



CAPE COD COMMISSION

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Date: September 7, 1995

Applicant: MCI International, Inc.
c/o Paul E. Sweetser, Surveyor
P.O. Box 565-68
Williamsburg Avenue
East Harwich, MA 02645

Project #: JD95017
Project: MCI International, Inc. Subdivision
Chatham, MA

Re: Development of Regional Impact
Jurisdictional Determination Request
Cape Cod Commission Act, Section 12(j)

Lot/Plan: Lot 1/Land Court Plan #5445A
Certification #: 222
Owner: MCI International, Inc.

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby finds pursuant to Section 12(j) of the Cape Cod Commission Act, that the proposed MCI Subdivision requires review as a Development of Regional Impact (DRI). The decision is rendered pursuant to the vote of the Subcommittee on September 5, 1995.

PROJECT DESCRIPTION

The property in question totals 13.19 acres on the south side of Old Comers Road, near the intersection of Route 28 and Old Comers Road in Chatham. The project proposal involves subdivision of the 13 acres into 9 residential lots, one of which would contain two existing structures which are part of the Marconi-RCA Wireless Receiving Station National Register site. With the exception of the area immediately surrounding the two National Register

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structures, the 13-acre parcel is wooded with substantial grade changes. The property slopes down significantly along the south side of Old Comers Road and near the west side of the National Register structures.

The Marconi Station site was listed on the National Register of Historic Places on August 30, 1994. The site includes land on the north side of Old Comers Road, and on both sides of Route 28. It consists of 13 contributing buildings erected in 1914 and three antenna towers built in 1921. All of the structures are in good condition and retain historic integrity both individually and as a group.

JURISDICTION

The purpose of the jurisdictional determination request is to determine whether the proposed MCI Subdivision requires mandatory referral under the thresholds established in Section 3 of the DRI enabling regulations, specifically, whether the project constitutes demolition or substantial alteration to an historic structure or destruction or substantial alteration to an historic or archaeological site listed with the National Register of Historic Places or Massachusetts Register of Historic Places, outside a municipal historic district or outside the Old King's Highway Regional Historic District. In addition, the Commission must determine if the project qualifies for an exemption under Section 22 of the Act.

PROCEDURAL HISTORY

The Commission received a jurisdictional determination request from the Chatham Planning Board on August 10, 1995. The application was deemed complete on August 17, 1995. At its meeting of August 10, 1995, the Commission voted to delegate to the subcommittee the authority to render a final decision on this Jurisdictional Determination. A duly noticed public hearing pursuant to Section 5 of the Act was held by an authorized Subcommittee of the Commission on the jurisdictional determination request on September 5, 1995 at the Permit Department Meeting Room, 283 George Ryder Road, Chatham, MA. The Subcommittee closed the public hearing and the record on September 5, 1995 and held a Subcommittee meeting on the same date. At the close of the Subcommittee meeting, the Subcommittee unanimously voted that the project requires mandatory referral under DRI thresholds contained in Section 3 of the Cape Cod Commission DRI enabling regulations.

Materials Submitted for the Record:

- Jurisdictional Determination application, dated August 9, 1995.
- Subdivision plan dated July 12, 1995, prepared by Paul E. Sweetser, Surveyor, East Harwich.
- Application for Approval of Definitive Subdivision Plan, submitted by Paul E. Sweetser to the Chatham Planning Board, dated July 13, 1995.
- Marconi-RCA Wireless Receiving Station, Chatham, MA, National Register acceptance certificate, dated August 30, 1995.
- Marconi-RCA Wireless Receiving Station National Register District Boundary, National Register of Historic Places Registration Form.
- Portion of Chatham Assessor's Book indicating area of proposed subdivision.

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- Chatham Zoning Map indicating locus of proposed subdivision.
- Letter from Chatham Historical Commission to Chatham Planning Board, dated August 7, 1995.
- Letter from Chatham Historical Commission to Cape Cod Commission, dated August 31, 1995.
- Letter from Sarah Korjeff to Theodore R. vonToerne, Chatham Planning Board, dated August 17, 1995.
- Cape Cod Commission Staff Report, dated August 31, 1995.
- Hearing Notice, Cape Cod Commission
- Minutes of Public Hearing, September 5, 1995.

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of the hearing and all submissions received in the course of the proceedings, including materials submitted on file JD#95017, are incorporated into the record by reference.

TESTIMONY

Tom Patch, attorney for MCI, presented the project for MCI. He stated that MCI filed a preliminary plan for subdivision to obtain grandfathering for Title V changes. It is his position that the project does not trigger Commission jurisdiction. He stated that the subdivision would only allow houses to be built and that there are already homes impacting the character of the site. He also stated that MCI would agree to vegetated buffer easements to protect the visual character of the historic site. MCI currently has no plans to do anything with the lot containing the National Register buildings. Robin Gregory, real estate representative, and Paul Sweetser, surveyor, described their work with MCI to design the project with limited visual impacts to the site.

Staff summarized the staff report. The proposal includes a portion of a National Register site with high integrity. The subdivision could facilitate substantial alteration of the site and the project may be exempt from Commission review at a later date.

Norman Pacun, Chair of Chatham Historical Commission, described the National Register nomination process and noted concern over impacts from construction on adjacent lots and possible alteration to the National Register structures. Thomas Groux, Town Manager, questioned who is responsible for maintenance of the subdivision access road. Virginia Elwood, resident, noted concern regarding the design of the development.

FINDINGS

The Subcommittee has considered the Chatham Planning Board's request for a Jurisdictional Determination regarding the proposed MCI subdivision in Chatham, MA. Based upon consideration of such request, upon information presented at the public hearing and submitted for the record, the Subcommittee makes the following findings:

1. The proposed project includes the subdivision of 13.19 acres into 9 residential lots.

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2. The proposed subdivision includes a portion of a National Register site which is outside a municipal historic district and outside the Old King's Highway Regional Historic District.
3. The boundaries of lot 9 in the proposed subdivision roughly coincide with the boundaries of a portion of the Marconi-RCA Wireless Receiving Station National Register site, as shown in the National Register Nomination Form.
4. The Marconi-RCA Wireless Receiving Station retains integrity of location, design, setting, materials, workmanship, feeling and association. The site has significance in the categories of communications and architecture at the local, state and national levels. The station meets National Register criterion for its long, continuous and distinguished role in the history of wireless communication, particularly in ship to shore communications. It also meets National Register criterion as a distinctive complex of early 20th century mixed industrial and residential buildings in the Craftsman Bungalow style.
5. Commission Guidelines for Referral of Historic Structures define substantial alteration as an alteration which jeopardizes a structure's individual eligibility for listing in the National Register of Historic Places or its status as a contributing structure in a National or Massachusetts Register of Historic Places, such as: addition, removal, alteration or substitution of defining architectural features such that the building/structure is incapable of yielding important historical information about its period, including changes to the exterior siding, roof pitch, fenestration, and the compatibility of additions in terms of general scale, massing, and materials; isolation of a property or alteration of its setting such that the historic character and integrity are no longer reflected in the site. Examples may include introduction of parking lots, removal of subsidiary buildings or relocation of a structure from its original site.
6. Any new construction on lot 9 or exterior alteration of the existing National Register structures on lot 9 would jeopardize the integrity of the structures themselves and of the National Register site as a whole.
7. Construction on parcels adjacent to lot 9 could have a substantial visual impact on the National Register site if it is not set back from the road edge and does not maintain a vegetated buffer between the National Register site and the new construction.
8. Subdivision of the property could allow alteration to be made to the National Register property. Transfer of the structures on lot 9 to individual ownership or use as a single family home would limit the ability of the Cape Cod Commission or any other regulatory body to protect against substantial alteration and demolition of the properties due to incremental changes. Steps to limit exterior alteration of the structures are appropriately addressed at the time of subdivision.
9. The Commission has not received any evidence that the proposed project is exempt under Section 22 of the Act.

CONCLUSION

Based on the findings above, the Commission concludes that the project is not exempt from Commission review under Section 22 and does requires mandatory referral for DRI review as a substantial alteration to an historic site listed on the National Register of Historic Places under Section 3 of Barnstable County Ordinance 94-10. This decision is specific to the facts presented by MCI.

Sumner Kaufman
Sumner Kaufman, Chair

9/7/95
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 7th day of Sept 1995

Katharine L Peters
Name, Notary Public

My commission expires: 9/7/1996