



CAPE COD COMMISSION

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Date: June 18, 1998

Applicant: Sheila Vanderhoef, Town Administrator
Town of Eastham
2500 State Highway
Eastham, MA 02642-2544

Jacki Slaga
Omnipoint Communication Enterprises, Inc.
50 Vision Boulevard
East Providence, RI 02914

Project #: TR98001
Project: Nauset Road Communication Tower
Nauset Road
Eastham, MA

Re: Development of Regional Impact
Cape Cod Commission Act, Section 12

Map/Parcel: Assessor's Map 5, Town Lot 25
Book/Page #: Book 533, Page 265

DECISION OF THE CAPE COD COMMISSION

SUMMARY:

The Cape Cod Commission (Commission) hereby approves with conditions the application of the Town of Eastham (Town) for the proposed 196 foot tower located on Nauset Road, Eastham, MA, as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended. The approved lattice communications tower will provide locations for six or more personal wireless service facilities and a storage shelter at the base of the tower. This decision is rendered pursuant to a vote of the Commission on June 18, 1998.

JURISDICTION:

The proposed project qualifies as a Development of Regional Impact under Chapter A, Section 3(i) of the Commission's Regulations of General Application which states that "construction of any wireless communication tower exceeding thirty-five (35) feet in height from the natural grade of the site on which it is located" is presumed to be a Development of Regional Impact.

DESCRIPTION:

The applicant proposes a 196 foot lattice tower to be located in North Eastham, off of Nauset Road, with a 60' x 12' equipment building to be located at the base of the tower. The proposed project site is 3,900 square feet and located within an approximately 10-acre parcel owned by the Town of Eastham.

The area proposed for the tower is generally open and disturbed. The parcel is located within zoning district G, the town groundwater protection district. The applicant proposes to access the property through the Commonwealth of Massachusetts property off of Nauset Road, then along a proposed 12 foot wide gravel drive that will connect with an existing 18 foot wide gravel road on the property.

PROCEDURAL HISTORY:

The project was referred to the Commission as a Development of Regional Impact by Susan Leven, Eastham Town Planner on February 10, 1998. A DRI application was received from the Town of Eastham on February 12, 1998.

A duly noticed public hearing was scheduled for April 2, 1998 at the Eastham Town Hall. Due to an incomplete application, the hearing was opened by a hearing officer who accepted testimony and continued the hearing to April 30, 1998 at the Eastham Town Hall. At the April 30, 1998 public hearing, additional testimony was taken on the project. The hearing was continued to the Commission meeting on May 21, 1998 and to the Commission meeting on June 18, 1998, both at the Assembly of Delegates Chamber in Barnstable Village. Subcommittee meetings were held on May 14, 1998 at the Assembly of Delegates Chamber and on June 12, 1998 in the Commission office to discuss the project and draft a decision to forward to the full Commission. At the Commission meeting of June 18, 1998, the hearing and record were closed and the full Commission voted to approve the project with conditions as outlined in this decision.

MATERIALS SUBMITTED FOR THE RECORD

Staff Reports and Correspondence:

- Cape Cod Commission Technical Bulletin 97-001, "Guidelines for DRI Review of Wireless Communication Towers," adopted 10/9/97.
- DRI Notification Letter, dated 2/16/98.
- Staff Report dated 3/24/98.
- Staff Report dated 4/1/98.
- Staff Update dated 4/30/98.
- Public Hearing Minutes (Hearing Officer) dated 4/2/98.
- Public Hearing Minutes dated 4/30/98.
- Subcommittee Meeting Minutes dated 5/14/98 and 6/18/98.
- Memo from Jeff Levine, CCC, to Subcommittee re: public hearing, dated 3/2/98.
- Memo from Gay Wells, CCC, to Wireless Companies re: information submission, dated 4/2/98.
- Memo from Gay Wells, CCC, to Patty Daley, CCC, re: competing tower proposals, dated 5/11/98.
- Letter from Walter Cooper, Flack & Kurtz, to Jeff Levine, CCC, re: review, dated 4/22/98.
- Letter from Walter Cooper, Flack & Kurtz, to Jeff Levine, CCC, re: questions, dated 5/13/98.
- Letter from Walter Cooper, Flack & Kurtz, to Jeff Levine, CCC, re: responses, dated 5/14/98.

Applicant/Town Submittals:

- DRI referral form, dated 2/10/98.
- DRI Application and attachments, dated 2/10/98.
- Site Plans for Omnipoint tower, North Eastham, dated 1/22/98.
- Site Plans for Omnipoint tower, North Eastham, dated 3/5/98.
- Town of Eastham Telecommunication Tower Regulations, dated 2/13/98
- FCC Radio Station Authorization, dated 6/27/97.
- Test report on batteries by Wyle Laboratories, dated 7/10/97
- Letter from John Peters Jr., Mashpee Wampanoag Indian Tribal Council, to Phillip Ricchiuti, ATC Associates, re: review process, dated 11/25/97.
- Letter from Aviation Systems Associates to Nicole Dobrowolsky, Omnipoint, re: airspace obstruction report, dated 12/18/97.
- Letter from Steven Tassinari, ATC Associates, to Nicole Dobrowolsky, Omnipoint, re: FCC Special Interest Research, dated 1/5/98.
- Copy of town lease to Omnipoint, 1/30/98

- McSweeney Design Consultants Project Report, 2/16/98
- Letter from Brona Simon, Massachusetts Historical Commission, to Phillip A. Ricchiuti, ATC Associates, re: no significant impact, dated 3/2/98.
- Letter from K. Anthony Hoover, Cavanaugh Tocci Assoc., to Jeff Jadhon, Omnipoint, re: noise, dated 3/2/98.
- Letter from John Jadhon, Omnipoint, to Jeff Levine, CCC, re: application materials, dated 3/5/98.
- Letter from John Jadhon, Omnipoint, to Jeff Levine, CCC, re: co-location requests, dated 3/30/98.
- Letter from John Jadhon, Omnipoint, to Walter Cooper, Flack & Kurtz, re: checklist request, dated 4/9/98.
- Letter from Robert A. Anderson, Omnipoint, to Walter Cooper, Flack & Kurtz, re: evaluation report, dated 4/13/98.
- Letter from Katherine Wren, Entel Technologies, to Gay Wells, CCC, re: checklist, dated 4/22/98.
- Letter from Susan Leven to Jeff Levine, CCC re: abutters list, dated 4/27/98.
- Letter from Robert Anderson, Omnipoint, to Gay Wells, CCC, re: frequency range, dated 4/29/98.
- Letter from Dan Goulet, Telecorp, to Jeff Levine, CCC, re: collocation, dated 4/30/98.
- Letter from Paul Halkiotis, Nextel, to Jeff Levine, CCC, re: Flack & Kurtz analysis, dated 5/18/98.
- Letter from Robert Anderson, Omnipoint, to Walter Cooper re: CCC review, dated 5/21/98.
- Letter from Kevin Breuer, Cellular One, to Paul Ehrlich re: Nauset Road site, dated 6/2/98.
- Memo from Charles Bostek, Lucent Technologies, to Dan Goulet, TeleCorp PCS, re: expected coverage, dated 6/8/98.
- Letter from Bryan Bakis, Omnipoint to CCC re: tower structural safety, dated 6/11/98.
- Letter from Peter Girard, Sprint, re: co-location, dated 6/11/98.
- Report from David Drosdick, Sigma 6 Engineering, Inc. to CCC re: technical review of project, dated 6/9/98.

Submittals from Government Agencies:

- Letter from Lauren McKean, CCNS, to Sue Leven, re: additional information, dated 3/18/98.
- Letter from Maria Burks, CCNS, to Armando Carbonell, CCC, re: Seashore concerns, dated 4/2/98.
- Letter from Robert M. Hallisey, Mass. Dept. of Public Health, to Robert Anderson, Omnipoint, dated 5/18/98.

Submittals from the Public:

- Letter from Pat Butler, Nutter McClennen & Fish, to Gay Wells, CCC, re: Seacoast, dated 3/12/98.
- Letter from Pat Butler, Nutter McClennen & Fish, to Jeff Levine, CCC, re: abutters, dated 4/23/98.
- Cover Letter and Position Paper from Seacoast, Inc. to CCC, dated 4/2/98.
- Site Plan for proposed Seacoast Ltd. tower, dated 3/10/98.
- Letter and materials from Celine Gandolfo to Jeff Levine, CCC, re: cell tower impacts, dated 5/21/98.
- Letter and materials from Keiren O'Sullivan to CCC re: cell tower impacts, dated 5/21/98.
- Letter from Keiren O'Sullivan to Paul Sutton, CCC, re: opposition to tower, dated 6/11/98.
- Letter from Keiren O'Sullivan to CCC re: moratorium, dated 5/11/98.
- Letter from Susan Q. Holbrook to CCC re: subcommittee questions, dated 5/24/98.
- Letter from David A. Holbrook to CCC re: tower implications, dated 5/21/98.
- Letter from Michael J. and Helen G. Frei to CCC re: Seacoast and Omnipoint towers, dated 5/26/98.
- Letter from Geri LaPeane to CCC, re: golf course proposal, dated 5/14/98.
- Letter from Susan Q. Holbrook to CCC, re: tower objection, dated 5/14/98.
- Letter from Elke A. Brueckner to CCC, re: health concerns, dated 5/13/98.
- Letter from Gary and Karin Lopriore to CCC, re: health concerns, dated 5/13/98.
- Letter from Philip T. Hesse et al. to CCC re: Nauset tower, dated 5/12/98.
- Letter from Beth Brescia et al. to CCC re: health concerns, dated 5/12/98.
- Letter from Kevin and Leslie Holland to CCC re: health concerns, dated 5/12/98.
- Letter from David A. Holbrook to CCC re: tower opposition, dated 5/12/98.
- Letter from Thelma J. Currier to CCC re: Eastham towers, dated 5/11/98.
- Letter from Michael J. and Helen G. Frei to CCC re: Seacoast tower, dated 5/11/98.
- Letter from Donna L. Clancy to CCC re: Eastham towers, dated 5/11/98.

- Letter from Sheila Garry et al to CCC re: tower opposition, dated 5/11/98.
- Letter from Catherine Currier to CCC re: tower opposition, dated 5/10/98.
- Letter from Barbara G. Crane et al. to CCC re: tower opposition, dated 5/10/98.
- Letter from Kirsten T. Davis to CCC re: tower concerns, dated 5/14/98.
- Letter from Erica Taber to CCC re: tower concerns, dated 5/14/98.
- Letter from Gillian Drake to CCC re: tower concerns, dated 5/14/98.
- Letter from James R. Weaver, ComElectric, to Sue Leven re: omnipoint tower, dated 4/27/98.
- Letter from Susan Q. Holbrook to CCC re: tower concerns, dated 6/11/98.
- Letter from David A. Holbrook to CCC re: tower concerns, dated 6/10/98.
- Letter from Michael and Helen Frei to CCC re: tower concerns, dated 6/16/98.

The application and notice of the public hearing relative thereto, the Commission's staff reports, correspondence, notes and exhibits, minutes of the hearing and all submissions received in the course of the proceedings, including materials submitted on file TR # 98001 (Nauset Road Communication Tower) are incorporated into the record by reference.

TESTIMONY

A hearing officer opened the hearing on April 2, 1998, at the Eastham Town Hall, at 7 pm. Due to the fact that the hearing was posted as a full public hearing, the applicant and representatives from the Cape Cod Commission were present and available to answer questions and take testimony. Town officials presented the proposal and their procedure for selecting a contractor to construct the tower. Commission staff said that their consultant had to review information from the carriers to determine what height these carriers had to locate their antenna arrays.

The hearing was continued on April 30, 1998, at the Eastham Town Hall, at 7 pm. Sheila Vanderhoef, Eastham Town Administrator, presented the process which was initiated by the Town of Eastham. One of the goals of the project, she said, was to generate revenue from the rent charged to co-locators. The chosen site is located on undeveloped Town property near open space, a gravel pit and a demolition debris site. Guidelines recommending that the tower not exceed 10' above the tree line are not feasible, she indicated. The recommended fall zone setback extends across property lines into the adjacent demolition site. However, she said that the tower can be relocated slightly if necessary. She said that camouflaging the tower from the bike trail is not possible. The proposed equipment shed is in keeping with Cape Cod style (shingles, etc.). The site is not located within an historic district. The tower will be visible from the Marconi site; however, other towers can be viewed from that site as well. Further, she added that technology is a part of life, even in scenic areas. She stressed the fact that the proposed tower has been developed by the Board of Selectmen, representing the citizens of Eastham.

Commissioner Joe Tamsky inquired about the color and appearance of the tower. Ms. Vanderhoef indicated that the tower will be a lattice structure. Commissioner Herb Olsen asks why this type of structure was selected. Ms. Vanderhoef indicated that the visual appearance of a lattice structure is superior to a monopole structure which she said would require guyed wires. Mr. Olsen responded that aesthetics of tower design is subjective, and Ms. Vanderhoef agreed.

Jeff Levine gave the staff presentation. He commended the Town for being proactive in planning for PCS service needs. He also noted that more information relating to noise and the landscape plan is needed. Walter Cooper, Commission consultant, explained the methodology of his analysis. He conducted a propagation study based on the information provided by the co-locators. Mr. Cooper indicates that an antenna of as low as 60' in height would provide similar coverage to towers of other proposed heights due to the flat topography. A tower could be 70-80' for the lowest operator with co-locators at intervals of 10'. Mr. Levine said that (based on the 60' consultant recommended tower height and 10' spacing of co-locators) visual impact would still be a concern, but staff supports the idea of one tower accommodating every carrier. Staff suggested a 150' high tower, which would have room for all 8 carriers licensed for Cape Cod, plus one additional location for another array of some sort.

Paul de Ruyter indicated that he has an option to purchase property south of this tower site, and would like to build a tower at that location. He said that the Town's right-of-way access does not exist. Further, he claimed that the existing easement is intended to be used for recreational purposes, not commercial. Further, he said that the ramp on the Tilcon property cannot be removed, and blocks access to the Town's site.

Tricia Saverra, of the Viking Motor Lodge, expressed concern about noise impacts and the health of residential community. Bob Anderson of Omnipoint said that Federal Communications Commission and Massachusetts Department of Public Health filing requirements ensure safe emission levels. John Jadhon of Omnipoint indicated he has provided a noise analysis to staff and requests that if additional information is required, he be notified before the hearing. Mr. Levine indicated that request for additional information on noise came from concerns of abutters and the National Seashore.

Sue Leven, Eastham Town Planner, indicated that ComElectric can allow the crossing on their own property. The hearing was continued to the full Commission meeting of May 21. The subcommittee met on May 14th at 3 pm, and again on June 12, at 9:30 am to further discuss the tower proposal and a draft decision. At the June 12th meeting, the subcommittee discussed the information presented at a June 9th meeting of Commission staff, Town officials, and carriers, and reviewed a draft decision of the project. The subcommittee instructed Commission staff to add a condition to the decision requiring carriers to provide the Commission with evidence of a written clearance from the Massachusetts Department of Public Health. A motion was made and seconded to approve and forward to the full Commission the decision as amended.

At the final hearing on June 18th, Sheila Vanderhoef, Eastham Town Administrator, explained the site selection and project planning process initiated by the Town of Eastham. Paul Sutton gave a staff presentation which summarized Commission review of the project. Public comment pertaining to noise impacts, site selection, health concerns, and potential project impacts on property values included testimony from Pat Sverid, Carol Sullivan, Susan Holbrook, and David Sullivan. Pat Butler, representing Seacoast, Inc., expressed concerns over the legality of the Town's access to the site.

FINDINGS

Based on the testimony received at the public hearings, application materials submitted by the project proponent, written materials submitted by all interested parties, and supporting technical information provided by staff, the Commission voted that the proposed Nauset Road Tower be granted a DRI approval with conditions based on the following findings:

General

- 1). The proposed project is being reviewed as a Development of Regional Impact (DRI) under Chapter A. Section 3(i) of the Commission's Regulations of General Application which states that "construction of any wireless communication tower exceeding thirty-five (35) feet in height from the natural grade of the site on which it is located" is presumed to be a Development of Regional Impact.
- 2). The project site is 3,900 square feet. This site is a small portion of a larger parcel of land owned by the Town. The site would be leased to Omnipoint for the purposes of constructing a 60' x 12' equipment building and a telecommunications tower that would be planned for a total of at least six carriers. The Town and Omnipoint would share the lease revenues from other co-locators.
- 3). The proposed 196 lattice foot tower will ensure the Town's ability to accommodate up to nine co-locators, and, thereby, avoid the need to construct additional towers in the future. The proposed tower would allow one space for all current licensed cellular carriers, with one additional space for a different service.

4). The proposed tower is located in a water protection district. The project is not located within an historic district or a designated District of Critical Planning Concern or a Significant Natural Resources Area.

5). The project is consistent with the Town's cell tower bylaw which requires that all telecommunication towers must be located on Town land. However, as it is designed above the permitted height of 30 feet allowable under town zoning, the applicant will be required to seek a variance from the Town's Zoning Board of Appeals.

6). The Town's strategy in developing this project was three-fold: to generate revenue from the rent charged to co-locators, to ensure future cellular service capacity within Eastham, and to limit the number of cellular towers in Eastham to one facility by encouraging co-location to the maximum extent possible. This strategy was developed and endorsed by the Town Board of Selectmen, representing the citizens of Eastham.

7). The Town initiated a comprehensive site selection process. The only existing tower site in town (an 80' police tower near Town Hall) was considered inappropriate due to its high visibility. Therefore, another Town-owned site satisfying the need for cell phone carriers was sought. The chosen site is located on undeveloped Town property near open space, a gravel pit and a demolition debris site.

8). The Town issued a Request for Proposals to which three carriers, Omnipoint, Nextel and Telecorp originally responded and have agreed to co-locate. Sprint has subsequently expressed interest in co-locating on the proposed facility at 140 feet.

Height

9). Omnipoint has adequately demonstrated a need to locate its facility at a height of 170 feet in order to provide adequate cellular service. This height would allow Omnipoint to extend continuous coverage to North Wellfleet to complete its network in this area. Omnipoint is also planing to locate an antenna array on the existing police communications tower located behind the Town Hall on Route 6.

10). The proposed tower height would allow for the co-location of six carriers at or above 140 feet. Together with Omnipoint, three other carriers have requested to be at locations near the top of the proposed tower. Based on their service requirements, Nextel has requested co-location at 180 feet, Telecorp at 160 feet, and Cellular One at 150 feet. At least one carrier has indicated that it may require a second location in Eastham to complete its network.

11). Guidelines contained in Section VII of Technical Bulletin 97-001 ("Guidelines for DRI Review of Wireless Communication Towers") recommend that "licensed carriers should share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities." The proposed project is designed to limit the number of cellular towers through maximized co-location, and, therefore, is consistent with these guidelines.

12). The proposed structure would allow Omnipoint to complete its network on the Outer Cape by extending continuous coverage to North Wellfleet. Data from drive tests conducted by Omnipoint on June 5, 1998 have indicated inadequate transmission coverage in North Wellfleet at tower heights below 170' feet.

13). The proposed tower would be visible from a limited number of public locations: a section of Route 6 approximately 1/2 mile long in Eastham, the Marconi Station Site platform at the Cape Cod National Seashore in Wellfleet, and, most noticeably, along a portion of the Cape Cod Rail Trail. The view along this portion of the Rail Trail is currently degraded by the adjacent ComElectric utility lines and the Tilcon Asphalt Plant.

14). Technical Bulletin 97-001, section VI.A.3., says that, "to the extent that any facility extends above the height of the vegetation immediately surrounding it, it should be painted in a light grey or light blue hue which blends with sky and clouds." The applicant has proposed to paint the tower light grey.

15). Section VI.A. of Technical Bulletin 97-001 provides design standards which specify that "if personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they should be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer." The applicant should provide a vegetated berm in areas adjacent to the Rail Trail to greatly reduce the visual impact of the proposed tower.

16). According to Walter Cooper of Flack and Kurtz, the Commission's radiofrequency consultant, monopoles are available in heights of 150 feet or more. The applicant has expressed a preference for a lattice structure due to concerns over windloading, structural capacity to handle up to nine carriers, and decreased flexibility in allowing future carriers to co-locate.

17). In Technical Bulletin 97-001, Commission guidelines recommend that wireless communication towers not exceed 150 feet. The Commission finds it appropriate that the proposed 196 foot tower be allowed based on the unique factors pertaining to this project. These factors include the extensive Town planning efforts aimed at limiting the number of towers within Eastham, and drive tests and propagation studies indicating that the proposed height is necessary to meet the basic service requirements of the licensed cellular providers. Due to the proposed construction of this tower, few if any additional towers will be needed for the provision of future cellular service in Eastham, Wellfleet and portions of Orleans.

Public Safety

17). Technical Bulletin 97-001, section IV.D., requires that, for public safety reasons, the fall zone should not cross property lines, unless the design would be "substantially better" as a result, either visually or for safety reasons. At the proposed tower height of 196', the fall zone would cross the property lines to the north and east by about 50'. However, the proposed tower has been sited as such so that it would be free and clear of the ComElectric utility easement to the southwest.

18). Telecommunication towers are designed in accordance with the a national tower code referenced in the Massachusetts State Building Code. By code requirements, these towers are designed with a structural failure mechanism which allows bending and collapsing of the tower above its midpoint, which serves to reduce its fall zone considerably.

19). The majority of the fall zone lies on Town owned land which is not part of the area leased by Omnipoint. The Town has agreed not to develop in this area.

20). The Commission is aware and concerned about the cumulative health effects associated with cellular facilities. Carriers are required to file with the FCC and with the Massachusetts Department of Public Health (MDPH) to ensure that radiation emissions associated with proposed wireless communication facilities are below allowable levels. The Commission seeks to facilitate coordination with the MDPH relative to this issue.

21). Based on information provided by the applicant, this tower is not expected to result in undue noise pollution in the surrounding residential area.

Community Character

22). The applicant has proposed the equipment shelter to be in keeping with traditional Cape Cod architectural style including a pitched roof and shingle sidings. The proposed tower will not require lighting per FAA regulations.

23). The security fencing surrounding the proposed facility should be screened by a dense buffer of evergreen trees.

Other Issues

24). Permanent standby emergency power will consist of wet cell batteries for Omnipoint. If necessary, during an extended power outage, a portable emergency generator will be used to provide temporary emergency backup power. There is no on-site bulk storage of flammable fuels for operating an emergency generator for the Omnipoint equipment. All carriers for the project are required to follow all hazardous materials Minimum Performance Standards (MPS) in the Regional Policy Plan for use, storage, and disposal of hazardous materials in order to ensure protection of water resources.

25). No open space provision is required for telecommunications projects.

26). There are no anticipated transportation impacts from the proposed project.

27). The Town is pursuing adequate site access. Access to this site is not a regional issue.

28). The proposed project is an unmanned, private and secured compound. It is only accessed by trained technicians for periodic routine maintenance and, therefore, does not require any water or sanitary sewer service.

CONDITIONS

Based on the need to address the impacts noted in the findings above, the Commission hereby attaches the following conditions.

1). The project site shall be developed as a lattice tower with a height of up to 196 feet which will allow location of up to nine antenna arrays, as shown on plans titled "R-5518A, North Eastham," and dated 3-5-98. The top arrays shall be reserved for cellular carriers.

2). Prior to the filing of an application for a building permit, the applicant shall obtain a Partial Certificate of Compliance from the Commission. Prior to the issuance of a Partial Certificate of Compliance, the applicant shall submit architectural elevation drawings for the proposed equipment shelter and a landscape plan. In addition, the applicant shall submit for Commission review and approval evidence of clearance from the Massachusetts Department of Public Health as to radiation emissions from the proposed facilities."

3). All conditions shall be met, and the facility shall not become operational and shall not be used for commercial purposes prior to the issuance of a Final Certificate of Compliance by the Commission. Prior to the time that a Certificate of Compliance is needed by the applicant, notification shall be given to the Commission at least 30 days in advance to allow time for staff to inspect the site and ascertain that all conditions have been met.

4). Any company or other party that intends to locate on the site are required to supply the Commission with radiofrequency radiation data showing all calculations and assumptions, using a "worst case" calculation method in accordance with FCC OET Bulletin 65, dated August, 1997, sixty days prior to installing any antenna arrays on the tower.

5). Carriers locating on the proposed facility shall receive written clearance from the Massachusetts Department of Public Health to ensure that radiation emissions associated with this proposed wireless communication facility are below allowable levels for public health purposes. Such clearance shall promptly be supplied to the Commission.

- 6). The applicant shall not build on any portion of the Town-owned land located within the fall zone.
- 7). The project includes one equipment storage shelter at the base of the tower. This storage shelter shall be constructed with wood shingle siding and a pitched roof.
- 8). The co-applicants and all lessees shall ensure that contents of the storage shelter, containment measures, and fuel of all carriers shall meet all hazardous materials requirements in the Regional Policy Plan. In the event that a portable emergency generator is needed as emergency power, natural gas is required to be used as the fuel.
- 9). Landscaping shall buffer the view of the tower from the Cape Cod Rail Trail consistent with the Commission approved landscape plan prepared by a licensed landscape architect. Landscaping will include a 6-foot high berm on the west side of the site with appropriate plantings.
- 10). Upon completion of construction and prior to receipt of a Final Certificate of Compliance, the tower shall be painted light grey.
- 11). Lighting at the site shall meet the requirements of the Commission's Technical Bulletin 95-001.
- 12). Should the tower become abandoned for more than six months, the tower shall be removed and the site shall be restored to its prior state.

CONCLUSION

Based on the finding and conditions above, the Cape Cod Commission hereby concludes:

The benefits of the proposed development as conditioned outweigh the detriments. This conclusion is supported by the findings and conditions above. The proposed development as conditioned is consistent with the Minimum Performance Standards of the Regional Policy Plan. The proposed development as conditioned would be consistent with the Eastham Zoning Bylaws should a variance be granted. The proposed development is consistent with planning efforts in the Town.

The Commission hereby approves with conditions the Development of Regional Impact Application of the Town of Eastham, for the "Nauset Road Communication Tower" in Eastham, Massachusetts, dated January 22, 1998, pursuant to Sections 12 and 13 of the Cape Cod Commission Act, as amended, provided the conditions noted above are met.

Herb Olsen
Herb Olsen, Vice Chair

6/15/98
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.
Subscribed and sworn to before me this 22 day of June 1998

Katharine L. Peters
NAME, Notary

My Commission expires:

