

PLANNING BOARD

TOWN OF SOUTH HADLEY

APPLICATION FOR SPECIAL PERMIT AND SITE PLAN REVIEW

Application for Approval of
Wireless Facility



metroPCS Massachusetts, LLC
Applicant

Address:
South Hadley High School
153 Newton Street
South Hadley, Massachusetts

Submitted by:
Simon J. Brighenti, Jr. Esquire
O'Connell, Attmore & Morris, LLC
71 Park Avenue – Suite C
West Springfield, MA 01089
(413) 747-1773

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APPLICATION FOR SPECIAL PERMIT and SITE PLAN REVIEW

TOWN OF SOUTH HADLEY

Property located at
153 Newton Street
South Hadley, Massachusetts

metroPCS Massachusetts, LLC
285 Billerica Road
Chelmsford, MA 01824

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RECEIVED
TOWN OF SOUTH HADLEY

APR 02 2013 10:32 a

As Adopted by Planning Board on December 13, 2010
Filed with Town Clerk on December 14, 2010

CLERK - TREASURER

FORM SP

SOUTH HADLEY PLANNING BOARD

APPLICATION FOR SPECIAL PERMIT

Date 4-2-13

Pursuant to the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts and the South Hadley Zoning By-Laws, the undersigned herewith submits the accompanying application for a Special Permit as described below and detailed in the supporting documentation which is incorporated into and made part of this application.

NATURE OF REQUEST (Check and Describe as Appropriate):

- a. Alteration/expansion/change of a nonconforming use and/or structure
- b. Home occupation
- c. Professional business
- d. New/second hand car dealer
- e. Flag lot
- f. Two-family dwelling/Three-family dwelling
- g. Multifamily dwellings for more than three families
- h. Flexible development
- i. Wireless communications facility
- j. Major earth removal, extraction, and/or fill activity
- k. Other (Describe _____)

GENERAL DESCRIPTION OF REQUEST:

Install antennas on existing smokestack at South Hadley High School along with associated equipment as shown on accompanying plans

APPLICABLE SECTIONS OF THE ZONING BYLAW:

Section 7S and Use Table Note (d)

1. Applicant MetroPCS of Massachusetts LLC

Address c/o Simon J. Brighenti, Jr., Esq., O'Connell, Attmore & Morris, LLC, 71 Park

Avenue, West Springfield MA 01089

Telephone 413-747-1773

Email Address: sbrighenti@oamlaw.com

2. Owner (if not applicant) Town of Hadley School Department

Address 155 Newton Street, South Hadley MA 01075

Email Address: _____

3. Site Plan Preparer Chappell Engineering Associates LLC

Title or License David A. Chappell, RPE #34706

Address 201 Boston Post Road West, Marlborough MA 01060

Telephone _____

Email Address: _____

4. Deed of property recorded in the Hampshire County Registry of Deeds,
Book 977 Page 499

5. Location and description of property (street and number if any) South Hadley High School,
153 Newton Street, South Hadley MA 01075
Assessors Map # 17 Parcel # 015

6. The subject property is presently in zoning district(s): Residence A2

7. Is the subject property located within one or more of the Master Plan's Land Use Area
Districts? Yes If so, in which of the districts or areas? Route 116, Route 33 to Route 202

8. Is the subject property located in a National Historic District or listed as a Priority
Heritage Landscape? No If so, which one? _____

9. Does the subject property abut a designated Scenic Roadway? No

10. Is the subject property within the designated South Hadley Falls Economic Opportunity
Area? No

I, as applicant, certify that the application and all attachments are correct and complete.

[Signature]
Signature of Applicant

FOR PLANNING BOARD OFFICE USE:

11. Amount of Application Fee: _____ 12. Fee Paid? Yes ___ No ___

FOR TOWN CLERK (indicate date and time received:

Submission received on (Date) _____
at (time) _____

Signature _____

FORM SPR

SOUTH HADLEY PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

RECEIVED
TOWN OF SOUTH HADLEY

APR 02 2013 10:32

CLERK - TREASURER

Date _____

File one completed application form together with ten (10) copies of the site plan with the Planning Board. One (1) copy of Form SPR shall be concurrently filed with the Town Clerk.

To the Planning Board:

The undersigned herewith submits the accompanying Site Plan for review as required by Section 12 of the Zoning By-Laws.

- 1. Applicant: Metro PCS Massachusetts, LLC
- 2. Address: c/o Simon J. Brighenti, Jr., Esq., 71 Park Avenue, Suite C,
West Springfield, MA 01089
- Telephone: (413) 747-1773

- 3. Owner (if not applicant): Town of South Hadley School Department
Address: 153 Newton Street, South Hadley, MA 01075

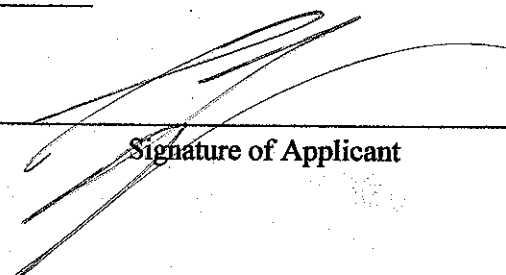
- 4. Site Plan Preparer: Chappell Engineering Associates LLC
Title or License David A. Chappell, RPE #34706
Address 201 Boston Post Road West, Marlborough, MA 01060

- 5. Deed of property recorded in the Hampshire County Registry of Deeds,
Book 977 Page 499

- 6. Location and description of property (street and number if any) South Hadley High School
153 Newton Street, South Hadley, MA 01075

Assessors Map # 17 Parcel # 015

- 7. Fee Paid: Yes _____ No _____


Signature of Applicant

Town Clerk: _____

Date of Submission _____

Signature: _____

**PROPOSED FINDINGS
PER TOWN OF SOUTH HADLEY
ZONING BY LAW CRITERIA**

Support Statements for Zoning Relief

Applicant: metroPCS Massachusetts, LLC

Location: South Hadley High School
153 Newton Street, South Hadley, MA
Map ID: Map 17 Parcel 015

Zoning District: Residence A-2

Property Owner: Town of South Hadley – School Department
153 Newton Street
South Hadley, MA 01075

RELIEF SOUGHT:

SPECIAL PERMIT AND SITE PLAN APPROVAL

metroPCS Massachusetts, LLC (“Applicant”) requests the Planning Board issue a Special Permit along with Site Plan Approval for the location of a Wireless Communications Facility (hereinafter "the Facility") to be installed at the South Hadley High School, 153 Newton Street pursuant to Section 7S and Use Table Note (d.) of the Town of South Hadley Zoning Bylaw (hereinafter "the Bylaw"). Applicant's proposed Facility will include, a set of six (6) antennae to be installed on the existing smokestack at the high school along with three (3) equipment cabinets known as Base Transmission Stations ("BTS") to be placed upon a poured concrete pad within a fenced area or compound at the base of the smoke stack structure along with associated cabling and hardware. The proposed Facility is depicted in more detail on the accompanying plans at Tab 5.

BACKGROUND:

Applicant is applying for the above relief in order to locate a Wireless Communications Facility on a Facility Site upon which such Facilities are allowed by the Bylaw. As below described the Facility will be located and designed to achieve the least possible visual impact on the surrounding area as shown on the accompanying plans at Tab 5. Applicant submits the following proposed findings in compliance with the applicable portions of the Bylaw.

1. Purposes

The purposes of the Wireless Communications Regulations are:

a. Provide reasonable, non-discriminatory standards and procedures under which adequate and necessary Wireless Communications - Facilities may be permitted, developed and maintained; and,

- b. Ensure that permitting Wireless Communications Facilities will be in harmony with the Zoning By-Law and the character and appearance of the surrounding community; and,*
- c. Protect the community's scenic, historic, and environmental resources; and,*
- d. Locate Wireless Communications Facilities such that their location does not have negative impacts (such as, but not limited to visual blight, attractive nuisance, noise and falling objects) on the general safety, welfare and quality of life of the community; and,*
- e. Encourage Co-Location of Wireless Communications Facilities to the maximum extent possible; and,*
- f. Provide for the development of free standing Wireless Communications Towers to the extent necessary to enable the Providers of Wireless Communications Services to provide adequate coverage throughout the community, yet limit the number of such Towers to the minimum amount needed for such services.*

Finding: Applicant's site search and selection process for a suitable wireless communications site is predicated upon the land use policy of the town as expressed in this section. The proposed installation at this site meets the objectives expressed in this section, namely, minimizing adverse impacts to the character and appearance of the town as the facility is proposed to be located within an area of relatively low population density and which is along a heavily travelled thoroughfare. The facility incorporates an existing smokestack as a support structure thus obviating the need to construct a new tower. Strategic location of the Facility and the mitigation afforded by color and design will lessen the visual impact of the facility.

...

3. Definitions

As used in the Wireless Communications Regulations, the following words and phrases shall have the meanings and intent respectively ascribed to them by this section. If any word or phrase conflicts with definitions specified elsewhere in the South Hadley Zoning By-Law, the meaning and intent ascribed below shall govern:

ANTENNAS: *A device or surface area which is attached to or part of a Tower or Alternate Tower Structure for the purpose of transmitting and/or receiving electromagnetic signals for wireless communications. Also referred to as Wireless Communications Antenna.*

ANTENNA, WIRELESS COMMUNICATIONS: *See Antenna.*

CARRIER: *See Provider.*

CO-LOCATION: *Use of a single Tower by more than one Carrier.*

ELEVATION: *The measurement of a point in reference to feet above mean sea level.*

EQUIPMENT SHELTER: *A structure located at a Wireless Communications Tower or Alternate Tower Structure to house equipment used in connection with wireless communications transmissions to and from Antennas located on the Tower.*

FACILITY SITE: *The parcel of land used by one or more Carriers and upon which one or more Wireless Communications Facility (-ies) and related equipment, Equipment Shelter, and landscaping are located.*

FAA: *Federal Aviation Administration.*

FCC: *Federal Communications Commission.*

HEIGHT OF WIRELESS COMMUNICATIONS FACILITY: *The vertical distance between the highest point of the Wireless Communications Facility (inclusive of the Wireless Communications Tower and any Antennas, poles, and any other equipment which may extend above the Wireless Communications Tower) and the lowest point of the grade of the ground at the Facility Site. The grade of the ground is to be determined at a distance within ten (10) feet of the Wireless Communications Tower's perimeter unless the Planning Board determines a different basis for said measurement is more appropriate. Thus, the "height" of Wireless Communications Facilities will not fall within the definition of "height" as provided in Section 3 of the Zoning By-Law.*

MUNICIPAL ENTITY: *The phrase "municipal entity" shall include the Town of South Hadley, South Hadley Fire District Number 1, and South Hadley Fire District Number 2 and any department under the jurisdiction and authority of any of these three entities.*

PROVIDER: *An entity that provides Wireless Communications Services. Also refers to Carrier.*

TOWER: *A structure erected for the purpose of Wireless Communications Services and on which Antennas or other wireless communications devices and associated equipment are placed for the purpose of Wireless Communications Services. Also referred to as Wireless Communications Tower.*

Tower, Guyed: A Tower that is tied to the ground or other surface by cables which are typically in a diagonal alignment.

Tower, Lattice: A Tower that is self-supporting with multiple legs and cross bracing of structural steel.

Tower, Monopole: A Tower that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for Antennas arrayed at the top and/or intermediate positions along the length of the Tower.

Tower, Wireless Communications: See Tower.

WIRELESS COMMUNICATIONS FACILITY: *All equipment with which a Carrier transmits and receives the radio frequency waves which carry their services and all locations of said equipment or any part thereof (including, but not necessarily limited to, a Wireless Communications Tower, Alternate Tower Structure, Wireless Communications Antennas, and related equipment and structures).*

WIRELESS COMMUNICATIONS FACILITY, PRE-EXISTING: *A Wireless Communications Facility in existence prior to the adoption of the Wireless Communications Regulations as part of the Zoning By-Law by the Town Meeting.*

WIRELESS COMMUNICATIONS SERVICES: *Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include cellular services, Personal Communications Services (PCS), Enhanced Mobile Radio Services, Paging Services (PS), and similar such services.*

Finding: Applicant has adopted the above definitions and incorporates them herein by reference unless specifically noted within the accompanying text. Thus the applicant must submit the proposal to the Site Plan Review Process consistent with Note (d) of the Use Table contained in the Bylaw.

4. Exempted Uses

The following Wireless Communications Facilities are specifically exempted from the provisions of the Wireless Communications Regulations:

a. Police, fire, ambulance, Antennas and associated Towers and equipment for the internal use of either the Town's DPW or either District and other similar emergency dispatch; and,

b. Citizens band radio; and,

c. Amateur radio equipment and Towers used in accordance with the terms of amateur radio service licenses issued by the FCC, provided that (1) the Tower is not used or licensed for any commercial purpose, and (2) the Tower shall be removed upon loss or termination of said FCC license; and,

d. Satellite dishes and antennas for non-commercial residential use and/or for non-commercial educational use.

Finding: Applicant intends to work with the Town of South Hadley in furtherance of this Bylaw and the referenced federal and state laws.

5. Location Criteria

a. Existing Towers and Alternate Tower Structures: To the extent feasible, Antennas are to be located on existing Towers and existing Alternate Tower Structures.

Finding: Applicant has been able to locate an Alternate Tower Structure within this portion of the town of South Hadley presently experiencing insufficient service.

b. Spacing: No Wireless Communications Tower shall be located closer than one mile of any other such Tower, except as provided below. The spacing distance shall be measured as the shortest distance between two points as if on a flat topography.

Finding: Applicant knows of no Tower within the proscribed distance.

c. Historic and Residential Properties: No Wireless Communications Tower shall be located closer than three-hundred feet (300') to any property (1) listed on either the State or National Register of Historic Places or (2) developed as part of a residential subdivision for which a Definitive Plan was approved by the South Hadley Planning Board, except as may be waived by the Planning Board as provided below.

Finding: Applicant knows of no such historic properties within the proscribed distance. Notwithstanding, Applicant hereby requests that the Planning Board waive this prohibition should such a property or properties exist, as impact on such property would be minimal and as the facility proposed falls outside the definition of a “Wireless Communications Tower”.

d. Elevation: No portion of any Wireless Communications Facility may exceed the elevation level of 400 feet above mean sea level, except as may be waived by the Planning Board as provided below.

Finding: Based upon the most detailed USGS topographic maps available and field measurements, the Facility will not violate this proscription (See Tab 3).

e. Holyoke Range Area: No Wireless Communications Tower or related equipment may be located within the area bounded as follows: the Towns of Hadley and Amherst to the north; the Town of Hadley and Route 47 to the west; Route 47 and Pearl Street to the south; and Route 116 (north of Pearl Street) and the Town of Granby to the east.

Finding: The proposed location is not located within the proscribed portion of the town of South Hadley as it is located several miles to the south Therefore the proposed facility is within the letter of this requirement.

f. Waiver for Wireless Communications Antennas on Alternative Tower Structures. In unique circumstances where the Planning Board makes findings as to technical necessity, topographic conditions, community benefit, and/or special conditions which protect the surrounding properties and community assets, and that a waiver is consistent with the purposes of this subpart, the Planning Board may grant a waiver of one or more of the Location Criteria specified within this subsection for location of Wireless Communications Antennas on Alternate Tower Structures.

Finding: Applicant submits that this section of the By Law does not apply to the proposed Facility in that the proposed facility arguably complies with all such Criteria.

g. Waiver for Wireless Communications Towers. In unique circumstances where the Planning Board makes findings as to technical necessity, unique topographic conditions, community benefit, and/or special conditions which protect the surrounding properties and special community aesthetic assets (such as, but not limited to views of the Holyoke Range), and finds that a waiver is consistent with the purposes of this subpart, the Planning Board may grant a waiver of the selected Location Criteria listed below as they relate to location of Wireless Communications Towers, subject to the limitations stated herein:

- 1.) Spacing between Wireless Communications Facilities as stated in item b of this subsection; provided, however, the spacing shall not be reduced to less than one-half mile.*
- 2.) Distance from an Historic or Residential Property as stated in item c of this subsection; provided, however, the distance shall not be reduced by more than 200 feet.*
- 3.) Elevation as stated in item d of this subsection; provided, the maximum elevation will not be permitted to exceed 450 feet.*

Finding: Applicant submits that this section of the By Law does not apply to the proposed Facility in that the proposed facility will not include a Wireless Communication Tower.

6. Design and Siting Requirements – General

All Wireless Communications Facilities must be designed, developed, and operated in accordance with the following requirements:

a. Co-Location: Towers must be designed, developed, and equipped, and leases for use of such structures must provide authority, to allow for co-location of as many Carriers as technically feasible.

Finding: Applicant submits that this section of the By Law does not apply to the proposed Facility in that the proposed facility will not include a Wireless Communication Tower.

b. Equipment Shelter: An Equipment Shelter not exceeding four-hundred (400) square feet in area per carrier located on the Tower and not exceeding fourteen feet (14') in height may be provided at each Tower or Alternate Tower Structure. However, the Planning Board may impose special conditions to reduce the maximum size of the Equipment Shelter at a particular Facility Site if it determines such conditions are necessary to fulfill the aesthetic purposes of the Zoning By-Law or these Wireless Communications Regulations.

Finding: Applicant is not seeking approval for an Equipment Shelter; rather for computer equipment as shown on the Plans included at Tab 5.

c. Security: All Wireless Communications Facilities shall be protected, by fencing and/or other appropriate means, against unauthorized access.

Finding: Applicant will secure the equipment against unauthorized access and will monitor it by off-site means continuously.

d. Parking: There shall be a minimum of one (1) parking space at each Wireless Communications Facility. Parking at such facility shall be used solely in connection with the maintenance of the Wireless Communications Facility and is not to be used for the permanent storage of vehicles or other equipment.

1.) Exception: The Planning Board may grant an exception to the parking requirement when the Wireless Communications Facility involves use of an Alternate Tower Structure and the Planning Board determines that other parking at the Facility Site satisfactorily meets the parking need for the Wireless Communications Facility.

Finding: Subsequent to installation of the facility, the only parking needs will be those of a maintenance technician in an SUV, small van or pickup truck approximately once a month for a short period of time. Applicant submits that sufficient parking is proposed as shown on the accompanying plans.

e. Signage: The only signs associated with the Wireless Communications Facility which may be permitted are the following:

1.) Identification sign. One identification sign identifying the Wireless Communications Facility and detailing the owner, operator, and an emergency

telephone number where the owner or their emergency representative can be reached on a twenty-four (24) hour basis.

2.) No trespassing signs. Such signs are required.

3.) FCC Registration. A sign displaying the FCC registration number.

4.) Warning sign. Signs are required to warn of danger.

No sign should be larger than four (4) square feet in area unless State or Federal regulations require larger signs.

Finding: Applicant will install only those signs in the equipment compound required by state and federal law as set forth in this portion of the Bylaw.

f. Screening: A landscape buffer of evergreen shrubs or trees shall be provided in a manner to screen views of any Equipment Shelter and fencing from adjoining property. The shrub or tree plantings shall mature to a height equal to the level of the Equipment Shelter height or fence (whichever is greater). At planting the shrubs or trees shall be at least six (6) feet in height and spaced such that the plantings reasonably screen the Equipment Shelter while providing opportunity for the vegetation to mature and be maintained. All landscape plantings must be continually maintained.

g. Exceptions: The Planning Board may grant exceptions to the screening specifications outlined herein where (1) the topography and site conditions warrant that alternative standards can achieve the purpose of the screening and/or (2) the proposed plantings and screening warrant alternative spacing standards.

Finding: Applicant intends to meet the stated and inferred goals of this portion of the Bylaw by working cooperatively with the appropriate town authorities. Applicant requests that this Board approve the alternate screening as shown on the attached plans which includes a stockade fence.

h. Radio-Frequency Effect: All Wireless Communications Facilities shall be operated only at FCC designated frequencies, power levels, and standards. Upon request by the Planning Board, Providers and applicants shall provide certification that the maximum allowable frequencies, power levels, and standards will not be exceeded.

Finding: See Tab 3 for FCC compliance details. Applicant shall comply with all reasonable requirements in regard to certification in this area.

7. Design and Siting Requirements - Wireless Communications Towers

Wireless Communications Facilities involving erection of new Wireless Communications Towers must be designed, developed, and operated in accordance with the following requirements:

a. General: The requirements detailed in subsection 7(S) (6) Design and Siting Requirements - General.

b. Height: All Wireless Communications Towers shall be constructed to the minimum height necessary to accommodate the anticipated usage. Towers designed for one Provider shall be limited to the lesser height of 200% of the maximum height allowed in the zoning district in which it is to be located or a height of 130 feet. If no maximum height is specified for the zoning district, the maximum height shall not exceed 130 feet. When calculating the height, the measured distance shall be inclusive of all planned antennas and other attached features.

1.) Exceptions: The Planning Board may grant an exception to the height limit for Wireless Communications Towers designed for co-located facilities. In such situations, the Board may allow the Tower height to be increased by an additional 20 feet for each additional Provider up to a total Tower height not to exceed a maximum of 220 feet. Further, the Planning Board may grant exceptions to the height restriction in unique circumstances only upon making findings as to a.) technical necessity, b.) unique topographic conditions, c.) community benefit, d.) special conditions which protect the surrounding properties and special community aesthetic assets (such as, but not limited to views of the Holyoke Range), and e.) that an exception is consistent with the purposes of this subpart and the Zoning By-Law.

2.) Exemption: These height limits shall not apply to Towers for government or emergency telecommunications to the extent such height is essential to serve the government or emergency telecommunication use.

3.) Justification Required. The height limits stated within this subsection 7b do not convey an entitlement to any specific height. Rather, as provided in subsection 7(S) (11), all applications for Wireless Communications Towers must include technical evidence to justify the need for the proposed height including any height exceptions being requested. The Planning Board when acting on a Special Permit shall specify the maximum allowable height inclusive of all planned

Wireless Communications Antennas to be allowed for the proposed facility up to the limits outlined above.

Finding: Applicant is not proposing a Tower so the above Requirements do not apply to the proposed facility.

c. Setbacks: The setbacks for Wireless Communications Towers shall be measured from the nearest property line and the outer edge of the base of the Tower. The required setback shall be the greatest of the following:

1.) Three-hundred feet (300') if

(i) the adjoining property is zoned Residential A-1, A-2, B, or C or

(ii) is developed as part of a subdivision for which a Definitive Plan has been approved by the Planning Board or

(iii) is included on a National or State Register of Historic Places.

2.) One foot (1.0') for each foot of height of the structure.

3.) Waivers. The setback requirement from property zoned Residential A-1, A-2, B, or C may be waived if

(a.) The Planning Board grants a Special Permit for a Wireless Communications Tower to be located in a Residential A-1, A-2, B, or C zoning district based upon findings that 1.) the Tower is to be located on land owned by a municipal entity as defined in this Subpart or 2.) a utility or other municipal structure in excess of 50 feet in height is presently located thereon and the existing structure is technically inadequate to accommodate the placement of Wireless Communications Antennas due to a combination of the topographic conditions, structure height, and extensive vegetative tree cover immediately adjacent to the site; or,

(b.) The Planning Board grants a waiver of the setback provision specified in subsection 5c pursuant to subsection 5g2. In such instance, the extent of the waiver so granted shall govern as the required setback.

Finding: Finding: Applicant is not proposing a Tower so the above Requirements do not apply to the proposed facility.

4.) Waiver of Setback from Non-residential Properties. The Planning Board may grant a waiver of the setback requirement specified in subsection 7(S)7c2 as the setback applies to adjoining properties not zoned Residential A-1, A-2, B, or C or used for residential purposes.

5.) *Limitations on Setback Waivers. No setback waiver shall permit any Wireless Communications Tower to be located nearer than one-half foot (0.5') for each foot of height of the structure.*

Finding: Applicant is not proposing a Tower so the above Requirements do not apply to the proposed facility.

d. Pre-engineered Fault: All Wireless Communications Towers shall be pre-engineered to "fold at a pre-determined height " in the event of catastrophic failure. The height of this pre-determined point of fold shall be specified as part of the Special Permit application. -The purpose of this "Pre-engineered Fault" is to insure that in the event of a catastrophic failure, the Wireless Communications Tower shall remain on the parcel on which the Tower was permitted. Recognizing that technology changes over time, the Planning Board may permit the applicant to utilize an alternative means of achieving the purpose of the "Pre-engineered Fault" provided the Board determines that this alternative means is at least as equally effective for achieving this purpose.

Finding: Applicant is not proposing a Tower so the above Requirements do not apply to the proposed facility.

e. Style of Towers: Lattice Towers and any Guyed Towers shall not be permitted unless the applicant shall demonstrate to the Planning Board's satisfaction that such Tower shall be no more visually blighting or intrusive than a monopole structure at the same location. Accordingly, applicants proposing to construct a Tower other than a monopole shall submit appropriate plan documents as part of the Special Permit application sufficient to allow the Planning Board to make a decision as to whether to grant a Special Permit allowing a Tower other than a monopole-style Tower. To grant a Special Permit for a Tower other than a monopole-style, the Planning Board shall make a finding that the style of Tower proposed is appropriate for the site and is no more detrimental to the visual character of the area than a monopole.

Finding: Applicant is not proposing a Tower so the above Requirements do not apply to the proposed facility.

f. View: Wireless Communications Towers shall not be permitted in such locations as to adversely impact the community. Accordingly,

1.) Such Towers shall be sited in such a manner that the view of the Tower (inclusive of all antennas and related attached features) from adjacent properties, residential neighbors, adjacent roadways, and other areas of Town shall be as limited as possible; and,

2.) *Such Towers shall be painted, colored, and/or constructed of materials that minimize the visual impact of the Tower on adjacent abutters, residential neighbors, and other areas of Town; and,*

3.) *The Planning Board may impose such conditions as it deems reasonable on the Special Permit so as to achieve the fore-stated standards and objective. Such conditions may include, but need not be limited to painting and lighting standards, reduction in height, increase setbacks, and/or increased screening.*

Finding: Applicant is not proposing a Tower so the above Requirements do not apply to the proposed facility.

g. Preservation of Vegetation: Existing on-site vegetation shall be preserved to the maximum extent practicable.

Finding: Applicant is proposing to comply with this portion of the By Law as closely as possible and agrees to comply with all reasonable conditions and restrictions imposed in this regard.

h. Lighting: Except as required by the FAA, Wireless Communications Towers shall not be artificially lighted.

Finding: Applicant is proposing to comply with this portion of the By Law as closely as possible and agrees to comply with all reasonable conditions and restrictions imposed in this regard.

8. Design and Siting Requirements- Wireless Communications Antennas

Wireless Communications Antennas attached to Towers and/or Alternate Tower Structures must conform to the following requirements:

a. General: The requirements detailed in subsection 7(S) (6) Design and Siting Requirements - General.

b. Height: The Wireless Communications Antennas may only extend to the minimum height above the existing Tower or Alternate Tower Structure as necessary to accommodate the technical requirements. No Antennas shall extend more than ten (10) feet above the height of the existing Tower or Alternate Tower Structure.

Finding: Applicant submits that this proposed facility complies with this section of the By Law as indicated on the Plans submitted herewith. See Plans at Tab 5.

c. Extension: Wireless Communications Antennas shall not extend more than technically necessary for the operation of the Wireless Communications Services, but in no case shall they extend more than thirteen (13) feet beyond the side or outer perimeter of the Tower or Alternate Tower Structure.

Finding: The Antennas will not extend beyond the smokestack more than thirteen (13) feet. See Plans at Tab 5.

d. Integral Part of Structure: All building-mounted components of the facilities shall be designed and located, to the extent practicable, so as to appear as an integral part of the architecture of the existing Alternate Tower Structure. In no case shall such facilities be approved where their inclusion is detrimental to the architectural quality of the Alternate Tower Structure on which they are to be affixed or structures on abutting properties.

Finding: Applicant contends that this proposal meets this section of the By Law as closely as possible as the antennae will be affixed directly to the existing smokestack and will be painted to match the existing color scheme. See Plans at Tab 5.

9. Bond Required

Prior to obtaining a building permit to erect a Wireless Communications Tower or to install a Wireless Communications Tower or to install Antennas on a Tower or on an Alternate Tower Structure, the Wireless Communications Facility owner shall post and submit a bond or other financial surety acceptable to the Town. However, the Planning Board may waive such a bond or other financial surety when the project involves an Alternate Tower Structure if the Board deems such a waiver to be appropriate and consistent with the purposes of the Wireless Communications Regulations.

a. Amount of Surety: The amount of the bond or surety shall be sufficient to reasonably restore the site to the condition which existed prior to installation of the Wireless Communications Tower and/or Wireless Communications Antennas (including related equipment and fixtures). Said amount shall be certified by a qualified engineer, architect, or other professional registered to practice in the Commonwealth of Massachusetts. The bond or surety shall provide for increases in coverage as the cost of removal of the Facility escalates.

b. Use of Bond or Financial Surety: The posted bond or financial surety shall be used by the Town for its intended purpose upon the occurrence of either of the following events:

Finding: Applicant agrees to comply with all reasonable requirements in regard to bonding and surety.

1.) *Cessation of Use: If the Wireless Communications Facility, according to the Building Commissioner, has ceased to be used for its intended wireless communications purpose for a period of not less than twelve (12) calendar months; or,*

2.) *Condemnation: The Building Commissioner condemns the Wireless Communications Facility as an unsafe structure.*

c. Deficient Amount - Recourse: In the event the amount of the posted bond or surety does not cover the cost of demolition and/or removal of the Wireless Communications Facility, the Town may pursue all recourses available to it for recovery of the additional sum including but not limited to:

1.) *Lien. Placing a lien upon the property.*

2.) *Assessment. Assessing all Carriers who had antennas on the facility at such time as the Wireless Communications Tower or Alternate Tower Structure ceased to be used for Wireless Communications purposes.*

3.) *New Permits. Withholding permits for new Wireless Communications Facilities by the responsible party (ies).*

d. Duration of Bond or Surety: The Bond or Surety is to be for a duration of no less than the time period for which the Wireless Communications Facility is to be operating. Accordingly, the Planning Board as a condition of the Special Permit or Site Plan Review, whichever is applicable, shall specify the minimum duration for the Bond or Surety. The Planning Board may provide the Bond to be for a specified period of time with provisions for automatic renewals or substitution of new bonds or sureties.

10. Cessation of Use/Abandonment, Maintenance, and Removal

a. Cessation of Use/Abandonment: If the Wireless Communications Facility ceases to be used for a period of twelve (12) consecutive months, the facility will be deemed to have been abandoned. At any point after that time, the Wireless Communications Facility may only be used upon prior approval of a new application in accordance with the provisions of the Zoning By-Law in effect at that time.

b. Maintenance: The owner of, and Carriers utilizing, the Wireless Communications Facility are solely responsible for maintaining the Wireless Communications Facility in good order. Failure to do so may, at the Town's discretion, result in termination of the right to use the facility and/or removal of the facility.

c. Removal: Owners of Wireless Communications Facilities shall be solely responsible and liable for dismantling and removing facilities within a time frame set forth by the Building Commissioner. If the demolition/removal is to be undertaken by the Town, the Building Commissioner shall send to the Wireless Communications Facility owner and the associated Carriers (if any) written notice by registered mail at least 45 calendar days prior to commencing demolition/removal.

Finding: Applicant agrees to comply with all reasonable requirements in this regard.

11. Submission Requirements

Finding: Pursuant to Bylaw Section 5 Use Regulations, and the afore-cited Note to the Table of Uses, Site Plan Review is required for the proposed use.

a. Site Plan Review Required: For Wireless Communications Facilities for which only Site Plan Review is required, applicants must submit the following:

- 1.) Plans and materials required by Section 12 of the Zoning By-Law; and,*
- 2.) Evidence of their authority to install and maintain the Wireless Communications Facilities on the existing Tower or Alternate Tower Structure; and,*
- 3.) Plans and documents demonstrating conformity with the provisions of these Wireless Communications Regulations; and,*
- 4.) Estimated cost to remove the facilities as certified by a qualified professional engineer registered to work in the Commonwealth of Massachusetts.*

b. Special Permit Required: For Wireless Communications Facilities for which a Special Permit is required, applicants are required to submit the following:

- 1.) Section 12 Requirements. Plans and materials required by Section 12 of the Zoning By-Law; and,*
- 2.) Section 9 Requirements. Plans and materials required by Section 9 of the Zoning By-Law; and,*

Finding: See proposed findings set forth below and at Section 12.

- 3.) Authority. Evidence of their authority to develop, erect, and maintain the proposed Wireless Communications Facilities on the subject property; and,*

Finding: See Tab 2.

4.) Conformity. Plans and documentation demonstrating conformity with the provisions of the Wireless Communications Regulations; and,

Finding: See Proposed Findings as set forth above and accompanying documentation and plans presented herewith.

5.) Need. Demonstration of the need for the Wireless Communications Facility as proposed including, but not limited to:

a.) That all existing Wireless Communications Towers and Alternate Tower Structures have been evaluated and why they are not sufficient to meet the needs to be served by the proposed Wireless Communications Tower including demonstration that the applicant cannot co-locate on an existing Wireless Communications Tower or Alternate Tower Facility and fulfill their coverage needs; and,

b.) That the height proposed for the Wireless Communications Facility is the minimum height necessary to provide the service coverage and co-location opportunities necessary.

Finding: Applicant has determined that the proposed Facility Site is the most advantageous location from both a technical and aesthetic perspective. See RF Affidavit and Propagation Plots at Tab 4 and Plans at Tab 5.

6.) Removal Cost. Estimated cost to remove the Wireless Communications Facilities and restore the site to its pre-development condition as certified by a professional engineer registered to work in the Commonwealth of Massachusetts; and,

Finding: See Tab 5.

7.) Schedules. Proposed Inspection and Maintenance Schedule; and,

Finding: See General Notes 1. and 5. on Page Z-1 of Plans at Tab 5.

8.) Color Photograph or Rendition: A color photograph or rendition of the proposed Wireless Communications Facilities, including, but not limited to, the proposed Wireless Communications Tower with the proposed associated Wireless Communications Antennas; and,

9.) *View Lines: Four view lines in a one- to three mile radius of the proposed Wireless Communications Facility Site beginning at True North and continuing at ninety-degree intervals; and,*

10.) *Balloon Test: On a weekend day prior to (but within ten calendar days of the date of the advertised public hearing) and on the day of the public hearing to be held by the Planning Board, the applicant shall cause a balloon to be flown at the maximum proposed height of the proposed Wireless Communications Facility. The balloon shall be flown for at least three consecutive hours between 8:00 a.m. and 4:00 p.m. The balloon shall be at least three feet in diameter and either orange or red in color.*

Finding: Applicant agrees to comply with this portion of the By Law in cooperation with the appropriate town officials and authorities. Applicant submits however that due to the nature of the proposed facility a “Balloon Test” is not necessary and further request that the Applicant be allowed to substitute the detailed plans submitted herewith at Tab 5 for the requisite color photograph or rendering.

12. Registration and New Plans

By July 1 of each year, all owners of Wireless Communications Towers and Alternate Tower Structures in use or permitted by the Planning Board must register with the Planning Board.

a. Owners of Wireless Communications Towers are to:

1.) *Identify each site within the limits of, and within one mile of, South Hadley they are presently using by tax map and parcel number and the specific longitude and latitude coordinates of the Wireless Communications Tower Facility; and,*

2.) *Identify existing co-location capacity of the Wireless Communications Tower Facilities identified in item 12a; and,*

3.) *Provide inspection reports and evidence of maintenance activities for the wireless communications facilities identified in item 12a for the past year.*

b. Owners of Alternate Tower Structures are to:

1.) *Identify each site within the limits of, and within one mile of, the Town of South Hadley (which they are presently using for Wireless Communications Services) by tax map and parcel number; and,*

2.) *Provide a list of the Carriers presently utilizing the Alternate Tower Structure.*

Finding: Applicant submits that the above requirements regulating reporting by owners of Alternate Tower Structures do not strictly apply to the submitted proposal but does agree to comply with the applicable portions of this section.

13. Jurisdiction of Planning Board

The conditions of a Special Permit issued by the Planning Board pursuant to the provisions of this subpart 7(S) may not be subject to a subsequent modification by means of a dimensional variance from the Zoning Board of Appeals without concurrent or prior amendment to such Special Permit by the Planning Board.

Finding: Applicant agrees to all reasonable regulation imposed in this regard.

Section 12 SITE PLAN REVIEW

(A) Purpose

The purpose of site plan review is to ensure that new development is designed in a manner which reasonably protects visual and environmental qualities and property values of the Town, to assure adequate drainage of surface water, and safe vehicular access, and is consistent with the Zoning By-Laws and Building Regulations.

(B) Projects Requiring Site Plan Review

1. *the construction or exterior expansion of commercial structures;*
2. *the construction or exterior expansion of industrial structures;*
3. *any other use specified in Section 5(D), Schedule of Use Regulations, which indicates Site Plan Review is required unless the use is locating in an existing structure and no additions to the structure is to be undertaken and the Town Planner determines no additional parking will be required to conform to the Parking Requirements outlined in Section 8 of the Zoning By-Law. No special permit or building permit shall be applied for or issued for any of the above uses unless a site plan has been endorsed by the Planning Board, after consultation with other boards, including but not limited to the following: Building Commissioner, Board of Health, Electric Light Department, Water Department, Conservation Commission, DPW Superintendent, Fire Department, Tree Warden and Police Department.*

Waiver Permitted. The Planning Board may waive any and all requirements of Site Plan Review/Approval for the following:

- 1.) New construction under 1,000 square feet; and,*
- 2.) Exterior expansions provided that the expansion is less than 25% of the existing floor area of the structure. Where the structure is part of a complex consisting of multiple buildings functioning as a single facility, the sum of the total square footage of all structures comprising the complex may be used to determine the threshold for such a waiver.*

Finding Required. Prior to granting any waiver of Site Plan Review/Approval, the Planning Board must make a finding that the Board determines the proposed development will have a de-minimis impact relative to the criteria set forth in Part (E) of this section.

Finding: Applicant has submitted the accompanying Plan at Tab 5 pursuant to this Bylaw requirement.

(C) Application

Each application for Site Plan Review shall be submitted to the Planning Board on the appropriate form, accompanied by ten (10) copies of the site plan. A copy of the application form shall be concurrently filed with the Town Clerk. The Planning Board shall obtain with each submission a fee, in accordance with the fee schedule, to cover any expenses connected with the public hearing and review of plans. A Special Municipal Account may be required as determined by the Planning Board. A more detailed outline of application and site plan review procedures, fees, and required site plan contents are as specified in the Planning Board Rules and Regulations and may be modified from time to time as required.

Finding: Applicant has submitted the appropriate application in multiple and has paid the requisite fee.

(D) Procedures for Site Plan Review

- 1. Planning Board shall send one copy of the plan to relevant town boards, commissions, and departments (agencies) within 5 days of receipt.*
- 2. Relevant town agencies shall review the application plan and must submit their written recommendations and comments or approval to the Planning Board within 35 Days of the receipt of the application by the Planning Board. Failure to respond within 35 days shall be deemed to be lack of opposition.*

3. Following the filing of an application the Planning Board shall hold a public hearing on the application within 65 days of receipt of application and issue a final decision within 90 days following the public hearing. Notice of the time and place of the hearing, and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of South Hadley once in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing. A copy of said notice must be sent by certified mail to all abutters.

4. If the proposed development requires a special permit, then the requirements of Massachusetts General Laws, Chapter 40A, Section 9 take precedence over this section, and any required public hearing for site plan review shall be held jointly with the special permit public hearing.

5. For the purpose of securing the performance of all proposed work including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

Finding: Applicant agrees to all reasonable regulation imposed in regard to the above requirements.

(E) Site Plan Review Criteria

The Planning Board shall review the site plan and supporting data taking into consideration the reasonable fulfillment of the following objectives:

1. Integrates the development into the existing terrain and surrounding landscape.

Finding: The proposed facility will be located, designed and colored to mitigate visual impact as much as possible. See Plans at Tab 5.

2. Protects abutting properties and community amenities.

Finding: Applicant will attempt to mitigate the impact of the proposed facility on the abutting properties as much as possible. See Plans at Tab 5.

3. Provides for building sites, which to the extent feasible,

(a) minimize use of wetlands, steep slopes, floodplains, hilltops;

(b) minimize obstruction of scenic views from publicly accessible locations;

(c) preserve unique natural or historical features;

(d) minimize tree, vegetation and soil removal and grade changes;

(e) maximize open space retention; and

(f) screen objectionable features from neighboring properties and roadways.

Finding: The impact of the proposed facility on the referenced resources and features will be minimal. See Plans at Tab 5. There will be no impact on wetlands or other geographic features, and no loss of open space.

4. Provides for the convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjoining public ways and properties.

Finding: Subsequent to construction the proposed facility will be essentially “passive” in nature and not increase or have an impact upon the existing pedestrian and vehicular traffic. See Plans at Tab 5. The facility meets all state, local, federal, FCC and FAA construction and operation requirements regarding safety and elimination of hazards to abutters and to the public at large. There will be no need to add a curb cut or driveway opening into the existing roadway. Any noise produced by the associated computer equipment is minimal, undetectable at any place other than immediately at the point of origin and does not exceed that of the nearby electronic equipment.

5. Utilizes architectural styles compatible with the character and scale of buildings in the neighborhood.

Finding: The Applicant will attempt to comply with this provision as closely as possible. See Plans at Tab 5.

6. Provides for adequate water supply and waste disposal systems. For structures to be served by on-site waste disposal systems, the applicant shall submit a system design prepared by a Commonwealth of Massachusetts licensed sanitary engineer and approved by the Board of Health.

7. Provides for adequate measures to prevent pollution of surface or ground water, to minimize erosion and sedimentation, and to prevent changes in ground water levels, increased run-off and potential for flooding.

8. Mitigates adverse impacts on the town's services and infrastructure.

Finding: The impact of the proposed facility on the referenced resources and features will be minimal. See Plans at Tab 5. The facility will not draw on the water supply and will generate no waste, obviating the need for a waste disposal system. There will be no extremely limited impact on groundwater levels or run-off.

9. Requires that electric, telephone, cable tv, and other utilities be underground where physically and environmentally feasible.

Finding: Applicant has incorporated the existing utilities and services and will not cause substantial change to the existing conditions. See Plans at Tab 5.

10. If the proposal requires a special permit, it must conform to the special permit requirements as listed in Section 9 of this By-Law. Before approval of a site plan, the Planning Board may request the applicant to make modifications in, the proposed design of the project to ensure that the above objectives are fulfilled.

Finding: Applicant has presented proposed findings in accordance with Section 9. See Findings set forth above.

F) Planning Board Decision

The Planning Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of Massachusetts General Laws, Chapter 40A.

The Planning Board's decision shall consist of either:

- 1. A written approval of the proposed project.*
- 2. A written denial of the application stating reason for such denial; or*
- 3. A written approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary to satisfy this By-Law. The Planning Board's decision shall be mailed to the applicant and filed with the Town Clerk. A copy shall also be sent to the Building Commissioner.*

G) Enforcement

- 1. Violations of the approved site plan or any conditions of approval shall be subject to the provisions of Section 11 (C) of the Zoning By-Law.*

2. Site plan approval issued under this section shall lapse at the end of one (1) year after approval if work has not commenced, except where an extension of time for good cause has been granted by the Planning Board.

(H) Appeal Process

If an aggrieved person wishes to appeal the decision of the Planning Board, the procedures as outlined in Massachusetts General Laws, Chapter 40A, Section 8 must be followed, except where a site plan approval is issued in conjunction with a special permit, wherein Massachusetts General Laws, Chapter 40A, Section 17 must be followed.

Finding: Applicant agrees to all reasonable regulation imposed in regard to the above requirements and to work cooperatively with the town of South Hadley in the furtherance of this application.