

**Statement of Justification in Support of an Application for a Conditional Use  
to build a Temporary Telecommunications Facility at  
2010 Linden Lane, Silver Spring, Maryland 20910**

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Address: 2010 Linden Lane Silver Spring, MD 20910  
Jurisdiction: Montgomery County  
Property Owner: Montgomery County and Yeshiva of Greater Washington  
Parcel Tax Number: 01743203  
Deed: Book 4813/Page 269  
SDAT Property Info: Map 93, Grid C2, Parcel 08  
Lot Size: 8.67 Acres (377,665 square feet)  
Zoning: R-60  
Existing Use: Education (Yeshiva of Greater Washington)  
Proposed Uses: Education, Telecommunications (Temporary Facility)

Pursuant to Articles 59-3 and 59-7 of the Montgomery County Zoning Ordinance of 2014 (“Zoning Ordinance”) New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (“AT&T”) by and through its agents/counsel, Saul Ewing LLP and Smartlink, LLC, submits this Statement of Justification in support of an application for a conditional use to construct a temporary telecommunications facility (the “Temporary Facility”) at the site of the Yeshiva of Greater Washington school at 2010 Linden Lane Silver Spring, MD 20910 (the “Property”). The Temporary Facility can, and should, be approved as a Temporary Use pursuant to Zoning Ordinance § 3.1.4. However, given the exigent circumstances and need to replace coverage for all three major wireless providers in this area, AT&T is pursuing this conditional use application while concurrently exploring a temporary use.

AT&T respectfully requests a determination by the Hearing Examiner that the proposed Temporary Facility described herein is in substantial compliance with the Zoning Ordinance and is authorized for a conditional use. This document and attached Exhibits provide justification for the Temporary Facility, and a summary of how and why this proposal conforms with the Zoning Ordinance. This package and additional or clarifying evidence, to be presented at a public hearing, provide the legal and factual support to approve this conditional use.

## EXHIBITS

Exhibit 1	Existing AT&T Coverage Map
Exhibit 2	AT&T Coverage Map Without Existing Facility
Exhibit 3	Proposed AT&T Coverage Map With Temporary Facility
Exhibit 4	Verizon Letter of Intent, dated October 11, 2023
Exhibit 5	T-Mobile Letter of Intent, dated October 11, 2023
Exhibit 6	Site Plans in 8.5” x 11”
Exhibit 7	Letter of Authorization from Owner dated October 17, 2023
Exhibit 8	Engineering Certification Letter, dated November 3, 2023
Exhibit 9	Photo Simulations of Temporary Facility
Exhibit 10	TFCG Approval dated October 4, 2023

### **I. THE NEED FOR REPLACEMENT WIRELESS COVERAGE**

The Temporary Facility is required because all three major wireless providers (AT&T, T-Mobile, and Verizon) are required to remove their antennas from an existing telecommunications facility located on the Washington Suburban Sanitary Commission’s (“WSSC”) North Woodside Water Tank located on Seminary Place. The WSSC water tank is undergoing a two year rehabilitation project. By no later than summer of 2024, the rehabilitation project will require all wireless antennas to re-locate for twelve (12) to twenty-four (24) months. Once the rehabilitation is complete, all three wireless providers have a lease agreement to relocate their antennas back onto the water tower. Absent a new, temporary location for the providers’ wireless antennas, there will be a significant degradation on wireless coverage for this area of Montgomery County for all three major wireless networks.

AT&T has telecommunications antennas located on the existing water tank facility, which provide emergency and non-emergency wireless coverage to Silver Spring and the surrounding area of Montgomery County. (See Existing AT&T Coverage Map attached as **Exhibit 1**). AT&T (as well as Verizon and T-Mobile) has a significant need to replace the existing wireless coverage that will be lost when the wireless providers are required to temporarily remove the existing antennas from the WSSC water tank. (See AT&T Coverage Map Without Existing Facility attached as **Exhibit 2**). The Temporary Facility will replace and enhance the existing emergency and non-emergency wireless coverage in the area. (See Proposed AT&T Coverage Map With Temporary Facility attached as **Exhibit 3**). Demonstrating the significant need for this site, Verizon and T-Mobile have signed letters of intent in support of this application, certifying their intent to co-locate on the Temporary Facility. (See Letter of Intent by Verizon attached as **Exhibit 4** and Letter of Intent by T-Mobile attached as **Exhibit 5**). The Temporary Facility includes space for AT&T to locate its antennas, with additional space for Verizon and T-Mobile. (See Temporary Facility Site Plans attached as **Exhibit 6**, at C-2).

The Temporary Facility will also maintain the First Responder Network Authority (“FirstNet”) in this portion of Montgomery County. FirstNet is a nationwide high-speed broadband communications platform dedicated solely to America’s first responders and emergency personnel. The U.S. Congress established FirstNet following the 9/11 attacks, to ensure reliable

public safety networks across the country and dedicated bandwidth for use by first responders. The existing facility on the WSSC water tank is equipped with FirstNet, which will also be lost when AT&T's antennas are removed from the tank. The Temporary Facility will allow AT&T to maintain existing FirstNet services in and around Silver Spring.

Ultimately, this proposal will provide residents, commuters, visitors and front-line emergency service and health care workers with reliable wireless services.

## **II. THE PROPERTY AND PROPOSED USE**

AT&T proposes to erect a temporary telecommunications facility to replace and maintain existing wireless coverage which will otherwise be lost when the WSSC tower undergoes refurbishment – requiring the removal of the antennas of all three major wireless carriers. Montgomery County owns the Property, which leases it to Yeshiva of Greater Washington school. The County and school authorized AT&T and its agents to submit this application for a conditional use to build the Temporary Facility. (See Letter of Authorization from Montgomery County attached as **Exhibit 7**). The Temporary Facility will be located in between existing school buildings to reduce visual impact and maximize distance from adjacent properties. The Temporary Facility will not pose any risk to the nearby buildings or adjacent parcels. (See Engineering Certification Letter attached as **Exhibit 8**).

The Property is home to the Yeshiva of Greater Washington school. The Property is more than eight acres in size. It is zoned R-60- Residential. The primary use of the Property is for education. The requested conditional use will not change or expand the current use in any way, but will add a temporary use for a telecommunications facility. The Property was chosen given its close proximity to the existing telecommunication antennas on the WSSC water tank. The Temporary Facility will be located approximately 800 feet from the existing site. The proximity of the Temporary Facility was necessary to ensure adequate and overlapping wireless coverage.

## **III. THE PROPOSED TEMPORARY FACILITY**

The Temporary Facility consists of a 122' temporary tower (120' monopole on top of a 2' base) within a 32' x 32', 3" equipment compound surrounded by a temporary 8' tall chain link fence. (See Ex. 6, Site Plan at C-2 and C-3). The compound will be placed on a temporary gravel base used to level the area. (See Ex. 6, Site Plan at S-1). A 24" concrete barrier will be placed around the gravel to keep it in place. (See Ex. 6, Site Plan at S-1). The monopole will be attached to a temporary base assembly. The base assembly will be ballasted by a total of 28 concrete blocks, weighing 4,900 pounds each, for a total ballast of 137,200 pounds. (See Ex. 6, Site Plan at S-1).

Despite its temporary nature, the monopole will be structurally sound and compliant with ANSI standards and any other relevant state and federal regulations. (See Ex. 8, Engineering Certification Letter). The Temporary Facility is designed to prevent any structural collapse that could endanger nearby buildings or parcels. (See Ex. 8).

The temporary monopole will be painted with the standard matte finish steel gray, which is designed blend into the horizon to the extent it is visible. In addition to the monopole tower,

SBA will install ancillary equipment to support the temporary monopole, including a transformer and equipment cabinets for T-Mobile. The Temporary Facility will maintain and enhance the reliability of Montgomery County’s emergency services communications network and commercial wireless services for Montgomery County residents and businesses in this area. (*See Exs. 1-3*).

AT&T was limited in the locations it could choose to locate a temporary facility. Despite a search, none of the wireless carriers could identify a structure suitable for co-location within the area necessary to maintain existing coverage. As a result, a temporary pole is necessary until wireless antennas can be re-located on the existing WSSC water tower following its renovation and upgrades. The potential location for a temporary facility was geographically limited to a set radius from the existing WSSC water tank to ensure complete and overlapping wireless coverage to minimize or eliminate any degradation in the existing wireless networks while the WSSC site is temporarily decommissioned. The location – approximately 88 feet from the existing antennas on the water tank—was chosen to maximize replacement coverage, while minimizing visual impact on the surrounding area. (*See Photo Simulations attached as Exhibit 9*).

The Temporary Facility will operate automatically and will not require any personnel or hours of attendance. It will operate twenty-four (24) hours a day, three hundred and sixty-five days a year. Maintenance personnel will visit the site occasionally for repairs or modifications. This maintenance can be performed by a single technician in a standard vehicle. Therefore, the Temporary Facility will not create any impact on traffic in the area. The Temporary Facility will comply with all relevant standards set forth in the Zoning Ordinance and other related regulations.

#### **IV. TEMPORARY USE UNDER ZONING ORDINANCE § 3.1.4**

The Montgomery County Zoning Ordinance allows for the approval of a “Temporary Use” is: (1) the use is temporary in nature; (2) is established for a fixed period of time with the intent to discontinue the use when that time is up; and (3) does not involve construction or alteration to any permanent structure. *See* Zoning Ordinance § 3.1.4(A). Separate from this conditional use application, the Temporary Facility can, and should, be granted a Temporary Use Permit.

AT&T, Verizon, and T-Mobile are required to remove their antennas from a nearby WSSC water tank to allow the tank to be refurbished by WSSC. The wireless antennas will need to be removed for a period of no more than twenty-four (24) months,<sup>1</sup> after which time AT&T, Verizon, and T-Mobile all intend to re-locate their respective antennas back onto the water tower. In fact, all three providers have contractual obligations under lease agreements to re-locate the antennas on the WSSC tower. Therefore, the Temporary Facility will be in use for a period of no more than twenty-four (24) months. The Temporary Facility will not require any land disturbance and will not involve construction or alteration to any permanent structure. (*See Ex. 6, Site Plans at C-1 through C-3*). When the temporary use is over, the facility will be completely removed and the Property will be returned to its present state.

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<sup>1</sup> WSSC may be able to complete the refurbishment in 12-18 months. As soon as it is complete and the wireless carriers can relocate their antennas onto the water tank, they all intend to do so.

The Temporary Facility is entitled to a Temporary Use Permit. However, given the emergent situation with the risk of complete loss of wireless coverage for all three major providers in this area, AT&T also requests approval of the conditional use application.

## V. COMMUNITY OUTREACH

AT&T, Verizon, and T-Mobile have all had conversations with both WSSC and Montgomery County staff to attempt to efficiently obtain necessary approvals for the Temporary Facility, and minimize any periods of wireless coverage loss. As this conditional use application progresses, the carriers intend to continue to have conversations with the County about a potential Temporary Use Permit rather than a conditional use. AT&T is committed to working with the County to demonstrate compliance with all applicable codes, while efficiently obtaining approvals for the Temporary Facility without degradation in wireless services in Silver Spring.

On October 4, 2023, the Montgomery County Transmission Facility Coordinating Group (“TFCG”) recommended approval of the Temporary Facility (Application No. 2023052162). (See TFCG Approval dated October 4, 2023 attached as Exhibit 10). The TFCG stated the application was: “Recommended on the condition that the proposed temporary monopole recommended under application #2023072184 receives conditional use approval and is constructed.” (See Ex. 10 at 3). The Applicants have provided a letter from Yeshiva of Greater Washington authorizing this application. (See Ex. 7).

## VI. COMPLIANCE WITH MONTGOMERY COUNTY ZONING CODE

A telecommunications tower is permitted with a conditional use in the R-60 zoning district. (See Zoning Ordinance § 3.1.6). The Montgomery County Hearing Examiner may permit a conditional use for a telecommunications facility if the application meets the requirements in Zoning Ordinance §§ 3.5.2.C and 7.3.1. (See Zoning Ordinance § 3.5.2.C.2.c).

### Zoning Ordinance § 3.5.2 Communication Facility -- C. Telecommunications Tower

#### 2. Use Standards

- c. *Where a Telecommunications Tower is allowed as a conditional use, it may be permitted by the Hearing Examiner under either Section 3.5.2.C.2.d or Section 3.5.2.C.2.a, limited use standards. In addition, Section 7.3.1 and the following procedures and standards must be satisfied:*
  - i. *Before the Hearing Examiner approves any conditional use for a Telecommunications Tower, the proposed facility must be reviewed by the Transmission Facility Coordinating Group. The applicant for a conditional use must file a recommendation from the Transmission Facility Coordinating Group with the Hearing Examiner at least 5 days before the date set for the public hearing. The recommendation must be no more than 90 days old when the conditional use application is accepted.*
- **AT&T’s Response:** The TFCG reviewed and recommended approval of this application on November 3, 2021, which is attached hereto. (See Ex. 10).

ii. *A Telecommunications Tower must be set back, as measured from the base of the support structure, as follows:*

(a) *A Telecommunications Tower is prohibited in any scenic setback indicated in a master plan.*

- **AT&T's Response:** The Temporary Facility is not in any scenic setback indicated by a master plan.

(b) *In the Agricultural, Rural Residential, and Residential Detached zones, a distance of one foot for every foot of height or 300 feet from an existing dwelling, whichever provides the greater setback.*

- **AT&T's Response:** The Property is located in a Residential Detached zone (R-60). The proposed temporary monopole is setback more than one foot for every foot of height of the temporary pole from all property lines and dwellings. (*See Ex. 6, Site Plan at C-1*). AT&T is requesting the Hearing Examiner allow for a reduced setback requirement to a detached house building type from 300 feet to a distance of at least one foot for every foot of height on the temporary pole (122'). The temporary pole is setback as follows:

- 459'-8" feet from the south property line;
- 310'-2" feet from the west/northwest property line;
- 294'-8" feet from the north property line;
- 153'-11" from the east property line; and
- 188' feet from the nearest existing dwelling to the east.

(c) *In the Employment zones, a distance of one-half foot for every foot of height from the property lines of abutting Commercial/Residential, Employment, or Industrial zoned properties, and one foot for every foot of height from the property lines of abutting Agricultural, Rural Residential, or Residential zoned properties.*

- **AT&T's Response:** The Property is not in an Employment Zone.

(d) *The Hearing Examiner may reduce the setback requirement to not less than the building setback for a detached house building type in the applicable zone or to a distance of one foot from an off-site dwelling for every foot of height of the support structure, whichever is greater, if evidence indicates that a reduced setback will allow the support structure to be located on the property in a less visually obtrusive location than locations on-site where all setback requirements can be met after considering the height of the structure, topography, existing vegetation, nearby residential properties, and visibility from the street. A reduced setback may be approved only if there is a location on the property where the setback requirements can be met.*

- **AT&T's Response:** AT&T is requesting that the Hearing Examiner use his or her discretion to reduce the required setback for the temporary pole from a detached dwelling to a distance of one foot for every foot of height, or 122' in this case. By allowing a reduction in setback, AT&T can locate the Temporary Facility between the existing Yeshiva of Greater Washington school buildings, reducing visual impact and any other effects on the surrounding neighborhood. (*See Ex. 9, Photo Simulations*). The chosen location will place the existing school buildings between the Temporary Facility and nearby dwellings, offering screening and buffering for those homes. Despite its temporary nature, the facility is designed to meet all ANSI and other engineering standards, and it will offer no danger to nearby buildings. (*See Ex. 8, Engineering Certification Letter*). Reducing the setback will not impact nearby dwellings, because even if the tower was laid on its side, it would be well short of the nearest property lines. The facility is temporary in nature, and will be removed completely within twenty-four (24) months, so the visual impact, if any, will be temporary.

*iii. The maximum height of a support structure and antenna is 135 feet, unless it can be demonstrated that additional height up to 179 feet is needed for service, collocation, or public safety communication purposes. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection required by the building permit, the applicant must certify to DPS that the height and location of the support structure conforms with the height and location of the support structure on the building permit.*

- **AT&T's Response:** The proposed height of the Temporary Facility is 122' (120' pole on a 2' temporary base). (*See Ex. 6, Site Plan at C-3*). The Temporary Facility is below the maximum height requirements of 135 feet. AT&T will certify that the height and location conform with the building permit before the Temporary Facility comes online.

*iv. The support structure must be located to minimize its visual impact. Screening under Division 6.5 is not required, however, the Hearing Examiner may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and nearby residential properties.*

- **AT&T's Response:** The location was chosen to maximize coverage, while minimizing visual impact on the surrounding area. The Temporary Facility is being located in between existing school buildings which will completely screen the equipment compound. The temporary pole is just 122' in height. The height was chosen to be the least visually intrusive, while being at a minimum height to allow all three wireless carriers to co-locate their antennas to preserve emergency and non-emergency wireless services in this area of Montgomery County. (*See Exs. 1-3; 9*). The facility will be removed completely within twenty-four (24) months, so the visual impact, if any, will be temporary.

- v. *The property owner must be an applicant for the conditional use for each support structure.*
- **AT&T's Response:** The Property owner provided a letter authorizing this application for a conditional use to build the Temporary Facility on the Property. (See Ex. 7).
- vi. *A modification of a conditional use is only required for a change to any use within the conditional use area directly related to the conditional use approval.*
- **AT&T's Response:** No modification is proposed at this time.
- vii. *A support structure must be constructed to hold a minimum of 3 wireless communication carriers unless the Hearing Examiner finds:*
- (a) *that collocation at the proposed location is not essential to the public interest; and*
  - (b) *that construction of a lower support structure with fewer wireless communication carriers will promote community compatibility.*
- **AT&T's Response:** The Temporary Facility is designed for at least three (3) wireless carriers: AT&T, Verizon, and T-Mobile. (See Ex. 6, Site Plan at C-3). Verizon and T-Mobile support this application and submitted letters confirming their intention to co-locate on the Temporary Facility. (See Exs. 4 & 5).
- viii. *The equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with all the carriers. Outdoor storage of equipment or other items is prohibited.*
- **AT&T's Response:** The equipment compound has sufficient, designated areas for the equipment sheds or cabinets of AT&T, Verizon, and T-Mobile and is already designed to accommodate all three carriers at the earliest date possible. (See Ex. 6, Site Plan at C-2).
- ix. *The support structure must be removed at the cost of the owner of the Telecommunications Tower when the Telecommunications Tower is no longer in use by any wireless communication carrier for more than 12 months.*
- **AT&T's Response:** AT&T acknowledges that the support structure must be removed if it is no longer in use by wireless carriers for 12 consecutive months. AT&T intends to decommission and remove the Temporary Facility as soon as the refurbishment of the WSSC water tank is complete and wireless antennas can be relocated on the water tower.
- x. *The support structure must be identified by a sign 2 square feet or smaller, affixed to the support structure or any equipment building. The sign must identify the owner and the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the*



*structure. The sign must be updated and the Hearing Examiner notified within 10 days of any change in ownership.*

- **AT&T’s Response:** AT&T will comply with this provision.

*xi. Each owner of the Telecommunications Tower is responsible for maintaining the wireless communications tower in a safe condition.*

- **AT&T’s Response:** AT&T will comply with this provision.

*xii. The Hearing Examiner must make a separate, independent finding as to need and location of the facility. The applicant must submit evidence sufficient to demonstrate the need for the proposed facility.*

- **AT&T’s Response:** There is a significant need for this Facility to be online by Summer 2024. Due to the required refurbishment of the nearby WSSC water tank, all three major wireless carriers will be required to temporarily remove their antennas. The removal of the antennas will cause significant degradation and “blackout” areas for all three wireless providers in the Silver Spring area. (*See Exs. 1 & 2*). The Temporary Facility was chosen as the best, and only, potential property where a Temporary Facility could be located to maintain existing emergency and non-emergency wireless coverage. (*See Ex. 3*). T-Mobile and Verizon are both in support of this application and provided letters of intent to co-locate on the Temporary Facility. (*See Exs. 4 & 5*).

**Zoning Ordinance § 7.3.1 Conditional Uses -- E. Necessary Findings**

*1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:*

*a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

- **AT&T’s Response:** AT&T is not aware of, and was unable to find, and previous approvals for this Property. This application for conditional use satisfies the requirements of the Zoning Ordinance and any applicable regulations.

*b. satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;*

- **AT&T’s Response:** As set forth above, the application satisfies the requirements of Article 59-3 for a Telecommunications Tower under Section 3.5.2.C. To the extent they are applicable, the application complies with the general requirements under Article 59-6. The site will be accessed by personnel on foot and, therefore, no driveway access or parking required. (*See Ex. 6, at C-1*). The Temporary Facility will not alter the open space

requirements on the Property. It is located near the center of the Property and will be screened by the existing school buildings. (See Ex. 9).

*c. substantially conforms with the recommendations of the applicable master plan;*

- **AT&T's Response:** This application substantially conforms with the North and West Silver Spring (2000) Master Plan ("Master Plan"), and any other applicable master plans. The Master Plan does not expressly address telecommunications or wireless facilities. However, the Temporary Facility is consistent with the Master Plan's goals: "The focus of this Master Plan is on maintaining, preserving, and enhancing the existing neighborhoods to ensure a good quality of life for area citizens and businesses. See Master Plan at 15. Maintaining reliable emergency and non-emergency wireless services is consistent with the Master Plan's goals.

*d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

- **AT&T's Response:** The Temporary Facility will not alter the character of the surrounding neighborhood. By ensuring adequate replacement wireless coverage for all three major wireless carriers, approval of the Temporary Facility will actually maintain the character of the neighborhood by preserving emergency and non-emergency wireless communications. (See Exs. 1-3). The Temporary Facility is being located in between existing school buildings which will completely screen the equipment compound. The height was chosen to be the least visually intrusive, while meeting coverage needs to maintain existing wireless networks. (See Ex. 9, Photo Simulations). The Temporary Facility will replace and enhance existing wireless coverage to ensure the area maintains adequate and reliable emergency and non-emergency wireless services. Any temporary visual impact is substantially outweighed by the potential loss of wireless service. As discussed above, the Temporary Facility is consistent with the Master Plan's focus on preserving and enhancing the quality of life for citizens, which includes reliable emergency and non-emergency wireless services. See Master Plan at 15.

*e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

- **AT&T's Response:** This application substantially conforms to the North and West Silver Spring (2000) Master Plan. If approved, it will not increase the number, intensity, or scope of the uses in the area to adversely affect the residential nature of the area. The Temporary Facility will provide replacement emergency and non-emergency wireless coverage, including FirstNet, to the area for no more than twenty-four (24) months. After the antennas

are relocated on the WSSC water tank, the Temporary Facility will be removed and the area will be returned to its present condition.

*f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

*i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*

*ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and*

- **AT&T's Response:** The Temporary Facility will be unmanned and uninhabited. It does not require any public services or facilities beyond what already exists on the Property.

*g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*

*i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*

- **AT&T's Response:** The Temporary Facility will not create any noise or light pollution, and will be well insulated inside the 8 acre Property and surrounded by existing school buildings which will offer screening. It will have no impact on the peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood. The Temporary Facility will be removed in no more than twenty-four (24) months.

*ii. traffic, noise, odors, dust, illumination, or a lack of parking; or*

- **AT&T's Response:** The Temporary Facility will not create any traffic, noise, odors, dust, fumes, illumination, or need for parking. The Temporary Facility does not require any parking as it is an unmanned facility, and will only be visited by a technician a few times per year. The technician will park in the school parking lot and approach the facility on foot. There are no lights on the Temporary Facility.

iii. *the health, safety, or welfare of neighboring residents, visitors, or employees.*

- **AT&T's Response:** The Temporary Facility will not have any impact on the health, safety, or welfare of neighbors, residents, visitors, or employees.

2. *Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

- **AT&T's Response:** The Temporary Facility is compatible with the neighborhood and will not have any significant visual impact on the area. (*See Ex. 9*). Approval of the Temporary Facility will maintain existing emergency and non-emergency wireless services in the area, thereby maintaining the present character of communications and emergency services in the neighborhood. After the antennas are relocated on the WSSC water tank, the Temporary Facility will be removed and the area will be returned to its present condition.

## **VII. ANTICIPATED WITNESS TESTIMONY**

Should the Hearing Examiner require witness testimony at a future public hearing to clarify this application, AT&T anticipates the below witnesses may testify.

- Samantha Twinam, Smartlink, LLC

Ms. Twinam is Real Estate Specialist for Smartlink, LLC, and works in site acquisition and management on behalf of AT&T sites. Ms. Twinam would testify about AT&T's need to relocate the existing telecommunications facility at the Property. She will generally testify that the information set forth in this application is complete and accurate to the best of her information, knowledge and belief. Ms. Twinam is also familiar with relevant sections of the Zoning Ordinance and conditional use requirements and, more specifically, how the Temporary Facility can meet or exceed each of the requirements.

- Gaurav Behl, AT&T Radio Frequency Engineer

Mr. Behl works as a radio frequency engineer for AT&T and has significant experience in RF emissions. Mr. Behl would testify that the radio frequency maps showing the existing and proposed T-Mobile coverage (*Exs. 1-3*) are complete and accurate depictions. He is expected to testify that the Temporary Facility will replace and maintain the existing coverage that will be lost when the existing facility at the WSSC water tank are removed to allow WSSC to refurbish the water tower. Mr. Behl is also with sections from the Zoning Ordinance and conditional use requirements relating to his field of expertise and, more specifically, how the proposed Temporary Facility can meet or exceed each of the relevant requirements.

- Richard Dyer, Morris & Ritchie Associates, Inc.

Mr. Richard Dyer is a professional engineer who is licensed to practice in the State of Maryland. Mr. Dyer will discuss the engineering and design of the Temporary Facility and accompanying equipment compound. He prepared the site plans submitted with this application (*See Ex. 6*), and will generally testify that the site plans are an accurate and complete depiction of the proposed project to the best of his information, knowledge and belief. Mr. Dyer is also familiar with sections from the Zoning Ordinance and conditional use requirements related to his fields of expertise and, more specifically, how the Temporary Facility can meet or exceed each of the requirements.

- Douglas A. Sampson, Saul Ewing LLP

Mr. Sampson is an attorney who practices in the area of zoning and land use. He will testify that he has reviewed the Montgomery County Zoning Ordinance, and that the application is in substantial compliance with all relevant regulations and provisions. Mr. Sampson will testify that the information set forth in this application is complete and accurate to the best of his information, knowledge and belief.

## **VIII. CONCLUSION**

For the reasons stated above, the requested relief meets the applicable standards of the Montgomery County Zoning Ordinance. The application can be granted without substantially impairing the intent, purpose, and integrity of the Zoning Ordinance or other applicable regulations. The Applicants respectfully requests that the Hearing Examiner approve this application for a conditional use.