

## MEMORANDUM

**TO:** City Council of the City of Beacon

**FROM:** Keane & Beane, P.C.

**RE:** 110 Howland Avenue – Small Cell Wireless Facility  
Special Use Permit Application

**DATE:** December 7, 2018

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The City received an application for a special use permit from Verizon Wireless for the installation and operation of a small cell facility. The projects involves the installation of a new 52 foot tall wooden utility pole, two antennae and related equipment on privately-owned property located at 110 Howland Avenue in the R1-40 Zoning District, known and designated on the Tax Map of the City of Beacon as Parcel ID **#6054-14-347464** (the “Property”). Under the City’s Small Cell Wireless Facilities Local Law, adopted August 7, 2018, as Local Law 13-2018 (the “Small Cell Local Law”), special use permit approval by the City Council is required under Section 223-24.5 for the installation of a utility pole for a small cell facility over 50 feet tall.

This memorandum reviews the applicable special use permit requirements set forth in Section 223-24.5 for wireless telecommunication facilities and discusses how the addresses, or fails to address, the applicable provision. Section 223-24.5 of the City Zoning Code is attached.

### **Annual Fees**

As this is a new pole on private property, there is no annual fee payment to the City.

### **Location and Access**

Section 223-24.5.D sets forth locational priorities for wireless telecommunication facilities to create the least amount of adverse aesthetic impact and to preserve the scenic values of the City. The City Council must review and evaluate the technological, structural, safety and financial considerations associated with alternative locations. The Applicant has provided information as to how and why the Property was selected as the proposed location for the small cell facility .

Wherever possible, new wireless telecommunication facilities shall be in the form of antennas attached to an existing building or structure and/or shall be in the form of stealth structures. The Applicant states that the proposed new wooden utility pole to mount the required antennas is a stealth proposal. The antennas are flush mounted to the

pole limiting the size of the antenna array. Verizon notes the pole can also be utilized as a parking lot light structure.

### **Setbacks**

Wireless telecommunication facilities, except those structurally mounted to an existing building or structure, shall be located not less than two times the otherwise applicable setback requirements for principal structures for the district in which the property is located, or not less than the height of the facility plus the otherwise applicable setback requirements for principal structures for the zoning district in which the property is located, whichever shall be greater. City of Beacon Zoning Code § 223-24.5.E.

We are currently working with the Building Department to determine if any variances are required.

### **Height Limitations**

The height of the utility pole is 52 feet. The City Zoning Code states that the height of any monopole shall not exceed 150 feet in height measured from the highest point of such facility to the finished grade elevation of the ground immediately adjacent to the structure. The proposed utility pole meets the height limitations set forth in § 223-24.5.F(2).

Under Section 223-24.5.F(1), the height of any antennas, or other associated equipment, structurally mounted as part of the small cell facility shall not exceed by more than 15 feet the highest point of the structure on which such antennas or equipment is affixed. The proposed antennas will be mounted at the top of the proposed pole at a centerline of 2 feet below the top of the pole.

### **Visual Mitigation**

Under Section 223.24.5.G, the Applicant must prepare a visual impact assessment of the proposed wireless telecommunication facility based upon appropriate modeling, photographic simulation and other pertinent analytical techniques as required by the City Council. Landscaping and/or other screening and mitigation, including but not limited to architectural treatment, stealth design, use of neutral or compatible coloring and materials, or alternative construction and transmission technologies, shall be required to minimize the visual impact of such facility from public thoroughfares, important viewsheds, vantage points and surrounding properties to the extent practicable, as determined by the City Council.

The Applicant has not submitted a visual impact assessment. The Applicant explains that the site is located between the adjacent existing building and an unpopulated hillside and is out of the way with no skyline profile. The Applicant also states that the small cell facility will blend into the hillside by design achieving stealth technologies.

### **Materials**

Under Section 223-24.5.H, a wireless telecommunication facility shall be of galvanized finish or painted gray or another neutral or compatible color determined to be appropriate for the proposed location of such facility in the reasonable judgment of the City Council. According to Sheet No. Z-3, Pole Elevation, Details and Notes, dated November 11, 2018, all steel materials, bolts, anchors and miscellaneous hardware will be galvanized.

### **Lighting**

The wireless telecommunication facility will not be artificially lit.

### **Operational Characteristics**

The application includes a report from a Radio Frequency (RF) Design Engineer. The Design Engineer concluded that the proposed facility will comply with all applicable exposure limits and guidelines adopted by the FCC governing human exposure to radio frequency electromagnetic fields and thus fully complies with the standards of the IRPA, FCC, IEEE, ANSI and NCRP.

The City Council may require annual certification of conformance with the applicable emission standards. Additionally, copies of certification reports shall be submitted to the City Council whenever they are required to be submitted to the FCC. The City Council may hire a qualified professional of its choosing to review and confirm such initial and subsequent certification report(s), the cost of which shall be reimbursed by the applicant in accordance with the escrow account procedures established by the City for the reimbursement of professional review fees for subdivision, site plan and special use permit applications. Any violation of the emissions standards shall require immediate discontinuation and correction of the use responsible for the violation.

### **Noise**

Operation of the facility will not involve any objectionable noise, fumes vibration or other characteristics.

### **Utility Service**

Under Section 223-24.5.I, electrical and land-based telephone lines extended to serve the wireless telecommunication facility shall be installed underground. The Applicant's plans show the wires being underground.

### **Safety and Security Provisions**

The City Council should ask the Applicant to discuss issues regarding safety and security at the facility.

Section 223-24.5.M requires a wireless telecommunication facility to be designed that in the event of structural failure it will fall within the required setback area and, to the maximum extent possible, away from any adjacent developments.

Section 223-24.5.N requires the Applicant to implement a security program for the site of a wireless telecommunication facility. Such program may include physical features such as fencing, anti-climbing devices or elevating ladders on monopoles and towers, and/or monitoring either by staff or electronic devices to prevent unauthorized access and vandalism.

**Lease agreement.**

The Applicant has included a copy of the signed lease agreement between Verizon Wireless and the property owner, Ability Beyond Disability. Under the agreement, Verizon will lease approximately 102 square feet of space located at 110 Howland Avenue for the installation, operation and maintenance of communications equipment; together with such additional space for the installation, operation and maintenance of wires, cables, conduits and pipes running from the licensed area to all necessary electrical and telephone utility sources located on the Property.

**Public Need**

Section 223-24.5.R(2) requires the Applicant to demonstrate to the satisfaction of the City Council that there is a compelling public need for the facility at the location proposed. The Applicant has provided a report from its RF Design Engineer which depicts the area within which Verizon Wireless' communications facility needs to be located in order to provide adequate and safe service to certain areas in the City of Beacon. This report is attached to the application submission as Exhibit 5.

**Collocation of Other Future Wireless Telecommunication Facilities**

As a condition of special use permit approval, the Applicant shall be required to provide a written agreement, in recordable form suitable for filing and prepared to the satisfaction of the City Attorney, acknowledging that it shall be required to allow the collocation of other future wireless telecommunication facilities at fair market cost, unless otherwise unreasonably limited by technological, structural or other engineering considerations.