

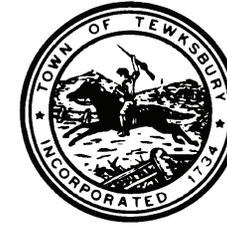
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RESIDENTIAL CUSTOMER
RURAL ROUTE BOX HOLDER

PLEASE TAKE THIS WARRANT
WITH YOU TO TOWN MEETING

SPECIAL TOWN MEETING

**2007
WARRANT**



**TOWN OF TEWKSBURY
COMMONWEALTH OF MASSACHUSETTS**

Finance Committee Public Hearing

March 8, 2007 7:00 p.m.
Town Hall Auditorium

Special Town Meeting

March 13, 2007 7:00 p.m.
Tewksbury Memorial High School

TOWN MEETING GUIDELINES

- ** Voters and Visitors shall have their identification ribbons conspicuously displayed.
- ** Visitors shall sit in the designated VISITORS SECTION unless they are assigned to a designated area.
- ** Standing at the doors or in the aisles inside the gymnasium or auditorium is prohibited.
- ** No one shall enter the gymnasium or auditorium while voting is in progress.
- ** Everyone shall be at a seat so as to allow the vote to be counted without hindrance.
- ** Collecting signatures upon petitions or nomination papers is prohibited in the building where the Town Meeting is being held.
- ** Food and beverages are not allowed in the gymnasium or auditorium as per order of the School Committee.
- ** Smoking is not allowed in the School Building or on School Property.
- ** To prevent active interference with the conduct of the Town Meeting, any person taping, video taping or using any other means of sonic reproduction is assigned to the designated Press Table or the side aisle perimeters of the gymnasium or auditorium.

This meeting is being held at a site which is physically accessible to persons with disabilities. Other reasonable accommodation to disability related needs will be provided upon request. Please call (978) 640-4488 or TTY (978) 640-4489 at least 72 hours in advance of the event to request accommodation.

Motions, Motions to Amend, and Votes Required:

An Article in the Warrant states a question for the Town Meeting voters to answer. Separate issues are described in the Town Meeting Articles so that all voters are warned of potential action to be taken. The scope or intent of each Article set the bounds of action that may be taken.

Customarily the Finance Committee Chairman makes the first or Main Motion or if the Article relates to the Zoning By-Law the Planning Board Chairman will make the first or Main Motion. The sponsor or Petitioner of an article also may make the first or Main Motion.

The Motion is then open for discussion by the assembly.

Motions to Amend the Main Motion, which is within the scope or intent of the Article, may be made on the Town Meeting floor.

Ordinarily motions require a majority vote of the voters present and voting for an Article to pass. Certain motions require a 2/3, 4/5 or a 9/10 vote to pass because of the provisions of the Town By-Laws or Massachusetts General Laws. The Moderator will announce the voting requirement before each vote requiring more than a majority vote.

Motions For Indefinite Postponement of an Article:

A motion to Indefinitely Postpone an Article is equivalent to a motion to take no action on the Article. If the Motion to Indefinitely Postpone the Article is Adopted; the Article is defeated.

Reconsideration of an Article:

No vote on a prior Article shall be Reconsidered except to correct a procedural defect, scrivener's error or an oversight. Reconsideration for the above exceptions requires a majority vote.

Move the Question:

The voters have heard all the discussion that they wish to hear on the pending Article and prefer to vote at once.

The Moderator shall allow those presently standing, at the time of the motion, the opportunity to be heard and then he or she will take the vote to Move the Question.

Rules to Govern Speakers:

No voter shall speak twice on any one subject, if any other voter who has not spoken already and is standing to be recognized by the moderator. No voter shall speak for more than five minutes at one time, except by vote of permission of the assembly.

GLOSSARY OF TERMS

Town Meeting:

A duly called meeting in which all Town of Tewksbury registered voters are eligible to participate to act upon fiscal issues, zoning changes, by-law amendments, and other matters affecting the Town. Each voter has one vote in the decision making process.

The Annual Town Meeting is held each May to decide issues for the fiscal year starting July first. Special Town Meeting(s) may be called at other times, to address issues that cannot wait for the next Annual Town Meeting, a Special Town Meeting is called by the Board of Selectmen; or by a petition of 200 registered voters.

Warrant:

Public notice of business to be considered at the Town Meeting. It is publicly posted in each Precinct throughout the Town. The Warrant is mailed to each dwelling in the Town in which a registered voter resides and describes all of the Articles which will be acted upon at the Town Meeting.

Article(s):

Individual subjects are described in the articles so that all voters are warned of potential action to be taken. The scope of each article sets the bounds of action that may be taken. Articles are submitted by the Town Departments or by voter petitions. Articles submitted by voter petitions require ten (10) or more registered voters signatures for insertion in the Annual Town Meeting Warrant, and one hundred (100) or more registered voters signatures for insertion in a Special Town Meeting Warrant.

General Information:

The Moderator presides at the Town Meeting and is responsible for the ruling on procedural matters, overseeing an orderly debate, announcing the result of all votes and preserving decorum.

The proceedings are governed by Town Meeting Time, a handbook of parliamentary law prepared under the auspices of the Massachusetts Moderators Association. This guide may be simpler and easier to understand than the more widely known and consulted Robert's Rules of Order. Copies are available for reference at the Town Clerk's Office, Board of Selectmen's Office and the Tewksbury Public Library.

Registered voters are entitled to attend, address and vote at the Meeting. Visitors may attend the meeting and shall sit in the "reserved for visitors" section.

A voter desiring to speak should approach the microphone, await recognition by the Moderator, and identify him or herself when recognized by name and address.

Middlesex, ss.

To any of the Constables of the Town of Tewksbury, in said County:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Tewksbury, qualified to vote in Town affairs, to meet and assemble at Tewksbury Memorial High School, 320 Pleasant Street, in said Tewksbury on Tuesday, March 13, 2007, at 7:00 p.m. to act on the following article:

ARTICLE 1

To see if the Town will vote to appropriate and transfer from free cash the sum of \$4,500.00 to Fire Salaries to implement the labor agreement recently signed with The International Association of Firefighters, AFL-CIO Tewksbury Firefighters Local 1647.

TOWN MANAGER

Executive Summary: The purpose of this article is to fund and labor agreement with the International Association of Firefighters, Local 1647. The funds appropriated are to cover wage increases for FY07. The funding source is FY06 certified free cash.

ARTICLE 2

To see if the Town will vote to appropriate and transfer from free cash the sum of \$2,000.00 to Police Salaries to implement the labor agreement recently signed with Tewksbury Massachusetts Police Patrolman's Association NEPBA, Local 3.

TOWN MANAGER

Executive Summary: The purpose of this article is to fund the labor agreement with the Tewksbury Massachusetts Police Patrolman's Association NEPBA, Local 3. The funds appropriated are to cover wage increases for FY07. The funding source is FY06 certified free cash.

ARTICLE 3

NOTES

To see if the Town will vote to appropriate and transfer from free cash the sum of \$2,000.00 to Police Salaries to implement the labor agreement recently signed with the Tewksbury Police Department Superior Officers.

TOWN MANAGER

Executive Summary: The purpose of this article is to fund the labor agreement with the Tewksbury Police Department Superior Officers. The funds appropriated are to cover wage increases for FY07. The funding source is FY06 certified free cash.

ARTICLE 4

To see if the Town will vote to authorize the Board of Selectmen to submit a petition to the General Court of the Commonwealth of Massachusetts to enact a special law to authorize the Town to convey by lease for a term of fifty years the land conveyed to the Town for cemetery purposes under Chapter 251 of the Special Acts of 2002.

BOARD OF SELECTMEN

Executive Summary: The purpose of this article is to authorize the Board of Selectmen to submit a petition to the General Court of the Commonwealth of Massachusetts to enact a special law to authorize the Town of Tewksbury to convey by lease for a term of fifty years the land conveyed to the Town for cemetery purposes, identified as Assessor’s Map 62 Lot 19 approximately 10.0 acres, under Chapter 251 of the Special Acts of 2002.

ARTICLE 5

To see if the Town will vote to amend the Tewksbury Zoning Bylaw by;

a) adding a new Section 6400 to read as follows:

6400. WIRELESS COMMUNICATIONS FACILITIES SPECIAL PERMIT

6401. Purpose. The purpose of this Section 6400 is to provide for a special permitting process for the siting of wireless communications facilities while minimizing adverse visual impacts on adjacent properties, residential neighborhoods, and areas of high scenic and artistic value; to limit the

And you are directed to serve the within Warrant by posting up true and attested copies thereof upon the Town Hall and in each precinct, seven (7) days at least before the time of holding said meeting; also, leaving at least 500 copies at the Town Hall or at such convenient places as the Selectmen shall think proper in said Town of Tewksbury.

HEREOF, FAIL NOT, AND MAKE DUE RETURNS OF THIS WARRANT, with your doings thereon, to the Town Clerk at the time and place of meeting aforesaid.

Given under our hands this sixteenth day of January in the year of our Lord, two thousand and seven.

BOARD OF SELECTMEN

Charles E. Coldwell, Chairman

John R. Mackey, Vice Chairman

John F. Ryan, Clerk

Joseph P. Gill, Jr.

Jerome E. Selissen

overall number and height of such facilities to what is essential to serve the public convenience and necessity; and to promote shared use of facilities to reduce the need for new facilities.

6402. Applicability. Towers and structures for Wireless Communication Facilities including a base station for a Distributed Antenna System (DAS) may be allowed only in:

- a. Municipal Districts, and additional Municipal land only as shown on the Wireless Communications Facilities Overlay District Map,
- b. Land within 200 feet of Federal Highways Routes 93 and 495 in Heavy Industrial Districts, and the Office Research District, as shown on the Wireless Communications Facilities Overlay District Map,
- c. Electric power transmission line easements and/or, lands where there are electric transmission lines on existing structures or poles with a height of at least 50 feet in Heavy Industrial Districts and the Office Research District, only as shown on the Wireless Communications Facilities Overlay District Map,
- d. Churches, temples, synagogues and like buildings as determined by the Planning Board in their sole and absolute discretion.
- e. Golf Courses, only as shown on the Wireless Communications Facilities Overlay District Map.

Further, utility-pole-mounted DAS antennas are permissible on public and private ways according to the criteria in this bylaw.

Wireless Communication Facilities, including a DAS installation, shall be subject to the grant of a WIRELESS COMMUNICATIONS FACILITIES SPECIAL PERMIT by the Planning Board. Nothing in this Section shall be construed to regulate or prohibit amateur radio Towers used solely by a federally licensed amateur radio operator or wireless communications structures and devices used expressly and exclusively for television reception. Nothing in this Section 6400 shall be construed to regulate or prohibit a wireless communication facility on the basis of environmental effects of radio frequency radiation (RFR) emissions.

6403. A Distributed Antenna System (DAS) is the preferred type of wireless communication facility. No new Towers shall be permitted unless the applicant fully evaluates the implementation of a DAS for the area in which it has an interest in improving service and demonstrates to the reasonable satisfaction of the Planning Board that installation of the Tower is a more beneficial and compatible system for the Town than a Tower DAS.

6404. Severability. If any section or subsection of this Section 6400 is ruled invalid, such ruling will not affect the validity of the remainder of the Section.

6405. Special Permit Granting Authority. The special permit granting authority under this Section 6400 shall be the Planning Board.

6410. Priority Location of Wireless Communication Facilities

6411. Wireless communications facilities. Towers may be allowed provided that they comply with the priority requirements for the location of Towers as set forth below.

- a. The first priority shall be given to Distributed Antenna Systems
- b. The second priority shall be given to the Municipal District and additional Municipal land only as shown on the Wireless Communications Facilities Overlay District Map,.
- c. The third priority shall be given to the concealment of antennas within Churches, and like buildings, such as in spires, steeples, belfries and the like.
- d. The fourth priority shall be given to remaining areas of allowed use as stated in Section 6402.

Wireless Communications Facilities that do not have wireless communications antennas on site (with the exception of small antennas for GPS and geo-location services not exceeding 18 inches in height), such as DAS base station facilities, may be installed on any parcel within the permissible areas designated in section 6402, without regard for the priority hierarchy in this section. Such facilities remain subject to all other pertinent criteria under this bylaw and the other Zoning Bylaws.

6412. Applicant must provide documentation to the satisfaction of the Planning Board that alternatives in the higher priority locations are not feasible, if a lower priority location is proposed.

6420. Definitions. The following definitions are exclusive to this Section 6400.

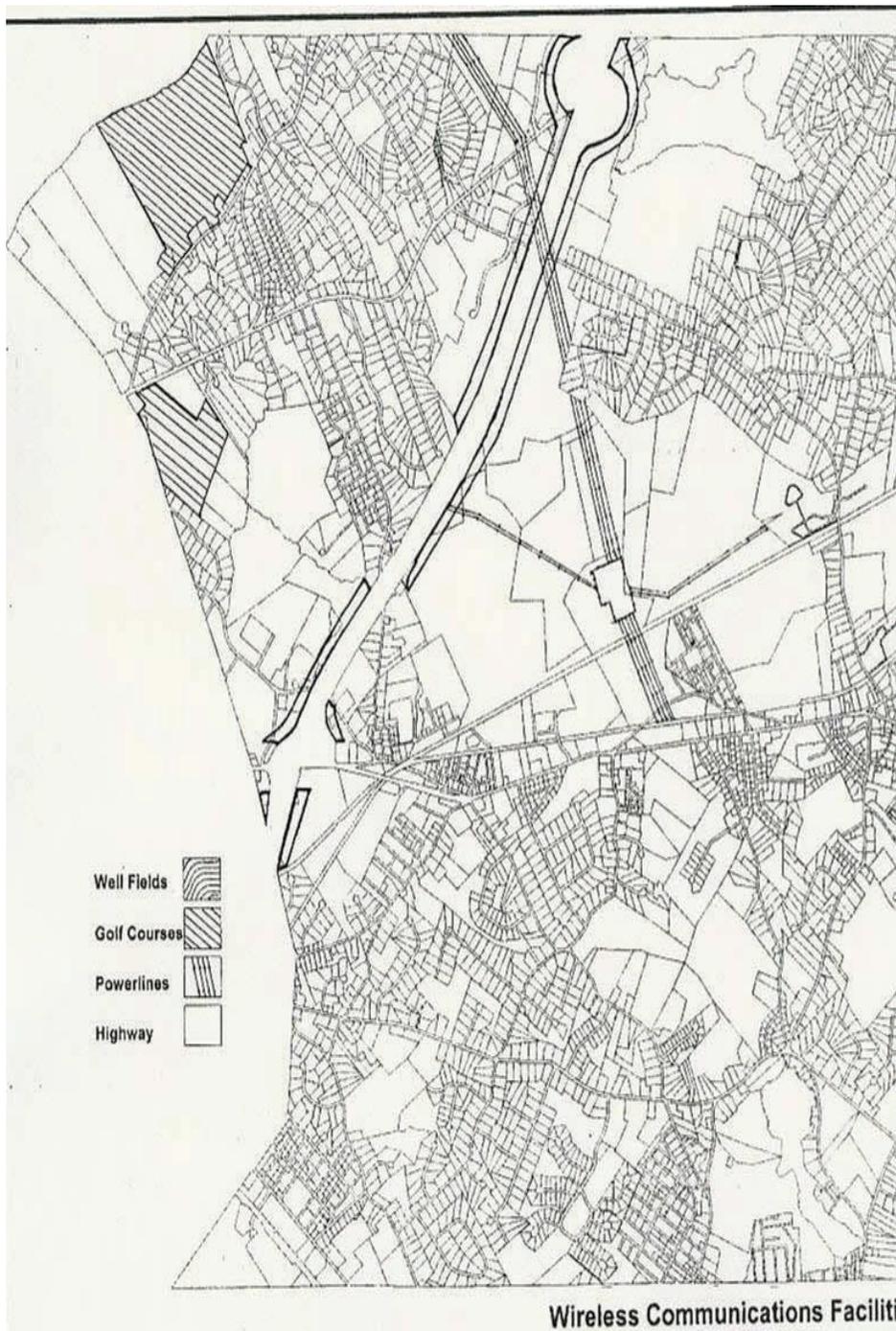
Antenna means the device that transmits and/or receives radio frequency emissions in free space. Antenna can be modified by the addition of a clarifying term, such as GPS Antenna, or Personal Wireless Service Antenna, that delineates the specific type or purpose of the Antenna.

Antenna Support Structure means any structure whose purpose is primarily to support an Antenna, which includes such structures as Towers, masts, posts, poles, and the like.

Base Station means the equipment for one or more personal wireless ser-



ies Overlay Map



VICES installed at a site to transmit and receive wireless communications. Typically, a Base Station is connected to a set of wireless antennas at the site of the Base Station, except in the case of the Base Station for a Distributed Antenna System, which is housed remotely from the antennas.

Base Station Facility means the place within which one or more wireless services install Base Stations that support the operation of a Distributed Antenna System without relying on wireless antennas at the site of the Base Station Facility.

Distance means measured on a horizontal plane.

Distributed Antenna System (“DAS”) means a geographically diversified Wireless Communications Facility with which the Base Station equipment is located remotely from the facility’s antennas. Typically, the Base Station is contained in a Base Station Facility at one location, and the antennas are placed on utility poles at other locations; the antennas are driven by Radio Access Nodes (“RAN”), which are electronics cabinets mounted on the utility poles, and are interconnected to the Base Station Facility by cables, usually fiber optic.

Dwelling means a building or portion thereof, designed exclusively for residential occupancy, including single family, two family or multiple family dwelling (apartment), but not including hotels and motels.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means distance measured from the mean finished ground level at the base to the highest point on the structure.

Nonresidential Structure means a building, water Tower or other similar structure, but not a Dwelling.

Personal Wireless Services means the same as it is given in 47 U.S.C. 332(c)(7)(B)(i), “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”

Stealth Treatment means any construction that is compatible with its surroundings that conceals or camouflages Antennas, wireless communications buildings, devices, facilities and/or Towers, such as, but not limited to: monopoles, trees, light poles, flag poles.

Tower means an Antenna Support Structure and that measures twelve feet (12’) or more in height and is used by a Personal Wireless Service Provider to provide Personal Wireless Services.

Wireless Communications Building means a building or structure built or occupied for the primary purpose of providing Personal Wireless Services.

Wireless Communications Device means any antenna, dish, appurtenance, wiring or equipment used by a Personal Wireless Service provider to provide Personal Wireless Services. This term does not include Towers or other structures intended to house or support Wireless Communications Devices. It also does not include Personal Wireless Service components placed within a building to serve the occupants of the building, as well as personal, portable, and mobile Personal Wireless Service devices.

Wireless Communications Facility means the installation consisting of any of the following at a site that is intended to provide Personal Wireless Services: any and all materials, equipment, buildings, Towers, Wireless Communications Devices and structures.

6430. Siting and Height Requirements.

Wireless Communications Devices are allowed only on or in nonresidential structures.

- a. Wherever feasible, Wireless Communications Devices shall be located on existing Towers, on existing nonresidential structures and be subjected to Stealth Treatment, as determined by the Planning Board.
- b. Wireless communications facilities may be located on the same lot as other structures or uses lawfully in existence, subject to the provisions of Sections 6400.
- c. The minimum distance from the base of a Tower, including Towers with Stealth Treatment to any property line, road, right-of-way, power line easement or railroad right-of-way shall be at least equal to the height of the Tower. The Planning Board may waive this requirement up to the district set-back upon findings that the waiver will result in a design more compatible with the surrounding area.
- d. A Tower shall be setback a minimum distance of 400 feet from abutting Residential and Multifamily Districts, except that this distance may be reduced for Towers if the Planning Board finds that reduction in the setback distance would produce a better result (visually and aesthetically) to the neighborhood than alternative proposals, but in no event shall the setback minimum distance be less than 100 feet, from Residential and Multifamily Districts. This Requirement shall supersede 6430.c, above, where applicable.
- e. It is presumed that the maximum allowed height of a Tower is one hundred (100) feet unless the applicant demonstrates that a greater height is required to allow for provision of the wireless communications services. It is solely at the discretion of the Planning Board upon findings that collocation on said Tower is both practical and preferable, but in no event shall the height be greater than one-hundred thirty five feet (135').

quency engineer, attorney or other qualified professional, if such services are deemed necessary by the Planning Board, in accordance with M.G. L. c. 44, §53G.

b) Deleting Section 3514;

3514. Commercial Mobile Radio Service/Mobile Telecommunications providers may be permitted as accessory uses, on land zoned Municipal, and may also be permitted to be contained within religious churches, temples, synagogues and like buildings of worship upon the issuance of a use and site plan special permit by the Planning Board after a noticed public hearing that the use is reasonably necessary for the convenience or welfare of the public and will not result in a substantial detriment to the neighborhood.

and

c) Amending Appendix A- Table of Use Regulations Section C. 27 to read “Wireless Communication Facilities” and across all districts to read “See Section 6400 for all districts”.

PLANNING BOARD

Executive Summary: The purpose of this article is to provide a comprehensive regulation for Wireless Communication Facilities as defined under the Federal 1996 Telecommunication Act. Map located at Office of the Town Clerk and Community Development. Detailed copies of the plan are on file at the Offices of the Town Clerk and Community Development.

permit, if such antennas are visible or if it changes the character of the stealth treatment, also requires amendment to the special permit.

6464. Any special permit granted under this section shall automatically lapse within one (1) year of the date of the grant, not including the time required to pursue or await the termination of an appeal, if construction is not complete and substantial use has not commenced, except if the applicant applies to the Planning Board and it determines good cause to grant an extension.

6470. Conditions of Use.

6471. The applicant shall be required to maintain and keep in good repair all facilities, devices and Towers.

6472. Based on the nature of the facility, the Planning Board may require the applicant to post a bond for construction and a separate bond for the removal of wireless communication Towers in the event of non-operation (see Section 6473b herein below). The amount of the surety shall be established by a consultant for the Town, such as an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts as provided for in Section 6480.

6473. Removal and Repair.

- a. An applicant must execute a covenant with the Planning Board agreeing to remove within ninety (90) days of notice from the Planning Board, the wireless communications facility not in operation for a period of six (6) months, unless the reason for non-operation is the result of major damage, in which case the Planning Board shall determine the appropriate timeframe for removal.
- b. If any bonded facility is not removed within the appropriate timeframe determined by the Planning Board, the Town will remove the facility at the owner's expense. The bond required in accordance with Section 6472 shall cover the cost of the removal and may be used for this purpose. In the event the amount of surety is insufficient to cover the costs of removal, the Town may place a lien upon the property to cover the difference in cost.
- c. In the event of major damage, repair must begin within six (6) months of damage. Major damage shall mean damage to the facility caused by no fault of the owner or operator.

6480. Fees for Outside Consultants. In addition to the special permit filing fees, the applicant shall pay reasonable fees and costs of retaining outside professional consultant services, including but not limited to professional review of the applicant's proposal by a professional or radio fre-

- f. No new Towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing non-residential structure or Tower or DAS can accommodate the applicant's proposed wireless communications device.

6440. Design Requirements.

- a. Wherever feasible and appropriate, wireless communications facilities, including their constituent Devices and Towers shall be subjected to Stealth Treatment appropriate for the context of the facility.
- b. All building mounted wireless communications devices shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that are compatible with those of the building or landscape.
- c. The wireless communications facility may be fenced to control access, as determined by the Planning Board. Fencing shall be compatible with and of similar materials and character of surrounding buildings, structures and neighborhood.
- d. There shall be no signs or advertisements at any wireless communications facility, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.
- e. If a building is needed for the mechanical equipment associated with the use of the device, said building shall be of similar style and materials as the other buildings on the site, or nearby site, as determined by the Planning Board.

6450. Application Process. Applications for a special permit for siting wireless communications facilities shall be filed in accordance with Section 9300 Special Permits, and shall further include the following:

- a. Location of the Wireless Communications Facility, and its components, such as Base Station Equipment, Antennas, Tower or other Antenna Support Structure, cables, and the like.
- b. Plans for anchoring, attaching and supporting the structure and devices, including specifications of hardware and all other building material.
- c. Plans for accessory buildings.
- d. Layout and details or surfacing for access road and parking.
- e. Amenities such as lighting, fencing and landscaping.
- f. Three (3) view lines from most visible locations within in a one mile radius of the site, plus additional view lines from any historic, scenic

or other prominent areas of Town determined by the Planning Board. View lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five feet (5') above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing view lines with the facility in place. Photographic simulations shall be rendered from locations as recommended by the Planning Board. The Visibility Analysis of the facility shall include a Visibility Map prepared by a qualified professional that indicates geographically where the facility, and particularly the Antenna Support Structure and/or Antennas will be visible year-round and seasonally.

- g. A map showing the existing coverage of the Personal Wireless Service in the area surrounding the proposed facility; and a map showing existing plus proposed coverage from the proposed facility. The maps should be accompanied by a scale, a legend, and a detailed explanation of what the maps show as well as why the particular coverage thresholds were selected.
- h. A locus map at a suitable scale to clearly indicate the proposed Tower site, and shall include street, building structures, and landscape features within a 300 foot radius of the Tower site.
- i. A narrative report written by the carrier and qualified engineer which shall:
 - 1. Describe the justification and need of proposed site demonstrating a significant gap in coverage.
 - 2. Describe the capacity of the structure, including the number and type of additional facilities and antennas it can accommodate.
 - 3. Describe special design features to minimize the visual impact of the proposed wireless communications facility.
 - 4. State whether a stealth treatment appropriate to the context of the facility is proposed and if not, the reason why such treatment is not feasible or appropriate.
 - 5. Information including: manufacturer's product literature or photos of existing Towers that illustrate the characteristics of equipment, cabling or antennas that would be exposed to public view.
- j. List of all other approvals and all other necessary permits needed for construction and operation.
- k. As determined by the Planning Board, the applicant shall arrange to fly a balloon of at least 4 feet in diameter at the site of a proposed wireless Antenna Support structure at the maximum height of the proposed installation.

6451. To site a wireless communications facility at an existing Tower or nonresidential structure, the applicant shall be required to comply with Sections 6450 herein above, except that the Planning Board may waive some of said requirements if it finds that they are unnecessary or not applicable.

6452. The above information shall be submitted in accordance to Section 9300, and additionally to the Board of Selectmen and the Town Manager.

6460. Approval.

6461. The Planning Board may grant a special permit for a wireless communications facility only upon making the findings required by M.G.L. c. 40A, s. 9 and the following:

- a. That the applicant has demonstrated to the satisfaction of the Planning Board that the requirements of this Section 6400 have been met.
- b. That the size and height of the structure are the minimum necessary.
- c. That adverse impact on adjacent properties, residential neighborhoods, historic and artistic structures or scenic views is minimized to the extent possible.
- d. That there will be no nuisance or serious hazard associated with the use.
- e. That there are no feasible and preferable alternatives to the location.

6462. When suitable and appropriate as determined by the Planning Board, collocation is encouraged. As a condition of the special permit for a wireless communication facility, the Planning Board may require that the structure and/or facility be designed and built so that it is able to accommodate future wireless communications devices operated by another carrier with little or no modification, provided that such collocation does not materially interfere with the transmission or reception of communications signals to or from the existing facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communications device. At the request of Town officials, the Planning Board may require the applicant to provide reasonable access to the facility for municipal communications.

6463. Any expansion or extension of wireless communications facilities or construction of new or replacement Towers or facilities shall require an amendment to the special permit. An increase in the number of antennas or the size of the antennas beyond that applied for and approved in the special