

June 10, 2025

Town of Dennis
Planning Board
Town Hall
685 Route 134
South Dennis, MA 02660

RE: Proposed Wireless Communication Facility Zoning Application

Applicants: New Cingular Wireless PCS, LLC (“AT&T” or the “Applicant”)

Site: 416 Main Street, West Dennis, MA (Assessor’s ID 65-23-0) (the “Site”)

Owner: JLL Realty Trust

Facility: Construct a 25’ above ground level (hereafter “AGL”) monopole-style light pole (the “Pole”) and install one (1) cylindrical antenna at the 29’ AGL antenna centerline mark, extending to a height of 30’ AGL, together with related wires, conduit, fiber and other associated equipment located on the Pole within a proposed base module, all as depicted on the plans (the “Plans”) (the “Facility”).

Relief Requested: Special Permit for a Wireless Communications Facility, pursuant to Section 2.2.2(7)(h) and Section 7 of the Town of Dennis Zoning Bylaw (hereinafter, the “Bylaw”), Massachusetts General Laws chapter 40A, and the Telecommunications Act of 1996 (the “TCA”) for the construction, operation, and maintenance of a Wireless Communication Facility, and such other relief as deemed necessary, all rights reserved.

Dear Honorable Members of the Dennis Planning Board:

On behalf of AT&T, we are pleased to submit this memorandum to the Town of Dennis Planning Board (the “Board”) in support of AT&T’s special permit application (the “Application”), all rights reserved, for the installation, operation and maintenance of the proposed Facility at the Site, all in accordance with the TCA. **On February 7, 2022, the Board previously granted a special permit to AT&T for the Facility (see attached copy of Decision), but the special permit has since lapsed because AT&T did not have the necessary funding to construct the Facility and never commenced construction. AT&T now has the requisite funding and is eager to construct the Facility and bring improved cell service to this area of Dennis as soon as possible.** The following provides background information regarding the Facility and addresses each applicable section of the Bylaw.

BACKGROUND

The Site is located within the General Commercial II zoning district. AT&T proposes to construct a 25' AGL monopole-style light Pole and install one (1) cylindrical antenna at the 29' AGL antenna centerline mark, extending to an overall height of 30' AGL, together with related wires, conduit, fiber and other associated equipment located on the Pole within a proposed base module, all as depicted on the Plans submitted with this Application. Section 2.2.2(7)(h) and Section 7.2.1 of the Bylaw indicate that a special permit is required for a Wireless Communications Facility. Section 2.2.2(7)(h) of the Bylaw also authorizes the Board to grant the requested relief. The Facility is shown in detail on the Plans submitted herewith and the Application follows the applicable sections of the By-law and sets forth the Applicant's response to each of the relevant provisions.

A reliable communications system depends on a grid of antennas arranged in a geographical pattern, similar to a honeycomb. Each "cell" is created by an antenna and serves as a link between the customer and the telephone system, while that caller is within proximity to the cell site. Each cell can handle a finite number of connections. As the number of customers increase, more cell sites must be added to handle the increased volume. If the additional offload of cell sites is not accomplished, calls and connections are dropped or blocked or the speed of the user is slow.

Applicants submit that the Site is well suited for a wireless communications facility and that the Site satisfies the intent and purposes of the Bylaw and the TCA, to the extent possible. As will be demonstrated through the Application materials and the written and oral evidence at the public hearing(s) in connection with the Application, the proposed Facility meets with all applicable requirements of the Bylaw to the extent possible. The Facility will not adversely impact adjacent properties and neighborhoods as the Facility will be camouflaged to appear and function as a light pole. The location of the Facility will protect, to the extent practicable, the aesthetic qualities of the Town of Dennis by utilizing a parcel of land that is especially suited to the proposed use and will minimize impacts to the interests protected by the Bylaw. The installation of the Facility will not be a threat to public health, safety and welfare. In fact, Applicants submit that the Facility will aid in public safety by providing and improving wireless communications services to the residents, businesses, commuters, and emergency personnel utilizing wireless communications in the immediate vicinity and along the nearby roads. These services further the public interest of health and safety as they will provide wireless 911 services to the community and communication services for the public. According to the FCC, more than 240 million 911 calls, or nearly two-thirds of all calls received by the 911 centers nationwide, are made annually from mobile handheld devices in the United States. See FCC Press Release, entitled FCC takes Action to Improve Wireless 9-1-1 Services, dated September 23, 2010. Today, wireless infrastructure is required to assist with public safety needs.

The Facility will function as a wireless communications services facility within a local, regional, and national communications system. This system operates under license from the FCC and AT&T is authorized to provide adequate service to Dennis. This Site was selected after a careful screening process and was found useful to AT&T. The Facility will not generate any objectionable noise, odor, fumes, glare, smoke, or dust or require additional lighting or signage. The Facility will have no negative impact on property values in the area. No significant increase

in traffic or hindrance to pedestrian movements will result from the Facility. On average, only one or two round trip visits per month are required to service and maintain the Facility. This is an unmanned facility and will have minimal negative effect on the adjoining lots. This Facility does not require police or fire protection because the installation has its own monitoring equipment that can detect malfunction and/or tampering.

COMPLIANCE WITH SECTION 7 OF THE BYLAW

7.1 GOALS AND PURPOSE

7.1.1 The Purpose of this section is to regulate communication facilities so that these services may be provided with minimal harm to the public health safety and general welfare. Specifically, the Communication Facilities section of the Zoning By-law has been created to:

- 1. Comply with all existing state and federal laws and to facilitate the availability of wireless service to the residents of Dennis while minimizing adverse visual, economic and environmental effects and impact of communication antennas, communication buildings, and communication towers on the scenic vistas of the community, adjacent property values and environmentally sensitive areas through careful design, siting, and vegetative screening.**
- 2. Manage the placement of all communication antennas, communication buildings, and communication towers so as to minimize the impact of these facilities on the community, and;**
- 3. Avoid potential damage to adjacent properties from the failure of communication antennas and communication towers by careful engineering and siting.**

AT&T's proposed Facility will not be contrary to the goals, purpose or intent of the Bylaw because it will include a cylindrical antenna on top of a proposed 25' AGL monopole camouflaged to appear and function as a light Pole, for a total height of 30' AGL. Therefore, potential visual impacts will be minimized and the aesthetic qualities of the Town of Dennis will be preserved. The Facility will not be contrary to the public interest or welfare. The Facility will benefit those living in, working in, and traveling through the area by providing enhanced wireless communication services. The Facility will not adversely impact adjacent properties and neighborhoods as it will not produce smoke, odors, noise in excess of applicable Town standards, waste, glare or significant amounts of traffic. The installation of the Facility will not be a threat to public health, safety and welfare. In fact, AT&T submits that the proposed Facility will aid in public safety by providing and improving wireless communications services to the residents, businesses, commuters, and emergency personnel utilizing wireless communications in the immediate vicinity and along the nearby roads. This system operates under license from the FCC, and AT&T is mandated and

authorized to provide adequate service to the general public. AT&T's Facility will comply with all applicable FCC and state regulations and guidelines as well as the Massachusetts Building Code. The Facility will have no negative impact on property values in the area. This will be an unmanned facility and will have no negative effect on the adjoining lots. This Facility does not require police or fire protection because the installation has its own monitoring equipment that can detect malfunction and/or tampering. The Facility will provide the necessary capacity for AT&T's network.

- 7.1.2 Applicants for a Special Permit to construct Communication Facilities are required to explore alternative types of systems other than systems on newly constructed towers. It is preferred that wireless communications antennas (including panels) be mounted or attached to existing structures, (including water towers and church steeples). Antennas therefore may be attached to existing structures upon issuance of a Special Permit provided the facility conforms to the applicable design requirements set forth below.**

AT&T's proposed Facility will be an alternative mounting structure which will provide the height necessary for the proper functioning of the Facility as well as be camouflaged as a light pole to minimize potential visual impacts upon the neighborhood.

7.2 DISTRICT REGULATIONS

- 7.2.1 Use Regulations: A communication facility shall require a special permit from the Planning Board in accordance with M.G.L. Chapter 40A, Section 9 and a building permit in all cases and are permitted as indicated in Section 2.2.2 Use Schedule.**

AT&T submits this Application in compliance with this provision of the Bylaw.

- 7.2.2 The provisions of Section 7 shall apply in addition to other sections of the By-Law applicable in the zoning district. To the extent that there is any inconsistency between the provisions of Section 7 of this By-Law and any other sections of the By-Law, the provisions of Section 7 shall apply to Communications Facilities.**

AT&T acknowledges this provision of the Bylaw.

- 7.2.3 General Regulations: Applicants seeking approval for Communication Facilities shall comply with the following:**

- 7.2.3.1 Antennas may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, church steeple, clock tower, or water tower provided that the facility complies with the following:**

7.2.3.1.1 Façade Mount Antennas must

7.2.3.1.1.1 Not extend above the top of the building or parapet;

- 7.2.3.1.1.2** Not detract, based upon a written finding from the Massachusetts Historical Commission, from the historic significance of a structure on, or eligible for listing on the National Register of Historical Places;
- 7.2.3.1.1.3** Any alteration made to a structure in a historical district to accommodate a communication facility shall be fully reversible; and
- 7.2.3.1.1.4** Be painted so as to blend in with the existing structure as much as possible.

AT&T's proposed Facility will not be mounted on any existing structure and this provision does not apply to this Application.

7.2.3.1.2 **Roof mounted antennas must**

- 7.2.3.1.2.1** Not extend more than twenty (20) feet above the highest point of the building;
- 7.2.3.1.2.2** Not detract, based upon a written finding from the Massachusetts Historical Commission, from the historic significance of a structure on, or eligible for listing on the National Register of Historical Places;
- 7.2.3.1.2.3** Any alteration made to a structure in a historical district to accommodate a communication facility shall be fully reversible; and
- 7.2.3.1.2.4** Be painted so as to blend in with the existing structure as much as possible.
- 7.2.3.1.2.5** Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

AT&T's proposed Facility will not be roof-mounted and this provision of the Bylaw does not apply to this Application.

- 7.2.3.1.3** **Communication Facilities placed on existing buildings, and any equipment associated with the facility, shall be camouflaged or screened and designed to be harmonious and architecturally compatible with the building. Buildings or structures shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the property or installed as part of the proposed facility or a combination of both. The Planning Board**

shall approve the types of trees and plant materials and depth of the needed buffer based on site conditions. Equipment shelters for communication facilities shall be designed to be consistent with the traditional Cape Cod architecture and the surrounding neighborhood.

AT&T's proposed Facility will not be located on an existing building however, AT&T's equipment will be camouflaged on the Pole within a proposed base module which will hide the equipment from view. The Pole will be located near an existing flagpole within the existing parking area of the shopping plaza. The Site is already bordered by trees and shrubs which will provide a partial year-round buffer on three sides of the Facility.

7.2.3.1.4 The applicant shall submit documentation of the legal right to install and use the proposed facility Mount at the time of application for a Special Permit.

Please refer to the Letter of Authorization and the Copy of Redacted Lease submitted herewith.

7.2.3.1.5 There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four hour basis.

AT&T's Facility will comply with this provision of the Bylaw.

7.2.3.1.6 Additional parking shall not be required for roof-mounted antennas, façade-mounted antennas or for the addition of antennas or panels to a tower.

There will be no additional parking spaces installed on Site as a result of AT&T's Facility.

7.2.3.1.7 All network connections from the communications site to off-site facilities shall be via underground land lines except to the extent that underground lines are not feasible in the reasonable determination of the Planning Board.

AT&T's Facility will comply with this provision of the Bylaw.

7.2.3.1.8 Clearing of natural vegetation should be limited to that which is necessary for the construction, operation and maintenance of the facility.

AT&T's Facility will comply with this provision of the Bylaw.

7.2.3.1.9 Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary. There shall be total cutoff of all light at the property lines of the parcel to be developed, and

footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

AT&T's proposed Facility does not require any navigational lighting. AT&T proposes to camouflage the Facility as a light Pole, which can be designed to have the lamp direct light downward so as to cut off light at the property lines. However, AT&T will comply with any reasonable condition pertaining to light which the Board may place upon a favorable decision.

7.2.3.2 New communication towers may be constructed provided that the facility complies with the following:

7.2.3.2.1 Towers shall be set back from the lot lines a distance equal to the height of the tower except that a tower shall be no closer to the nearest lot line of a residentially zoned lot or a lot in residential use (other than the lot on which the tower is proposed) than a distance determined by the following formula:

(height of tower in feet)²/(maximum allowed height in feet for the district)

(For example a 150 foot tower in the industrial district would have to be 642.9 feet away from the nearest residential property boundary. $150^2/35'=642.857'$) This setback projects a visual image of structure height at the residential property boundary that is similar in nature to the structural height for buildings.

AT&T's proposed Facility will comply with this provision of the Bylaw. The total height of the Facility will be only 30' and it will comply with the setback requirements to lot lines and residential lot lines.

7.2.3.2.2 One tower shall be allowed per lot.

There are currently no wireless communications towers on the Site.

7.2.3.2.3 No tower shall be more than 150 feet above the natural grade.

AT&T's Facility will be only 30' AGL.

7.2.3.2.4 Towers shall be camouflaged based upon the proposed location and shall be painted a neutral, non-reflective color designed to blend with the surrounding environment. Monopoles are the preferred type of structure.

The Pole will be a neutral, non-reflective color and will appear and function as a light pole.

- 7.2.3.2.5 Any equipment associated with the facility, shall be camouflaged or screened. Buildings or structures shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted communication facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the property or installed as part of the proposed facility or a combination of both. The Planning Board shall approve the types of trees and plant materials and depth of the needed buffer based on site conditions. Equipment shelters for communication facilities shall be designed to be consistent with the traditional Cape Cod architecture and the surrounding neighborhood.**

AT&T's equipment will be camouflaged on the Pole within a proposed base module which will hide the equipment from view. The Pole will be located near an existing flagpole within the existing parking area of the shopping plaza. The Site is already bordered by trees and shrubs which will provide a partial year-round buffer on three sides of the Facility.

- 7.2.3.2.6 The applicant shall submit documentation of the legal right to construct and use the proposed site at the time of application for a Special Permit.**

Please refer to the Letter of Authorization and the Copy of Redacted Lease submitted herewith.

- 7.2.3.2.7 There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four hour basis.**

AT&T's Facility will comply with this provision of the Bylaw.

- 7.2.3.2.8 There shall be a minimum of one parking space for each new facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.**

AT&T does not propose to add any additional parking to the Site as part of its proposed Facility. Once constructed, trips to and from the Facility will average only one or two per month by maintenance personnel who will park their maintenance vehicle in an existing parking space and not on the street.

- 7.2.3.2.9 All network connections from the communications site to off-site facilities shall be via underground land lines except to the extent of underground lines are not feasible in the reasonable determination of the Planning Board.**

AT&T's proposed Facility will comply with this provision of the Bylaw.

7.2.3.2.10 Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the tower.

AT&T's proposed Facility will comply with this provision of the Bylaw.

7.2.3.2.11 Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

AT&T's proposed Facility does not require any navigational lighting. AT&T proposes to camouflage the Facility as a light Pole, which can be designed to have the lamp direct light downward so as to cut off light at the property lines. However, AT&T will comply with any reasonable condition pertaining to light which the Board may place upon a favorable decision.

7.2.3.2.12 Scenic Landscapes and Vistas: Any communication facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the Town of Dennis Local Comprehensive Plan shall not exceed the height of vegetation at the proposed location.

There are three Scenic Landscapes within close proximity to the Site: the Merrill Veterans Memorial & Horsefoot Cove Landing, located about 3,000' to the west of the Site; the Lower County Road Marsh View, located approximately 200' to the southeast of the Site at its closest point; and Main Street View of Grand Cove approximately 400' to the north of the Site. AT&T respectfully asserts that the proposed 30' Pole will not be visible from the Merrill Veterans Memorial & Horsefoot Landing or the Grand Cove. According to Sheet C-3 of the Plans submitted herewith, the average tree height within 300' of the Pole is 30' to 40' and AT&T's proposed Pole will comply with this provision of the Bylaw.

7.2.4 Environmental Standards

7.2.4.1 If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

There will be no hazardous materials used or stored on Site as part of AT&T's proposed Facility.

7.2.4.2 Storm water run-off shall be contained on-site.

AT&T's Facility will add an insignificant amount of impervious surface to the Site and there will be no significant impact upon the amount of storm water runoff on Site.

7.2.4.3 Ground-mounted equipment for communication facilities shall not generate noise in excess of 50 db at the property line, as documented by a qualified acoustical engineer.

Please refer to the Noise Study submitted herewith. AT&T's proposed Facility will comply with this provision of the Bylaw.

7.2.4.4 Roof-mounted or side-mounted antennae shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna, as documented by a qualified acoustical engineer.

AT&T's proposed antenna will not be roof or side-mounted and this provision of the Bylaw does not apply to this Application.

7.2.4.5 Monopole towers shall be so equipped that there are no exposed openings. Said openings pose a potential nuisance in that when exposed to the wind they will tend to send off a high pitched whistle.

AT&T's Facility will comply with this provision of the Bylaw.

7.2.5 Safety Standards

7.2.5.1 Radio frequency Radiation (RFR) Standards

All equipment proposed for a communication facility shall be authorized per the FCC *Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation* (FCC Guidelines), latest publication.

As evidenced by the MPE Study submitted herewith, AT&T's proposed Facility will comply with this provision of the Bylaw.

7.2.5.2 All ground mounted communication facilities shall be surrounded by a security barrier as approved by the Planning Board.

Given the camouflaged nature of AT&T's proposed Facility, AT&T does not propose any barrier around it. The equipment will be located on the Pole within a base module which will be locked.

7.3 APPLICATION PROCEDURES

7.3.1 Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) for communication facilities shall be the Planning Board.

AT&T submits this Application in compliance with this provision of the Bylaw.

7.3.2 Application Filing Requirements

The following shall be included with an application for a Special Permit for all communication facilities:

7.3.2.1. General Filing Requirements

7.3.2.1.1 Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.

Applicant: New Cingular Wireless PCS, LLC (“AT&T”)
550 Cochituate Road
Framingham, MA 01701

Attorney: Michael R. Dolan, Esq.
Brown Rudnick LLP
One Financial Center
Boston MA 02111
617-856-8548

Agent: Centerline Communications
Attention: Vincent Paquette
750 West Center Street, Suite 301
West Bridgewater, MA 02379
508-821-6509

Engineer: TEP Opco, LLC
45 Beechwood Drive
North Andover, MA 01845
978-557-5553

7.3.2.1.2 Co-applicants may include the landowner of the subject property, licensed carriers and tenants for communication facility.

AT&T acknowledges this provision of the Bylaw.

7.3.2.1.3 A provider of personal wireless services shall either be an applicant or a co-applicant.

AT&T is licensed by the Federal Communications Commission to provide wireless communications services. Please refer to the copy of FCC Licenses submitted herewith.

- 7.3.2.1.4 Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo-reproductions of signatures will not be accepted.**

AT&T acknowledges this provision of the Bylaw.

7.3.2.2 Locus Filing Requirements

- 7.3.2.2.1 A locus plan at a scale of 1"=200' which shall show all property lines, the exact location of the proposed structure(s), street landscape features.**

Please refer to Sheets C-1, C-2 and C-3 of the Plans submitted herewith.

- 7.3.2.2.2 Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.**

Please refer to the Plans submitted herewith.

- 7.3.2.2.3 Assessor's map and parcel number of subject property.**

Please refer to Sheet C-3 of the Plans.

- 7.3.2.2.4 Zoning district designation for the subject property (Submit copy of Town zoning map with parcel identified)**

Please refer to Sheet C-3 of the Plans.

- 7.3.2.2.5 A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.**

Please refer to Sheet C-3 of the Plans submitted herewith. AT&T respectfully asserts that it has provided Plans and materials of sufficient detail for the Board to render an informed decision. To the extent that the Plans do not strictly conform to the requirements of this provision of the Bylaw, AT&T requests any waivers.

- 7.3.2.2.6 A town-wide map showing the other existing communication facilities in the Town and outside the Town within three miles of its corporate**

Please refer to the Coverage Maps submitted herewith.

7.3.2.2.7 The proposed locations of all existing and future communication facilities in the Town and a Town-wide map for this carrier.

Please refer to the Coverage Maps submitted herewith.

7.3.3 Plan Filing Requirements

7.3.3.1 A one-inch-equals-40 feet site plan showing the following:

Please refer to the Plans submitted herewith. AT&T respectfully asserts that it has provided Plans of an appropriate scale by which to illustrate the proposed Facility and that a scale of 1" = 40' is not necessary given the scope of this project. AT&T respectfully requests a waiver from this provision of the Bylaw.

7.3.3.1.1 Property lines for the subject property.

Please refer to Sheets C-1 and C-3 of the Plans.

7.3.3.1.2 Tree cover on the subject property and abutting properties within 300 feet by dominant species and average heights, as measured by or available from a verifiable source.

Tree cover is illustrated within the aerial views on Sheets C-1, C-2 and C-3 of the Plans. As noted on Sheet C-3 of the Plans, the average tree height is 30' – 40' AGL. Given that the height of the proposed Pole is only 30' AGL, AT&T respectfully asserts that the species of the trees within 300' of the Site is not necessary and requests a partial waiver from this provision of the Bylaw.

7.3.3.1.3 Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and abutting properties within 300 feet.

Please refer to Sheets C-1, C-2 and C-3 of the Plans submitted herewith. AT&T respectfully asserts that it has submitted Plans of sufficient detail for the Board to render an informed decision and that the function of all existing buildings within 300' is not necessary given the scope of this project and AT&T requests a waiver from this provision of the Bylaw.

7.3.3.1.4 Proposed location of antenna, mount and equipment shelter(s).

Please refer to the Plans submitted herewith.

7.3.3.1.5 Proposed security barrier, indicating type and extent as well as point of controlled entry.

Given the camouflaged nature of AT&T's proposed Facility, AT&T does not propose any barrier around it. The equipment will be located on the Pole within a base module which will be locked and so AT&T respectfully requests a waiver from this provision of the Bylaw.

7.3.3.1.6 Location of all roads, public and private, on the subject property and on all abutting properties within 300 feet including driveways proposed to serve the communication facility.

Please refer to the plans submitted herewith.

7.3.3.1.7 Distances, at grade, from the proposed communication facility to each building on the site plan.

Please refer to Sheet C-3 of the Plans. AT&T respectfully asserts that it has provided Plans of sufficient detail for the Board to render an informed decision and, given the illustrated distances from the Pole to lot lines, as well as the scale provided, it is not necessary to illustrate the distance of the Pole to all buildings and AT&T respectfully requests a waiver from this provision of the Bylaw.

7.3.3.1.8 Contours at two feet intervals for the subject property and abutting properties within 300 feet.

AT&T respectfully asserts that its proposed Facility will not have a large footprint on the Site and will not involve extensive grading and requests a waiver from this provision of the Bylaw.

7.3.3.1.9 All proposed changes to the site, including grading, vegetation removal and temporary or permanent roads and driveways.

Please refer to the Plans submitted herewith.

7.3.3.1.10 Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, parking areas and any other construction or development attendant to the communication facility.

Please refer to the Plans submitted herewith.

7.3.3.2 Sighting elevations, or views at-grade from the north, south, east and west shall show the proposed communication facility. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

7.3.3.2.1 Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

7.3.3.2.2 Any and all structures on the subject property.

Please refer to Sheets C-1, C-2 and C-3 of the Plans and the Photosimulations submitted herewith. AT&T respectfully asserts that it has submitted Plans and materials of sufficient detail for the Board to render an informed decision. To the extent that the Plans do not strictly conform to this provision of the Bylaw, AT&T requests any waivers.

7.3.4 Design Filing Requirements

7.3.4.1 Materials of the proposed communication facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters and security barrier. Photographs of the above listed items shall be provided.

Please refer to the Plans submitted herewith. To the extent that the Plans do not strictly conform to this provision of the Bylaw, AT&T requests any waivers.

7.3.4.2 Colors of the proposed communication facility represented by a color board showing actual colors proposed.

AT&T respectfully asserts that it has submitted Plans and materials of sufficient detail for the Board to render an informed decision and that a color board is not necessary. Therefore, AT&T requests a waiver from this provision of the Bylaw.

7.3.4.3 Dimensions of the communication facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier.

Please refer to Sheet A-1 of the Plans submitted herewith.

7.3.4.4 Appearance shown by:

7.3.4.4.1 At least two photographs superimposing the communication facility within the subject property. The photographs shall be provided for the antennas, mounts, equipment shelters, and security barrier for the total heights, width and breadth.

Please refer to the Photosimulations submitted herewith.

7.3.4.4.2 Photographic simulations developed from a "Crane Test" illustrating the view of the proposed structure from various locations around town. These photographs shall be taken by traveling around the town to determine all locations from which the crane is visible. The date of the Crane Test shall be coordinated with the Dennis Town Planner; provide

a crane in place for a twenty-four hour time period excluding hours of darkness; be noticed in the local newspapers through the use of a legal notice, press release and other means of publicizing the date, location and time of the crane test at the applicants expense.

Please refer to the Plans and Photosimulations submitted with this Application. AT&T respectfully asserts that it has submitted Plans and materials of sufficient detail for the Board to render an informed decision and that a “Crane test” is not necessary given the limited height of the proposed Pole and requests a waiver from this provision of the Bylaw.

7.3.4.5 Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

Please refer to the Plans and Photosimulations submitted with this Application. AT&T respectfully asserts that it has submitted Plans and materials of sufficient detail for the Board to render an informed decision and that a landscape plan is not necessary given the location of the existing building on Site as well as the existing vegetation along the perimeter of the Site. To the extent that the Plans do not strictly comply with this provision of the Bylaw, AT&T requests any waivers.

7.3.4.6 If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

AT&T’s proposed Facility does not require any navigational lighting. AT&T proposes to camouflage the Facility as a light Pole, which can be designed to have the lamp direct light downward so as to cut off light at the property lines. However, AT&T will comply with any reasonable condition pertaining to light which the Board may place upon a favorable decision.

7.3.5 Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed communication facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

7.3.5.1 Existing, or ambient: the measurements of existing noise.

7.3.5.2 Existing plus proposed communication facilities: Maximum estimate of noise from the proposed communication facility plus the existing noise environment.

- 7.3.5.3 Existing plus proposed communication facilities, plus any emergency generators. This measurement provides a maximum noise estimate for extreme conditions, which although infrequent, could prove extremely problematic during certain conditions - prolonged summertime power outages. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Bylaw.**

Please refer to the Noise Study submitted with this Application. AT&T's Facility will comply with this provision of the Bylaw.

- 7.3.6 The Special Permit Granting Authority may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed communication facility.**

Please refer to the List of Requested Waivers submitted herewith.

7.4 CO-LOCATION

- 7.4.1 Licensed carriers shall share communication facilities and sites where feasible and appropriate. All applicants for a single site facility shall demonstrate that it is not feasible to co-locate on any existing structure or tower. The following information shall be provided:**

- 7.4.1.1 A survey of all existing structures that may be feasible sites for the purpose.**

Please refer to the RF Report and Coverage Plots submitted herewith. There are no existing structures of sufficient height in the immediate vicinity available to AT&T from which it could provide the needed coverage.

- 7.4.1.2 Contact with all the other licensed carriers providing wireless services to the Town of Dennis.**

AT&T has not contacted other wireless communications services providers regarding the potential co-location on AT&T's proposed Facility as the Pole will only be 30' AGL and designed to support the antenna and conceal the equipment of one wireless communications provider.

- 7.4.1.3 Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.**

Co-location on the Pole will not be feasible given its design to reduce the visibility of AT&T's antenna and conceal its equipment on the Pole.

- 7.4.2 In the event that co-location is found to be not feasible, a written statement of why it is not feasible shall be submitted to the Board. The Board may retain a technical expert**

in the field of RF Engineering to verify if co-location is, or is not, feasible given the design configuration submitted. The cost for such a technical expert will be at the expense of the applicant. The Board may deny the application if the applicant does not prove that co-location is not feasible.

Co-location on the Pole will not be feasible given its design to reduce the visibility of AT&T's antenna and conceal its equipment on the Pole.

7.4.3 If the applicant does intend to co-locate or to permit co-location, the Board shall request drawings and studies which show the appearance and operation of the facility at full build-out.

Please refer to the Plans and Photosimulations submitted herewith. Should the Board render a favorable decision, a pole and foundation design will be submitted to the Building Department as part of AT&T's application for a building permit.

7.4.4 If the SPGA approves co-location for a communication facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on the site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit.

AT&T acknowledges this provision of the Bylaw.

7.5 MODIFICATIONS

7.5.1 A modification of a communication facility may be considered, provided the provisions of the by-law are adhered to. A modification of a personal wireless facility that is a pre-existing non-conforming use or structure shall also be subject to the provisions of Section 2.4.1.2 of the Zoning By-law.

AT&T will comply with this provision of the Bylaw to the extent not preempted by federal law, all rights reserved.

7.5.1.1 The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the communication facility in one or more of the following ways:

7.5.1.1.1 Change in the number of facilities permitted on the site;

7.5.1.1.2 Change in technology used for the communication facility.

7.5.1.1.3 The applicant and/or co-applicant wants to change equipment or additional height not specified in the original design filing.

AT&T acknowledges this provision of the Bylaw to the extent not preempted by federal law, all rights reserved.

7.6 MONITORING AND MAINTENANCE

- 7.6.1 After the communication facility is operational, the applicant shall submit to the Special Permit Granting Authority, within 90 days of beginning operations, and at annual intervals from the date of issuance of the Special Permit, existing measurements of RFR from the communication facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio frequency Standards of this Bylaw.**

AT&T will comply with this provision of the Bylaw to the extent not preempted by federal law.

- 7.6.2 After the communication facility is operational, the applicant shall submit to the Special Permit Granting Authority, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the communication facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Bylaw.**

AT&T will comply with this provision of the Bylaw to the extent not preempted by federal law.

- 7.6.3 In the event of complaints about noise from the facility, the Special Permit Granting Authority may request additional noise analysis to determine the source of the noise, and possible remedies for the noise. These requirements may be made anytime after the construction of the tower and may include requests for noise analysis prior to the attachment of any communication panels to the facility.**

AT&T acknowledges this provision of the Bylaw.

- 7.6.4 The applicant and co-applicant shall maintain the communication facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.**

AT&T will comply with this provision of the Bylaw.

- 7.6.5 The applicant and co-applicant shall provide plumb and tension tests to enforcement authorities and to the Planning Board within 90 days of construction of the facility, and annually thereafter. The applicant and co-applicant shall also provide plumb and tension tests to enforcement authorities and to the Planning Board within 90 days of the addition or modification to any antennas on the facility.**

AT&T will provide the Board with an inspection report within 90 days of construction of the Pole. However, AT&T respectfully asserts that the stresses and wear on a pole of only 30' in height are not the same as those for a full-sized tower, for which this provision of the Bylaw seems to contemplate. Therefore, AT&T requests a waiver from the annual submission of plumb and tension tests requirement of this provision of the Bylaw for a greater interval between inspections.

7.7 ABANDONMENT OR DISCONTINUATION OF USE

7.7.1 At such time that a provider of personal wireless services plans to abandon or discontinue operation of a communication facility, such carrier will notify the Special Permit Granting Authority by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, their communication facility shall be considered abandoned upon such discontinuation of operations.

AT&T acknowledges this provision of the Bylaw.

7.7.2 The loss of FCC license, the removal of communication device, the disconnection of utilities, the failure to carry the construction through to completion in a timely fashion (i.e. more than six months, from the beginning of site alteration, to erect the tower and attach the first set of communication devices shall not be considered timely) shall all be evidence of the abandonment of the facility.

AT&T acknowledges this provision of the Bylaw.

7.7.3 Upon abandonment or discontinuation of use, the carrier shall physically remove the communication facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

7.7.3.1 Removal of towers, underground support structures, antennas, mount, equipment shelters and security barriers from the subject property. This shall include the complete removal of all underground components of the facility.

7.7.3.2 Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

7.7.3.3 Restoring the site of the communication facility to its natural condition, except that any landscaping and grading may remain at the discretion of the Planning Board in the after-condition.

AT&T acknowledges this provision of the Bylaw

7.7.4 If a carrier fails to remove a communication facility in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and

physically remove the facility. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the communication facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to meet all of the requirements noted in 7.7.3.1 - 7.7.3.3 above at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the requirements of 7.7.3.1 - 7.7.3.3 above. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages.

AT&T will provide the Board with an estimate and will post a bond in a mutually agreeable amount.

7.7.5 A permit from the Building Department is required to remove a Communication Facility.

AT&T acknowledges this provision of the Bylaw.

7.8 RECONSTRUCTION OR REPLACEMENT OF EXISTING TOWERS AND MONOPOLES

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of the By-law may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the Board (SPGA) finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

AT&T does not propose the reconstruction or replacement of an existing tower and this provision does not apply to this Application.

7.9 TERM OF SPECIAL PERMIT

7.9.1 The Special Permit is granted for a period of one (1) years and shall lapse if substantial use or construction has nor commenced by such a date, except for good cause shown (including but not limited to appeals of the grant of the special permit or litigation enjoining the construction under the permit), and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.

AT&T acknowledges this provision of the Bylaw.

7.9.2 A Special Permit issued for any communication facility over forty-five (45) feet in height shall be valid for fifteen (15) years. At the end of that time period, the communication facility shall be removed by the carrier or a new Special Permit shall be required."

AT&T acknowledges this provision of the Bylaw.

7.9.3 The Bond for the removal of the tower shall be reviewed biennially by the Planning Board starting on the second anniversary of the issuance of the Special Permit. The permit holder shall provide the Planning Board with three (3) written bids to meet the requirements of 7.7.3.1 – 7.7.3.3 above at prevailing wages. Based upon these estimates the Planning Board shall determine whether the bond should be increased and by how much. Failure to comply with this section shall be grounds to revoke the Special Permit.

AT&T acknowledges this provision of the Bylaw.

COMPLIANCE WITH SECTION 1.4.2.1 OF THE BYLAW

1.4.2.1 To hear and decide applications for special permits upon which the Board is empowered to act under this By-Law pursuant to M.G.L. ch. 40A. Special permits may be granted only upon a finding by the Board that the proposed use will not create nuisance, hazard or congestion, or other significant harm to the neighborhood, nor cause derogation from the general purpose and intent of the By-Law, the stated district intent or applicable use criteria. It shall be the responsibility of the applicant for any special permit to show, to the satisfaction of the Special Permit granting authority, that the following criteria are met:

a. The use is allowed by special permit in the district in which proposed, pursuant to §2.2.2 - Use Regulations Schedule;

Section 2.2.2(7)(h) and Section 7.2.1 of the Bylaw indicate that a special permit is required for a Wireless Communications Facility.

b. Suitability of the site for the proposed use in light of the applicable district intent, as provided in §2.1.5;

AT&T's proposed Facility will not be contrary to the goals, purpose or intent of the Bylaw because it will include a cylindrical antenna on top of a proposed 25' AGL monopole camouflaged to appear and function as a light Pole, for a total height of 30' AGL. Therefore, potential visual impacts will be minimized and the aesthetic qualities of the Town of Dennis will be preserved. The Facility will not be contrary to the public interest or welfare. The Facility will benefit those living

in, working in, and traveling through the area by providing enhanced wireless communication services. The Facility will not adversely impact adjacent properties and neighborhoods as it will not produce smoke, odors, noise in excess of applicable Town standards, waste, glare or significant amounts of traffic. The installation of the Facility will not be a threat to public health, safety and welfare. In fact, AT&T submits that the proposed Facility will aid in public safety by providing and improving wireless communications services to the residents, businesses, commuters, and emergency personnel utilizing wireless communications in the immediate vicinity and along the nearby roads. This system operates under license from the FCC, and AT&T is mandated and authorized to provide adequate service to the general public. AT&T's Facility will comply with all applicable FCC and state regulations and guidelines as well as the Massachusetts Building Code. The Facility will have no negative impact on property values in the area. This will be an unmanned facility and will have no negative effect on the adjoining lots. This Facility does not require police or fire protection because the installation has its own monitoring equipment that can detect malfunction and/or tampering. The Facility will provide the necessary capacity for AT&T's network.

c. Adequacy of management of traffic flow within the site as well as in relation to adjoining streets and properties, so as to minimize unsafe or harmful impacts of the use;

Once constructed, trips to AT&T's Facility will average one per month by maintenance personnel who will access the Site via existing ways and will not park on the street.

d. Compatibility of the proposed use with surrounding land uses, so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values;

The Facility will not be contrary to the public interest or welfare. The Facility will benefit those living in, working in, and traveling through the area by providing enhanced wireless communication services. The Facility will not adversely impact adjacent properties and neighborhoods as it will not produce smoke, odors, noise in excess of applicable Town standards, waste, glare or significant amounts of traffic. The installation of the Facility will not be a threat to public health, safety and welfare. In fact, AT&T submits that the proposed Facility will aid in public safety by providing and improving wireless communications services to the residents, businesses, commuters, and emergency personnel utilizing wireless communications in the immediate vicinity and along the nearby roads. The Facility will have no negative impact on property values in the area. This will be an unmanned facility and will have no negative effect on the adjoining lots. This Facility does not require police or fire protection because the installation has its own monitoring equipment that can detect malfunction

and/or tampering. The Facility will provide the necessary capacity for AT&T's network.

e. Adequacy of provision of utilities and other necessary or desirable public services;

AT&T's Facility will operate using standard electric and telephone services. The Facility will be unmanned and will not require water or sewage disposal services.

f. Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and neighborhoods; and

Please refer to the Noise Study submitted with this Application. AT&T's Facility will comply with applicable noise requirements. AT&T's proposed Facility does not require any navigational lighting. AT&T proposes to camouflage the Facility as a light Pole, which can be designed to have the lamp direct light downward so as to cut off light at the property lines. However, AT&T will comply with any reasonable condition pertaining to light which the Board may place upon a favorable decision. AT&T's Facility will be passive in nature and will not produce smoke, odors, waste or significant amounts of traffic. Maintenance visits to the Facility will average one per month and AT&T's personnel will access the Site via existing ways.

g. Adequacy of protection from degradation and alteration of the natural environment, including but not limited to slopes and other topographical features, vegetation, wetlands, groundwater and water bodies and wildlife habitat.

AT&T's Facility will be located on a site that has previously been developed and will not require extensive grading or removal of vegetation. AT&T's Facility will be passive in nature and will not produce smoke, odor, glare, or waste so the natural environment will be protected.

THE TELECOMMUNICATIONS ACT OF 1996 - THE TCA

The Federal TCA provides that: no laws or actions by any local government or planning or zoning board may prohibit, or have the effect of prohibiting, the placement, construction, or modification of communications towers, antennas, or other wireless facilities in any particular geographic area, see 47 U.S.C. §332(c)(7)(B)(i); local government or planning or zoning boards may not unreasonably discriminate among providers of functionally equivalent services, see 47 U.S.C. §332(c)(7)(B)(i); health concerns may not be considered so long as the emissions comply with the applicable standards of the FCC, see 47 U.S.C. §332(c)(7)(B)(iv); and, decisions must be rendered within a reasonable period of time, see 47 U.S.C. §332(c)(7)(B)(ii) and the FCC's Declaratory Ruling commonly referred to as the "Shot Clock".

CONCLUSION

As evidenced by the materials submitted with the Application and as will be further demonstrated by Applicants through evidence submitted to the Board at the public hearing(s) in connection herewith, in light of the TCA the Facility satisfies the intent and objectives of the Bylaw. The Facility will not have any adverse effect on property values in the area. The Facility will not be dangerous to the public health or safety as it is designed to comply with all applicable FCC requirements relating to radio frequency emissions and will comply with all applicable requirements of the Massachusetts building code. Indeed, the maximum radio frequency output per channel for this facility will be well below the maximum radio frequency exposure levels established by the FCC. The Facility is a passive use, and will not cause any nuisance such as unreasonable noise, vibration, smoke, odor or dust. Further, the Facility will improve communication coverage to residents, commercial establishments and travelers through the area and improves network connections in this area of the Town of Dennis. The Facility will improve emergency communications for police and fire personnel by reducing the number and frequency of dropped and incomplete calls due to weak signals and adding an additional layer of communication to traditional land lines. In fact, published reports have highlighted the fact that during and after adverse major weather events, including ice storms, wireless communications has been the only form of reliable communication. These services further the public interest of health and safety as it will provide wireless 911 services to the community and communication services for the public. According to the FCC, more than 240 million 911 calls, or nearly two-thirds of all calls received by the 911 centers nationwide, are made annually from mobile handheld devices in the United States. See FCC Press Release, entitled FCC takes Action to Improve Wireless 9-1-1 Services, dated September 23, 2010. Today, wireless infrastructure is required to assist with public safety needs. Lastly, the installation of the Facility at the Site will assist the Town of Dennis in complying with its obligations under the TCA.

Applicants respectfully request that the Board grant all necessary relief to install, operate and maintain the Facility. For the foregoing reasons, as well as to satisfy the mandate of the Federal Government to facilitate competition in the telecommunications industry as set forth in the TCA, Applicant respectfully requests that the Board grant the foregoing zoning relief. We respectfully submit that the standards for relief as set forth in the Bylaw as well as Massachusetts law relating to zoning must be interpreted and applied such that the decision issued by the Board is in conformance with the TCA. Accordingly, a denial of the foregoing petition would effectively prohibit AT&T from providing adequate service to the Town of Dennis and thus would be contrary to the purpose and intent of the TCA.

Sincerely,

BROWN RUDNICK LLP



Michael R. Dolan, Esq.

Application Attachments

1. Application Form
2. Letter of Authorization
3. Copy of Redacted Lease
4. FCC Licenses
5. RF Report
6. Coverage Plots
7. MPE Study
8. Plans
9. Photosimulations
10. Noise Study
11. Structural Analysis
12. Building Department Referral Form
13. Legal Ad Authorization Form
14. List of Requested Waivers
15. Previous Decision of Planning Board on February 7, 2022 Approving Facility