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Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Planning Board

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From: Kim DelNigro, Secretary for Planning & Engineering

Subject: Wireless Communication Facility Special Permit

Attached is the Draft Wireless Communication Facility Special Permit – Rules & Regulations for review at the 1/23/07 Planning Board Meeting.

Thank you.

RULES AND REGULATIONS
for a
WIRELESS COMMUNICATION FACILITY
SPECIAL PERMIT



PLANNING BOARD
TOWN OF ACTON

ADOPTED: April 14, 1997
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\$15.00

TABLE OF CONTENTS

Page

SECTION 1. GENERAL PROVISIONS

1.1 Authority 4
1.2 Purpose 4
1.3 Applicability 4
1.4 Definitions 4
1.5 Waiver of Rules 5
1.6 Provision of Security 5
1.7 Advice from Town Staff 5
1.8 Amendments to Rules 5

SECTION 2. PRELIMINARY REVIEWS

2.1 Preliminary Consultations 6
2.2 Form of Request 6
2.3 Scope of Town Staff Reviews 6
2.4 Fees 6

SECTION 3. CONTENTS OF AN APPLICATION

3.1 Application Form 7
3.2 Certified Abutters List 7
3.3 Other Permits and Variances 7
3.4 Recorded Plans and Deeds 7
3.5 Mortgage Holders 8
3.6 Proof of Need 8
3.7 Plans 8
3.8 Water Balance Calculations 12
3.9 Drainage Calculations 12
3.10 Earth Removal Calculations 12
3.11 Additional Information 12

SECTION 4. FILING PROCEDURES

4.1 Who may File an Application 14
4.2 Application Fees 14
4.3 Submission to the Town Clerk and the Board 14
4.4 Review of Application 15

TABLE OF CONTENTS (continued)

Page

SECTION 5. PUBLIC HEARING & DECISION

5.1	Public Hearing Notice	16
5.2	Public Hearing Presentation	16
5.3	Withdrawal of Application	16
5.4	Time Period for Deliberation	16
5.5	Decision.....	17
5.6	Recording of Decision	17
5.7	Submission of Approved Plans	17
5.8	Appeal of Decision.....	17
5.9	Time Limit for Permit	17
5.10	Limitation of the Decision.....	18
5.11	Repetitive Petition.....	18
5.12	Amending a Wireless Communications Facility Special Permit	18

SECTION 1
GENERAL PROVISIONS

1.1 Authority

These RULES are adopted by the Planning BOARD as authorized by MGL Ch. 40A and the Acton Zoning BYLAW.

1.2 Purpose

The purpose of these RULES is to establish uniform procedures for conducting the business of the BOARD under its jurisdiction as a Special Permit Granting Authority for Wireless Communications Facility Special Permits.

1.3 Applicability

Any person applying for Wireless Communications Facility Special Permits under the BYLAW, whether or not governed by any other federal, state, or local regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these RULES.

1.4 Definitions

Defined terms are capitalized in these RULES.

APPLICANT	Any person or such person's authorized representative who files an APPLICATION for a PERMIT under the BYLAW.
APPLICATION	All plans, forms, reports, studies or other documents which are submitted to the BOARD under these RULES by an APPLICANT.
BOARD	The Planning BOARD of the TOWN of Acton.
BYLAW	The Zoning BYLAW of the TOWN of Acton, as amended
DECISION	Action by the BOARD on an APPLICATION.
PARTIES IN INTEREST	The APPLICANT; abutters; owners of land directly opposite on any private or public STREET or way; and abutters to the abutters within three hundred feet of the property line of the APPLICANT as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the Acton Planning BOARD; and the Planning Board of every abutting city or town.
PERMIT	A Wireless Communications Facility Special Permit under the BYLAW
RULES	The Wireless Communications Facility Special Permit Rules and Regulations as contained herein.
TOWN	The TOWN of Acton.

Other Definitions - Refer to the "Definitions" section of the SUBDIVISION Rules and Regulations and the BYLAW for additional defined terms which are also capitalized when used in these RULES.

1.5 Waiver of RULES

Strict compliance with these RULES may be waived if the BOARD finds that the waiver is in the public interest or is irrelevant to the project, and is consistent with the intent and purpose of the BYLAW and these RULES.

Any request from an APPLICANT for a waiver of these RULES must be submitted, in writing, to the BOARD at the time of submission of the APPLICATION. Such requests must clearly identify the provision(s) of the RULES from which relief is sought and be accompanied by a statement setting forth the reasons why, in the APPLICANT'S opinion, the granting of such a waiver would be in the public interest or the specific information required is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of the BYLAW and these RULES.

1.6 Provision of Security

The BOARD may require in its DECISION that security be posted with the TOWN in such form and amount as is required by the BOARD to secure the satisfactory completion of all or any part of the work authorized under a PERMIT. The form of security shall be generally as required in the Town of Acton SUBDIVISION Rules and Regulations.

1.7 Advice from TOWN Staff

Any advice, opinion, or information given to the APPLICANT by a BOARD ~~member~~member or by any agency, official, or employee of the TOWN shall be considered advisory only and not binding on the BOARD.

1.8 Amendments to the RULES

The RULES may be amended by a majority vote of the BOARD in a public meeting.

SECTION 2
PRELIMINARY REVIEW

2.1 Preliminary Consultations

Consultations between a prospective APPLICANT and the professional staff of the TOWN prior to the filing of an APPLICATION under these RULES with the BOARD are strongly recommended and can prevent serious delays in the processing of the final APPLICATION.

- 2.1.1 Any action or communication initiated by the APPLICANT prior to the filing of an APPLICATION with the Town Clerk and the BOARD shall not constitute a PERMIT APPLICATION. The following rules shall apply to such preliminary consultations.

2.2 Form of Request

At least 4 copies of all materials to be reviewed shall be provided to the Planning Department along with a letter requesting a review and including the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the Planning Department or a copy of said communication must be provided to the Planning Department.

2.3 Scope of TOWN Staff Reviews

The TOWN staff will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the final APPLICATION and to promote efficiency in the formal review process. Staff will limit their review of such materials to technical issues appropriate to their area of expertise and to assessments of whether the project in question adequately addresses major issues of concern to the TOWN and the neighborhood. In general, staff will complete the preliminary review within 30 days. Staff will not be responsible for assuring the thoroughness, completeness, or correctness of any final APPLICATION. It is the responsibility of the APPLICANT to assure that any APPLICATION to the BOARD is complete and accurate.

- 2.3.1 Through the preliminary review process staff will make recommendations for any fee waivers or additional deposits that may be appropriate. Note that substantial changes in the project may require the alteration of these recommendations at the time of final submission. In all cases APPLICANTS shall contact the Planning Department prior to the final submission to discuss these fees.
- 2.3.2 If any other Special Permits are required from the BOARD for the project, then these should be discussed with the staff at this time.

2.4 Fees

The first such preliminary review by staff of an APPLICATION shall be free of charge. Subsequent preliminary reviews shall require payment of a fee by the prospective APPLICANT of \$500 at the time of submission. The fee shall be submitted in check form and made payable to "Town of Acton".

SECTION 3

CONTENTS OF AN APPLICATION

3.1 APPLICATION Form

An APPLICATION for a PERMIT which lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the APPLICANT to assure the accuracy and completeness of all information submitted to the BOARD as part of an APPLICATION. The APPLICANT shall be responsible for factually supporting all points relied upon in the APPLICATION including references for methodologies used in design calculations.

A complete APPLICATION for a PERMIT shall include the following items.

- 3.1.1 Any APPLICATION for a PERMIT shall be made in writing and include the completed APPLICATION form entitled "Application for a Wireless Communication Facility Special Permit" attached to these RULES and also available from the office of the BOARD at Town Hall. In the case where the APPLICANT is a person other than the record owner of the property, the APPLICANT shall obtain the owner's signature on this form indicating that the owner has knowledge of and consents to the APPLICATION. If the APPLICANT is acting in the name of a trust, ~~corporation~~corporation, or company, an authorizing vote shall be attached.
- 3.1.2 Twelve (12) full size copies of the APPLICATION (including plan sheets) and twelve (12) reduced size (11" x 17") copies of the plan sheets shall be required at the time of submission of an APPLICATION. Each copy of the APPLICATION shall be folded so that it will fit neatly into a letter sized file folder.

3.2 Certified Abutters List

List of abutters and abutters to abutters that are PARTIES IN INTEREST as defined in these RULES, taken from the most recent tax list of the TOWN and certified by the Town Assessor. The APPLICANT shall pay any charges required by the Town Assessor for the list.

3.3 Other Permits and Variances

A list and copies of variances, permits, and other special permits previously issued by other TOWN boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Planning Board, the State Dept. of Public Works, the Army Corp. of Engineers, and the State Dept. of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

- 3.3.1 NOTE: If any other special permits are required from the BOARD, the APPLICANT is hereby strongly advised to make the applications for such additional permits concurrently with this PERMIT APPLICATION.

3.4 Recorded Plans and Deeds

A copy of the most recently recorded plan(s) and deed(s) for the LOT(s) on which the work will take place bearing the book number(s), page number(s), and date(s) of recording(s) or registration(s).

3.5 Mortgage Holders

A list of mortgage holders which shall be kept current during the period of development.

3.6 Proof of Need

The BOARD cannot issue a special permit unless it can make numerous mandatory findings (refer to S. 3.10.6.8 of the BYLAW). The APPLICANT shall submit written statements that explain the following:

- ~~3.6.1 How the proposed Wireless Communication Facility is designed to minimize any adverse visual or economic impacts on abutters and other PARTIES IN INTEREST.~~
- 3.6.2 Why the proposed Wireless Communication Facility cannot be located on an existing Wireless Communication Facility.
- 3.6.3 Why the proposed Wireless Communication Facility cannot be located at any other practicable available site that is less visible to the general public due to technical requirements, topography or other unique circumstances.
- 3.6.4 That the proposed Wireless Communication Facility is not designed any larger than or higher than the minimum height and size necessary to accommodate its anticipated future USE and cannot be further reduced in height due to technical requirements, topography or other unique circumstances.
- 3.6.5 How the proposed Wireless Communication Facility is sited in such a manner that it is suitably screened and, to the extent possible, not visible from residential buildings or public streets within 500 feet.
- 3.6.6 That the proposed Wireless Communication Facility is colored so that it will, as much as possible, blend in with its surroundings when viewed from residential BUILDINGS or public STREETS within 500 feet; using, if possible appropriate, different colors to blend in the facility as invisibly as possible with the landscape or buildings on the ground and the sky above the tree or BUILDING line.
- 3.6.7 How the proposed Wireless Communication Facility is designed to accommodate the maximum number of users technically practical, but not less than 3.
- 3.6.8 That the proposed Wireless Communication Facility is necessary because the owner of the existing Wireless Communication Facility will not permit the APPLICANT to place an additional Wireless Communication Facility in the same location.
- 3.6.9 That the proposed Wireless Communication Facility is in compliance with applicable Federal Aviation Administration, Federal Communications Commission, Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations.
- 3.6.9.1 Compliance shall be demonstrated by submission of letters from the above named entities and by submission of a copy of an FCC license issued to the APPLICANT for the service area that includes Acton.

3.7 Coverage Maps

The following maps shall be included in the application:

- 3.7.1 A map at a suitable scale showing all existing and proposed Wireless Communication Facility locations surrounding the proposed location for which the special is sought. This shall include all locations, including facilities mounted on buildings, in church steeples, etc.
- 3.7.1.1 Identify on the map, at which locations the APPLICANT has wireless transmission equipment installed.

3.7.1.2 Where the APPLICANT does not have such equipment, identify on the map, which of these sites have co-location potential and which have not.

3.7.2 Coverage plots for all existing and proposed surrounding Wireless Communication Facility locations. Use the actual plots for the locations where the applicant has equipment installed, and hypothetical plots for the other locations assuming an installation height of 125 feet above mean ground level unless there is specific information that suggests a different height.

3.7 Plans

Plans shall be legibly drawn to fully detail and explain the intentions of the APPLICANT. All plan sheets shall be drawn at a suitable standard scale (1 inch = 20, 40, or 50 feet) and shall include a reasonable numbering system with an appropriate title block, north arrow, and legend identifying any representative symbols used on the sheet in question. The plans shall include at least the following information as prescribed below.

3.7.1 Design Certifications - Each plan sheet shall show the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet.

3.7.2 Locus Plan - A Locus Plan showing an area a minimum of one mile diameter around the proposed facility location at a scale of 1" = 1200', ~~with~~ with ~~Major~~ Major STREETS, BUILDINGS, brooks, streams, rivers and other landmarks should be shown on the locus plan with sufficient clarity to be easily discernible.

3.7.3 General Site Characteristics:

3.7.3.1 All LOT lines and boundaries of the site, with ownership of abutting properties indicated.

3.7.3.2. Access and utility easements.

3.7.3.3 All required setbacks for BUILDINGS, STRUCTURES, parking, or loading facilities shall ~~be~~ dimensioned on the plan to demonstrate compliance with zoning requirements.

3.7.3.4 All zoning district boundaries, including the boundaries of the Flood Plain and Groundwater Protection Districts, if applicable, shown in their proper location.

3.7.3.5 Any special site features including, but not limited to stone walls, fences, wells, historic STRUCTURES, and historic BUILDINGS.

3.7.4 Natural Site Characteristics:

3.7.4.1 Site features such as, but not limited to, flood plains, waterways, drainage courses, and ledge outcroppings.

3.7.4.2 Existing and proposed contours of the land shown at two (2) foot intervals unless otherwise required by the Flood Plain Bylaw. Topography shall be referenced to the National Geodetic Vertical Datum of 1929 with the location and elevation of the starting bench mark plus at least two additional temporary bench marks on the site.

3.7.4.3 Location and results of any field tests to determine the MAXIMUM GROUNDWATER ELEVATION, if the proposed facility location is in a Zone 1, 2, or 3 of the Groundwater Protection District and the proposed finished grade is below the pre-development ground elevation.

3.7.4.4 All wetlands and wetland buffer area boundaries. Wetlands are defined as those areas subject to the provisions of ~~either the~~ the "Wetlands Protection Act", MGL, Ch. 131, Section 40, ~~or and~~ and the "Acton Wetlands Bylaw".

3.7.4.5 An inventory map of all trees that exceed a height of 75 feet above the mean ground elevation within a circle of 500 feet of the proposed Wireless Communications Facility.

3.7.4.6 Show two profiles with an exaggerated vertical scale above the mean elevation within 500 feet showing said trees and the proposed Facility in the center - one capturing all trees in the circle between NW-NE and SE-SW, and the other for SW-NW and NE-SE.

3.7.5 Site Improvements

3.7.5.1 Tabulations - A table shall show the zoning requirements and limits for Wireless Communication Facilities for height, various setbacks, tower style, and co-location slots, and the data for the proposed facility that relate to these requirements. Where the facility is proposed on a LOT with other BUILDINGS and STRUCTURES on it, the table shall also demonstrate that zoning compliance for the applicable district and overlay district will be maintained with the installation of the Wireless Communication Facility. For instance, in business and industrial districts this would include, but not be limited to, a tabulation of zoning requirements, existing data, and proposed data for total LOT area, DEVELOPABLE SITE AREA, total NET FLOOR AREA, wetlands and flood plain areas, OPEN SPACE, and FLOOR AREA RATIO. A table shall show the legal requirements (minimums, maximums) of the zoning district (where applicable), existing conditions (where applicable), and the proposed site conditions for the following characteristics: LOT size, total LOT coverage, % of land in any zoning district where the proposed USE is not permitted, OPEN SPACE, UNDISTURBED OPEN SPACE, % wetlands, % flood plain, DEVELOPABLE SITE AREA, front yard/s, side yards, rear yard, any buffers, BUILDING height, minimum distance to groundwater, pre and post development runoff rates and groundwater recharge, NET FLOOR AREA, FLOOR AREA RATIO, and the number of parking spaces with supporting calculations. The table shall give the percentage of reserved parking spaces with respect to the total number of spaces provided.

3.7.5.2 Outline or footprint of any existing or proposed BUILDING or STRUCTURE with identification and its finished floor elevation the proposed Wireless Communication Facility including:

a) A plan for the fenced equipment compound showing the arrangement of all ground equipment for at least 5 separate wireless communications service companies, and the outline of the related easement or lease area. The final disposition of any existing BUILDING or STRUCTURE, whether it is to remain, be removed, or be altered, shall be noted indicate on the plan BUILDINGS, STRUCTURES and other improvements that would be removed, if any.

b) A plan showing the proposed location and route of all utility and service lines for the proposed Wireless Communication Facility, including easements or lease areas.

3.7.5.3 The location of any existing or proposed signs must be shown, and, if existing, their final disposition must be noted.

3.7.5.4 Clear identification of each area intended to be used as OPEN SPACE on the site with the square footage of each such area shown. A separate sheet may be necessary to show these areas adequately.

3.7.5.5 Sidewalks in plan view and cross section with a notations and details on the construction materials and methods to be used.

3.7.5.6 Plan views and cross sections of any proposed driveways for the facility, with notations and details on the construction materials and methods to be used. All driveway entrances dimensioned and a cross-section of the driveway shown so that compliance with the

~~access requirements of the BYLAW may be determined. Any driveway intended to be used as a "common driveway" shall be so identified. The size of the largest truck vehicle expected to use the site access the facility shall be noted. All of the drives and entrances must be designed to accommodate the designated size of the largest expected truck vehicle. The smallest size for the design shall be the SU-30 design vehicle so that fire trucks may maneuver on the site.~~

~~3.7.5.7 Intersections and driveway entrances on other LOTS within 75 feet of the site with the distance between driveways dimensioned.~~

3.7.5.85 All Existing and proposed parking facilities with proper dimensions.

3.7.5.96 Location, dimension, and rendering of the required sign that provides the telephone number where the operator in charge can be reached on a 24-hour basis.

3.7.5.107 Outdoor lighting details for low intensity security lights.

3.7.5.8 A detail of proposed equipment compound fence and gate.

3.7.6 Site Utilities (as applicable)

3.7.6.1 Location and type of ~~stormwater~~ storm water drainage facilities including notes on the construction materials of any pipes, culverts, ~~catchbasins~~ catch basins or any other system component. Sufficient information relating to placement of the drainage system components (rim and invert elevations, pipe slopes, amount of cover, etc.) shall be shown so that the operations of the system can be evaluated. Any drainage ponds intended to be constructed shall be shown fully dimensioned.

3.7.6.2 Location of any underground storage tanks for fuel or other chemical storage, including the tank types, capacities, and condition.

3.7.6.3 Location and type of existing and proposed water services to serve the facility (including abandoned wells). If the site is to utilize an on-site well, its proposed location must be shown in addition to its setbacks from any BUILDING, STRUCTURE, or sewage disposal system. If public water services are to be utilized, then the water main which will service the site must be shown and identified.

3.7.6.4 All fire hydrants on the site or off the site but within 500' of the principal BUILDING on the site. If no fire hydrants are located within 500' of the principal BUILDING on the site, then a note shall appear clearly explaining how the APPLICANT will provide fire protection to the site. The location of any proposed municipal fire alarm boxes or other warning systems and any proposed fire lanes shall be clearly shown and identified. Any underground conduit for municipal fire alarm connections shall be shown.

3.7.6.5 The location and type of any other underground utilities including but not limited to electric, gas, telephone, or cable television services.

~~3.7.6.6 Any Provisions for emergency power back-up facilities should also be shown.~~

3.7.7 Construction Details (as applicable) - Typical detail of a proposed catch basin, diversion box, emergency ~~slide gates~~ slide gate, manhole, headwall, retaining wall, walkway, subdrain, waterway, leaching basin, drainage pond, or other similar structure, if any. In Groundwater Protection Zones 1, 2, and 3, ~~catchbasins~~ catch basins must be precast concrete with gas traps (Lebaron I-219, Neenah 3705, or equivalent). Precast catch basins must show gas traps and construction joints sealed with a minimum of 1" butyl-rubber gastight sealant or equivalent caulking material.

3.7.8 Erosion & Sediment Control Plan

3.7.8.1 The Plan shall show adequate erosion and sediment control measures during and after construction. Control measures such as hydroseeding, berms, interceptor ditches,

terraces, and sediment traps shall be put into effect prior to the commencement of each increment of the development/construction process.

- a) ~~3.7.8.2~~ A note on the Erosion and Sedimentation Plan shall state that the developer is required to clean up any sand, dirt, or debris which erodes from the site onto any public STREET or private property, and to remove silt or debris that enters any existing drainage system including catch basin sumps, pipe lines, ~~manholes~~manholes, and ditches.
- 3.7.9 Landscape Plan - Landscaping information must be shown on a separate plan sheet or sheets. In addition to showing proposed landscape treatments which may be need to screen planned for the site~~ground-level equipment compound~~, the Landscape Plan shall show natural vegetation that would be retained for the same purpose and include general site features in the facility location area such as LOT lines, existing and proposed STRUCTURES, parking areas, curbs, walkways, loading areas, land contours, water bodies, wetlands, and streams, ledge outcroppings, and large boulders so that it may be easily related to the other plans.
- 3.7.9.1 Screening - The Plan shall show the methods, plant materials, fencing and other treatments that will be employed to ensure that the wireless communication facility is not visible from residential BUILDINGS ~~on or~~ public STREETS within 500 feet. ~~Parking that faces public ways and residential zones or uses shall also be screened.~~
- 3.7.9.2 Planting Table - The botanical and common name of each species, its height (at planting), its spread (at maturity), and the quantity intended to be planted shall be listed in a table along with the symbols used to represent the plants on the plan.
- 3.7.9.3 Landscaping Details - A typical detail of a tree well, tree planting, and specialty planting area, if applicable.
- 3.7.9.4 Limits of Work - Any area where existing conditions may reasonably be expected to be disturbed during construction shall be shown and identified on the Landscape Plan.
- 3.7.9.5 Perimeter of Trees - The perimeter of any existing wooded areas on the site shall be shown. Existing wooded areas intended for preservation shall be noted. The location, size, and proposed fate of any existing trees larger than 16" in diameter shall be shown.
- 3.7.10 Camouflage - The Plan shall include a colored rendering of the proposed wireless communications facility legibly drawn at a standard architectural scale, as appropriate, showing the methods and treatments that will be employed to ensure that the Wireless Communications Facility will blend in with its surroundings when viewed from residential BUILDINGS or public STREETS within 500 feet.
- 3.7.11 Visibility Test & Visibility Map -
- 3.7.11.1 The Applicant shall conduct a visibility test by floating or projecting for one day a highly visible object at the location and height of the proposed tower and provide photographs that show visibility of the object from all public streets and places within 1 mile. This test shall be conducted before the application is filed during the winter months when there is no foliage on deciduous vegetation.
- 3.7.11.2 The Applicant shall cause a legal advertisement to appear in a newspaper of general circulation in Acton at least two weeks before the date of the visibility test announcing the date of the test, one alternate later date in case of cancellation due to unsuitable weather conditions (heavy wind, fog, etc.), and the place and start and end time of the test. A copy of the ad as submitted to the newspaper shall be submitted to the Planning Board forthwith.
- 3.7.11.3 The application ~~The Plan~~ shall include a topographic map showing the areas from where the top of the proposed Wireless Communication Facility will be visible during the winter

~~months when there is no foliage on deciduous trees. The [To allow the Board to make its determination, the Applicant shall float a highly visible object at the location and height of the proposed tower and provide photographs to show visibility of the object. Locations of the photographs taken under 3.7.11.1 above shall be keyed shall be shown onto the map.~~

~~3.7.11.4 The application shall also include the same topographic showing the areas from where the top of the proposed Wireless Communication Facility will be visible during the growing season when there is foliage with images attached from the same locations as the photos taken in the winter and their locations keyed to the map. The images for the growing season visibility conditions may be simulated.~~

~~3.7.12 BUILDING Elevations - The front, sides, and rear elevations of each BUILDING and STRUCTURE shall beAn elevation profile of the proposed Wireless Communication Facility tower at the proposed initial height from its base and at a height of 175 feet from its base, shown at an appropriate scale generally not less than 1/8" = 1'. Indicate on the profile the co-location slots for at least 5 wireless service providers. Also, note the top elevation of the tower as initially proposed and as fully extended, and the mean ground elevation within 500 feet of the proposed tower location.~~

~~3.7.13 Floor Plans - A Floor Plan must be shown for each floor of each BUILDING whether such BUILDING is existing or proposed. Each Floor Plan must identify the proposed USE or USES to be conducted on the floor in question. Each Floor Plan must be dimensioned to show the NET FLOOR AREA. The Floor Plan shall be drawn at a scale of 1/4" = 1'.~~

~~3.7.14 Plan Notes - Plan Notes shall be provided that: 1) forbid the use of fill containing hazardous materials as required by the BYLAW, 2) require the marking of the limits of work in the field prior to the start of construction or site clearing, 3) require the cleaning of catch basin sumps and storm water basins following construction and annually thereafter, 4) restrict the hauling of earth to or from the site to the hours between 9 a.m. and 4 p.m. on weekdays if earth materials are intended to be removed from or brought to the site, 5) describe the materials to be used in the construction of impermeable surfaces such as sidewalks and driveways (as a minimum, the BOARD requires 12" of gravel and 3" of bituminous concrete paving laid in two courses).~~

3.8 Water Balance Calculations (only where new impervious cover is added)

The portion of the site in each GROUNDWATER Protection District Zone shall be noted. A hydrologic water balance calculation for pre- and post-development conditions based on annual precipitation that quantifies evapotranspiration, runoff, recharge, and septic flow shall be included. Compliance with all applicable portions of Sect. 4.3 of the BYLAW shall be demonstrated.

3.9 Drainage Calculations (only where new impervious cover is added)

Storm drainage runoff calculations used for the drainage system design must be prepared by and display the seal of a Registered Professional Engineer and must support the sizing of all drainage structures and pipes.

3.9.1 These calculations must be based on a recognized standard method (usually the Rational or Soil Conservation Service Methods). The calculations must contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity for the site in question. Furthermore, the calculations should be fully documented including copies of charts or other reference sources to make review possible.

3.9.2 The pre- and post-development runoff rates must be provided. If applicable, the methods used to comply with the "~~Stormwater~~Storm water Runoff" design standards of the BYLAW shall be described. The use of computer generated reports is acceptable, however, the source of the software should be identified. Design of the storm drainage system can generally be based on a 10-year storm event, however, the system design shall not result in serious flood hazards during a 100-year storm.

3.10 Earth Removal Calculations (if applicable)

Calculations for determining the amount of earth to be removed or the amount of FILL to be brought into the site shall be prepared by and show the seal of a Registered Professional Engineer.

3.11 Additional Information

The APPLICATION ~~Applicant~~ may ~~contain~~ ~~include whatever~~ additional information the APPLICANT ~~feels is necessary or desirable~~ to properly inform the BOARD about the development including legal opinions, copies of deeds, historical data, studies, and reports.

3.11.1 The BOARD is empowered by the BYLAW to require information in addition to that specifically required by the BYLAW or by these RULES. The BOARD will require the APPLICANT to supply additional information if it finds that such information is necessary to properly act upon the APPLICATION in question.

SECTION 4
FILING PROCEDURES

4.1 Who May File an APPLICATION

Anyone may file an APPLICATION for a PERMIT provided that the proposed Wireless Communication Facility complies with the requirements of the BYLAW. The property owner of record shall sign the APPLICATION form thereby granting his/her consent to the filing of the APPLICATION.

4.2 APPLICATION Fees

Any APPLICATION shall be accompanied by a fee to cover the expenses incurred by the TOWN in reviewing the APPLICATION. The fee is not refundable. The fee shall be submitted in check form and made payable to the "Town of Acton". The amount of the fee shall be \$2500 for an APPLICATION to construct or renovate a wireless communication facility. Part of the filing fee may be waived if the BOARD chooses to have some of the review work performed by outside consultants as provided below.

4.2.1 Additional Review Fee Deposits - So that the BOARD may make the findings required under the BYLAW and insure that the public safety will be protected, the BOARD may select and hire outside traffic, engineering, legal, or planning consultants to review an APPLICATION. To cover the cost of these reviews a review fee deposit may also be required of an APPLICANT at the time of submission or at any appropriate time in the review process. As the scope of study and review will vary according to the size of a particular project, the APPLICANT is hereby strongly advised to consult the Planning Department concerning the scope and cost of any such studies during the preliminary review. *Failure to do so could result in serious delays in the processing of the APPLICATION.* The amount of the fee deposit will reflect the anticipated consultant fee(s) plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of BUILDING permits for the proposed construction plus any remaining accrued interest will be repaid to the APPLICANT or the APPLICANT'S successor in interest.

4.2.2 Appeal From the Selection of the Consultants - The APPLICANT may appeal from the selection of an outside review consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The APPLICANT must specify the specific grounds which the APPLICANT claims constitute a conflict of interest or a failure to meet minimum professional requirements.

4.3 Submission to the TOWN Clerk and the BOARD

Two complete copies of the APPLICATION shall be submitted to the office of the Acton Town Clerk. The Clerk will certify the data and time of filing on both copies, keep one or the copies, and return the other to the APPLICANT. The copy returned by the Clerk and the remaining 23 copies of the APPLICATION, the 12 reduced size plan copies, and the required fees shall then be filed forthwith by the APPLICANT with the office of the BOARD during normal business hours. The APPLICANT may request and shall be entitled to a written receipt for the materials submitted.

Information submitted after the initial filing of the APPLICATION as described above will not be accepted except at the public hearing.

If significant information that was not included in the APPLICATION is presented at the public hearing, the hearing may be continued to allow for staff review of the new material. At least 12 copies of any additional materials submitted at the hearing shall be given by the APPLICANT to the Clerk of the BOARD at the hearing.

Questions concerning this process should be directed to the Planning Department.

4.4 Review of APPLICATION

The Board will transmit a copy of an APPLICATION to various other TOWN departments, boards, committees, agencies, or independent consultants in order to ensure full and qualified review of the APPLICATION. Thirty-five (35) days will be provided for such reviews; failure to submit comments on the APPLICATION shall be deemed an approval by the reviewing party. The BOARD will make available to the APPLICANT upon request a copy of any comments or recommendations received.

SECTION 5

PUBLIC HEARING & DECISION

5.1 Public Hearing Notice

The BOARD will hold a public hearing within 65 days of the APPLICATION filing date. Pursuant to M.G.L. ch. 40A, s. 11, the BOARD will give notice of the time and place of the public hearing and its subject matter, sufficient for identification, as follows:

- 5.1.1 By publication of the notice in a newspaper of general circulation in the Town of Acton once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the public hearing. The newspaper will send the bill for the advertisement directly to the Applicant and the Applicant shall pay the bill directly to the newspaper.
- 5.1.2 By posting the notice in a conspicuous place in the Acton Town Hall for a period of not less than fourteen days before the day of the public hearing.
- 5.1.3 By mailing the notice certified mail to all PARTIES IN INTEREST. At least 21 days before the day of the public hearing, the APPLICANT shall submit to the Planning Department the certified mail letters containing the notice, addressed to each PARTY IN INTEREST, sender shown as the Town of Acton Planning Board, 472 Main Street, Acton, MA 01720. The envelopes are to be sealed, ready to be mailed, accompanied by one copy of the notice for the BOARD record, and payment to the Town of Acton for the cost of the certified mailings. In addition, submit a duplicate set of empty, open envelopes, standard postage prepaid, addressed to each PARTY IN INTEREST, sender as above, for the mailing of the decision notice.

5.2 Public Hearing Presentation

An APPLICANT may appear on his/her/its own behalf or be represented by an agent or attorney. It is the responsibility of the APPLICANT or his/her/its agent to present the APPLICATION to the BOARD and to the public. In the absence of an appearance, the BOARD may decide the matter using the information it has received. Failure to appear at a public hearing could seriously jeopardize the success of an APPLICATION.

- 5.2.1 Presentation of the APPLICATION by the APPLICANT should not exceed 10 minutes in duration except for good reason. The APPLICANT may be requested to answer questions raised by the BOARD or the public. The BOARD will retain any evidence which has been introduced at the hearing for reference in its deliberations on the case.
- 5.2.2 In no case will the BOARD allow new evidence to be admitted after the close of the public hearing unless this evidence was specifically requested by the BOARD prior to the close of the public hearing.

5.3 Withdrawal of APPLICATION

Any APPLICATION for a PERMIT submitted hereunder may be withdrawn without prejudice by notice in writing to the BOARD prior to the notice of a public hearing being posted or mailed pursuant to Sect. 5.1 above. Withdrawal of any APPLICATION thereafter requires BOARD approval. No refund of fees will be provided if an APPLICATION is withdrawn.

5.4 Time Period for Deliberation

The BOARD will act on each APPLICATION for a PERMIT within ninety (90) days after the public hearing, unless such APPLICATION has been withdrawn from consideration as set forth in Section 5.3 above.

- 5.4.1 Continuation & Extension - The period within which final action shall be taken may be extended for a defined period by written agreement between the BOARD and the APPLICANT. In the event that the BOARD determines that the APPLICATION is inadequate for the BOARD to make a finding, the BOARD may, at its discretion, continue the hearing to a later date to permit the APPLICANT to submit a revised APPLICATION. The BOARD may, at its discretion, require that an additional \$500 fee be paid by the APPLICANT prior to the close of the public hearing if such a continuation results from a deficiency in the original APPLICATION. Such a continuation may not automatically extend the 90-day period within which final action shall be taken by the BOARD unless the extension is agreed upon by both the BOARD and the APPLICANT.

5.5 Decision

The concurring vote of five (5) of the seven (7) members of the BOARD shall be necessary to decide in favor of granting a PERMIT. Only those members of the BOARD who were in attendance at the public hearing may vote on the APPLICATION in question.

- 5.5.1 The BOARD will file its DECISION with the Town Clerk and send a copy to the APPLICANT by certified mail. The BOARD shall also send a notice of its DECISION to the property owner, to other TOWN boards and departments, to PARTIES IN INTEREST, and to those who have requested such notice at the public hearing.

5.6 Recording of DECISION

The recording of a DECISION is required by THE ZONING ACT and the BYLAW. The APPLICANT shall be responsible for recording a full copy of the DECISION in the Middlesex South District Registry of Deeds in Cambridge or the Land Court and for paying any required recording fees. A copy of the recorded DECISION, certified by the Registry of Deeds, must be submitted to the BOARD and the BUILDING Commissioner prior to issuance of a BUILDING Permit or the start of any work.

5.7 Submission of Approved Plans

A copy of the approved plan as amended by the BOARD in its DECISION of approval shall be submitted to the office of the BOARD prior to the issuance of a BUILDING Permit. Prior to the issuance of a BUILDING Permit, two copies of the approved and endorsed plans shall be submitted to the BUILDING Commissioner.

5.8 Appeal of DECISION

Any person aggrieved by a DECISION of the BOARD, whether or not previously a party to the proceeding, may appeal such DECISION in accordance with MGL, Ch. 40A, Section 17 within 20 days after the filing of the DECISION with the Office of the Town Clerk.

5.9 Time Limit for PERMIT

Any PERMIT granted by the BOARD shall lapse within two years from the date of filing of the BOARD'S DECISION with the Office of the Town Clerk unless substantial use or construction under the PERMIT has begun, except for good cause, or if the BOARD has specified a shorter time period in the DECISION.

5.9.1 A reasonable extension of said time may be granted by the BOARD where good cause is shown. Any request for an extension of the specified time limitation set forth in the DECISION shall be made in writing to the BOARD at least thirty days prior to the expiration date. The BOARD reserves its rights to grant or to deny such extension if good cause for such extension is not shown. Failure to submit such a request as prescribed above shall be due cause for the Board to deny the requested time extension.

5.10 Limitation of the DECISION

The granting of a PERMIT constitutes approval only under the pertinent sections of the BYLAW. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction such as the Board of Health, Acton Water District, and Conservation Commission shall not be assumed or implied. The BOARD may condition any PERMIT hereunder on satisfactory demonstration of compliance with the requirements of other governmental bodies having jurisdiction prior to the start of any work on the site, the issuance of a BUILDING Permit, or any other appropriate step in the development process. The APPLICANT is hereby encouraged to seek approvals and certificates of compliance from such other governmental bodies prior to or concurrently with the APPLICATION to the BOARD.

5.11 Repetitive Petition

Pursuant to MGL, Ch. 40, Sect. 16, no APPLICATION which has been unfavorably and finally acted upon by the BOARD shall be acted favorably upon within two years after the date of final unfavorable action unless four members of the BOARD vote to find that specific and material changes in the conditions upon which the previous unfavorable action was based have occurred and describe such changes in the records of the BOARD'S proceedings, and all but one member of the BOARD consents to the consideration of the matter. Notice to PARTIES IN INTEREST shall be given by the APPLICANT of the time and place of the proceedings at which the question of consent will be considered.

5.12 Amending a Wireless Communications Facility Special PERMIT

A previously granted PERMIT may be amended by written request to the BOARD or on the BOARD'S own motion. The BOARD shall determine whether any request for further alterations to a site constitutes a minor amendment or if such request should be considered a new APPLICATION requiring a public hearing.

5.12.1 The BOARD may amend a PERMIT without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the BYLAW. Consultation with the Planning Department is recommended prior to the filing of any request to amend a PERMIT. The fee for minor amendments shall be \$250.

ACTON PLANNING BOARD

APPLICATION for a WIRELESS COMMUNICATION FACILITY SPECIAL PERMIT

Refer to the "Rules and Regulations for Wireless Communication Facility Special Permits" available from the Planning Department for details on the information and fees required for this application. Contact the Planning Department at 978-264-9636 with any questions concerning the Rules. Incomplete applications may be denied.

Please type or print your application.

- 1. Location and Street Address of Site _____
Area of Site _____ ac.
- 2. Applicant's Name & Address _____
Telephone _____
- 3. Record Owner's Name & Address _____
Telephone _____
- 4. Zoning District(s) of Parcel(s) _____ Town Atlas Map & Parcel Number(s) _____
- 5. Describe why the proposed Wireless Communication Facility cannot be accommodated on an existing facility (use additional sheets as necessary).

The undersigned hereby apply to the Planning Board for a public hearing and a Wireless Communication Facility Special Permit under Section 3.10 of the Zoning Bylaw.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of his/her knowledge.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with MGL Ch. 268, Section 1-A.

_____ Date _____ Signature of Applicant

RECORD OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

Date

Signature of Owner

ACTON PLANNING BOARD

PUBLIC HEARING NOTICE

In accordance with the provisions of Massachusetts General Laws, Chapter 40 A, Section 9, the Acton Planning Board will hold a public hearing on _____, 200__ at _____ P.M., in the Acton Memorial Library, 486 Main St., on the petition of _____ for approval of a Wireless Communications Facility Special Permit for the parcel located at _____ and shown on Town Atlas Map _____, parcel _____.

NOTES

Such permits may be granted by the Planning Board under Massachusetts General Law, Ch. 40A and the Acton Zoning Bylaw in accordance with the "Rules and Regulations for a Wireless Communication Facility Special Permits" all of which are available for review or purchase at the offices of the Planning Board, and the Town Clerk. A copy of the application is also available for review at these offices in Town Hall between 8:00 A.M. and 5:00 P.M., Monday through Friday.

The applicant or his/her representative will be at the hearing to present the reason(s) why the permit should be granted.

When the applicant or his/her representative has concluded their presentation, the Chairman of the Board will allow the Board members to speak to the matter under consideration or to raise questions and concerns. Subsequently, the Chairman will give the public the same opportunity to speak to the matter under consideration or to raise questions and concerns.

The Chairman will not allow any member of the public to interrupt anyone else while they are speaking. Each person wishing to speak at the hearing should be as brief as possible and should wait his/her turn. Each person speaking should avoid repeating the comments of those who preceded them. Each person speaking should state their name and address before they make their statement or ask questions.

Any party may appear in person, by agent, or by attorney at any hearing. When all of the facts have been presented and all persons wishing to speak on the petition have been heard, the Chairman will close the hearing. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless this evidence was requested by the Board prior to the close of the public hearing.