with public notice requirements if the applicant obtains a rezoning from the Town Council and applies to the Planning Board with a formal permit application.)

VZW'S RESPONSE: Please see the photo simulations attached at Exhibit "C." This report shows where along the public roadway system Verizon assessed visual impacts.

- *Section 8-353.4.c states "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 12 inches from the existing structure.... Each antenna and associated equipment shall be a color that matches the existing structure." Sheet A-1 seems to indicate that the antenna faces exceed this requirement by projecting ± 3 feet from the facility. Sheet A-1 should also call out the color of the facility and antennae.*

VZW'S RESPONSE: Although the Ordinance requires Tier 3 facilities to comply with the standards applicable to Tier 1 and Tier 2 facilities, some of these standards should be interpreted in context. The cited requirement in Section 8-353.4.c. exists to minimize the visual impact of antennas installed on a Tier 1 structure by requiring such installations to be "camouflaged" by the existing structure or addition to the existing structure. Provided such "flush mount" antennas are deemed "camouflaged" by the existing structure, an application may proceed with a Tier 1 facility with a permit issued by the code officer. As Verizon has proposed a Tier 3 facility this standard appears inapplicable.

To the extent this requirement applies to Tier 3 facilities (and is not addressed by conditions of approval imposed by the Council) Verizon's antennas are mounted on a pipe mast, which is part of the pole structure. As shown on Sheets A-2 and A-2A of the revised Site Plan, the antennas are located less than 12 inches from the pipe mast. This installation is required in order to meet the coverage objectives of the site, which requires three panels of antennas. Verizon cannot accommodate 12 antennas with a flush mount design on the pole. See RF report at Exhibit "A."

- *Section 8-353.5.b states "The facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility." The applicant's response*

states that "the facility may be constructed as a 'monopine' as will be shown on the simulations if such design is elected by the Council or the Board to minimize visual impacts." To-date, no photosimulations have been provided to evaluate the differences in visual impact between a monopole or monopine. In some instance, monopines can have greater visual impact than monopoles.

VZW'S RESPONSE: Please see the photo simulations attached at Exhibit "C."

- *Section 8-353.6.c states " Tier 3 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".*

The visual standards for Tier 2 facilities are more stringent than the visual standards for Tier 3 facilities so it will up to the Board to determine which of the Tier 2 standards, if any, should be recommended for application to this project. Some of the more stringent Tier 2 standards include:

- o *The diameter of Tier 2 monopoles are limited to 30 inches at the base and 18 inches at the top. (The proposed facility appears to be ±42 inches at the base and ±24 inches at the top.)*
- o *Requiring all cables, wiring and similar attachments to be contained within the monopole's structure. (It is unclear if the current proposal conforms to this standard.)*
- o *Maximum facility height limitations of either 10 feet above the reference tree height, as that term is defined in the Wireless Ordinance, or 30 feet taller than the tallest tree if there is not a substantial difference in visual impact between the two. (It is unclear how the current proposal might conform to this standard in the absence of tree heights being provided.)*
- o *No increase in "skylining", as that term is defined in the Wireless Ordinance, from certain specified vantage points with the installation of the facility. (It is unclear how the current proposal might conform to this standard.)*
- o *The submission of a tree preservation plan for areas within 200 feet of the facility.*
- o *A decommissioning plan.*

VZW'S RESPONSE: The dimensions of the proposed monopole have been designed to ensure that the tower complies with applicable engineering and structural requirements given its proposed height. All cables, wiring and similar equipment will be installed inside the monopole or monopine.

As shown in the photo simulations, visual impacts from the proposed site are minor, and the facility cannot be seen from any abutting properties. Given the distance from the tower to areas where it is visible there will be no "skylining" associated with the proposed tower. Given the size of the parcel and distance to abutters, vegetation within 200 feet of the facility provides little or no buffering. As such Verizon has not proposed a tree preservation plan. Finally, Verizon will decommission and remove the tower if it's use is discontinued for 12 consecutive months. Verizon can provide the Town with a removal bond to cover these costs, if required.

Other misc. comments are as follows:

- *Sheet C-6 shows a 100' fall zone, but the proposed tower height is 110'.*

VZW's RESPONSE: We have corrected Sheet C-10 to reflect the correct fall zone.

- *The zoning information on all plan sheets should be updated to reflect the change from RB to Farm and Forest.*

VZW's RESPONSE: This change has been made on the site plan.

- *The plans appear to be missing a fourth partial site plan sheet, past Match Line C, showing the area of the tower site at a readable 1"=40' scale like the remainder site.*

VZW's RESPONSE: Revised sheet C-10 has been corrected to show this information.

- *The applicant's ordinance compliance response memo indicates that MDEP approval is required for this project. The applicant should confirm whether approvals from any other outside regulatory agencies, such as Army Corps, will also be required.*

VZW's RESPONSE: The proposed facility will not result in any direct impacts to any wetlands or vernal pools within the jurisdiction of the Army Corps of Engineers.

- *The vernal pool plan sheet shows grading improvements for the road within 20 feet of Vernal Pool B. Consideration could be given to re-aligning the roadway to stay farther away from this vernal pool while still avoiding the steeper slopes around elevation 150.*

VZW's RESPONSE: Construction of the facility will avoid any impacts to vernal pools. The layout of the proposed driveway is intended to avoid all such impacts while avoiding steeper slopes.

- *It is unclear as to whether the existing woods road curb cut at the site was ever approved by the Town. Consideration should be given to closing this curb cut and stabilizing it to prevent drainage and erosion from spilling into the Falmouth Road right of way.*

VZW's RESPONSE: No response required.

Comments from the Town Engineer

1. *Since this project appears to have greater than 10,000 SF of new impervious surfaces, Falmouth Public Works recommends that this project comply with the stormwater requirements in Appendix 7-7.*

VZW's RESPONSE: Verizon's stormwater assessment is attached at Exhibit "F."

2. *Falmouth Public Works recommends this site meet the requirements for Site Plan review in regards to sight distance.*

VZW's RESPONSE: Verizon intends to comply with all standards deemed applicable by the Town.

Prior Comments from Planning Board Members

At our last meeting several planning board members asked about lighting impacts. The

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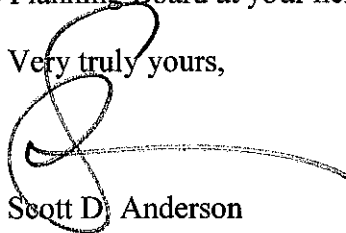
tower will not be lit, and the only lighting will be down-directional motion-detected lights within the tower compound. Given the distance to abutting properties, and the infrequency with which these lights will be activated, no light will be visible from abutting properties.

We were also asked about access to the parcel from the Maine Turnpike spur. First, the propose access drive is only 12 feet in width, and will be smaller in size and scope that subdivision roads and many driveways. Second, the site is visited, on average, only once per month by the Verizon Wireless technician. This is an average, and many months there will be no visits. Emergency visits are rare and all scheduled visits are during daytime hours, and normally on weekdays. Given this, impacts from the proposed driveway, and the vehicles that will use this driveway, will be insignificant. Third, the Maine Turnpike authority prohibits any private access "off ramps" from the Turnpike, so such alternative access is not possible.

Finally, although we show multiple antenna arrays on the site plan, that is for illustration only, and signifies that we would anticipate that the constructed tower would have the structural capacity to hold at least two additional arrays. Verizon is not aware of any carrier's interest in this site, and the tower is being constructed only in order to mount Verizon's equipment.

We look forward to meeting with the Planning Board at your next meeting.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott D. Anderson". The signature is stylized with a large loop at the top and a long horizontal stroke extending to the right.

Scott D. Anderson

SDA/mtt

Enclosures

cc: Charles Fredette