



CAPE COD COMMISSION

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DATE: January 19, 2001 MOD-TR98035 (Modification/type 2)

TO: Seacoast Limited Partnership
19 Brentwood Lane
Yarmouthport, MA 02675

FROM: Cape Cod Commission

RE: Modification of an Approved DRI Decision
Section 9(n) of Enabling Regulations

APPLICANT: Richard Joyal
Seacoast Limited Partnership

PROJECT: Seacoast Inc./Sandwich Tower
Sandwich, MA

BOOK/PAGE: Book: 6643 Page: 14

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby approves the application of Richard Joyal, Seacoast Limited Partnership, for modifications to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations for the sole purpose of reflecting changes to the site plan.

The changes are hereby approved as a Minor Modifications #2 under Section 7 of the *Administrative Regulations* (as revised). This decision is rendered pursuant to a vote of the Commission's Regulatory Committee on January 16, 2001.

ORIGINAL PROJECT DESCRIPTION and MATTERS AT ISSUE

In a DRI decision dated July 28, 1998, the Commission approved, with conditions, a proposed 180 foot monopole wireless facility with locations for a minimum of four licensed wireless carriers, one 12'x30' and two 10'x20' equipment shelters, and two 10'x20' equipment pads at the base of the tower.

On January 11, 2001, staff conducted a scheduled site visit to review project compliance with the DRI decision. The site visit indicated that ice shields were part of the carriers' development plans, for both carriers using equipment pads and those using equipment shelters. The Site Plans (9/14/98 and 8/30/99) in the project file showed only locations for equipment pads and shelters, without an indication of ice a bridge. The rendering of the equipment shelter for Bell Atlantic Mobile (now Verizon Wireless) in the project files did not show an ice bridge. The rendering of the equipment shelter for NEXTEL (3/29/99) in the project file showed a roof on one side to protect cables exiting the side of the shelter, but this was not labeled as an ice bridge.

Condition G3 states that no "structural change resulting in a visible alteration of the proposed tower structure (or related facilities)" may proceed without review and approval by the Cape Cod Commission.



In addition, the 8/30/98 Site Plan indicated a six foot chain link fence with one foot of barbed wire would encircle the equipment pads and shelters. The site work underway at the time of the January 11th site visit included footings for a fence.

Under Section 7.0 of the *Administrative Regulations*, any proposal which would include “a substantially similar proposal to the original project but [which] involves a minor change of use, a minor change to the site plan, or a technical correction or small change to the findings or a condition of the original approval which does not affect the intent or outcome of the finding or condition” are subject to Commission review as modifications, specifically Minor Modifications Type #2. The *Regulations* go on to stipulate that proposed changes which can be deemed a Minor Modifications Type #2 “shall not result in different or increased impacts to the resources protected by the Cape Cod Commission Act and/or RPP.”

PROCEDURAL HISTORY

In a fax dated January 11, 2001, staff informed Mr. Joyal that it was possible that based on the site visit, inclusion of the ice bridge could qualify as a modification to the approved DRI decision. Mr. Joyal was also sent a copy of a revised agenda for the Regulatory Committee’s January 16, 2001 meeting and a Memorandum from Sharon Rooney describing the potential modification.

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

No comments from the public were received at the January 16, 2001 Regulatory Committee meeting on this project. Staff described the project history, noting that plans in the project file did not indicate that ice bridges (shields) were part of the development proposal. Staff suggested it was important to determine whether the structures would be taller than the proposed fence, and whether or not there was adequate buffering to screen the proposed development.

Mr. Joyal noted that the proposed chain link fence around the equipment shelters and pads would be eight feet tall with one foot of barbed wire, for a total of 9 feet in height. He said all of the wireless carriers use ice bridges to some extent to protect either the equipment cabinets (like Sprint Spectrum) or NEXTEL (shelters). He said these structures would not be visible above the fence. Mr. Joyal also said that the Town of Sandwich in its Special Permit decision (2/23/2000) required (condition #5) that “a minimum of 20 to a maximum of 40 additional trees or shrubs or a combination of trees and shrubs...shall be purchased, planted and maintained by the Applicant within the limit of clearing.” The plantings are to be installed at the direction of the Sandwich Tree Warden. Mr. Joyal said that based on this, he did not believe the ice bridges would be visible.

The Commission’s Regulatory Committee considered the modifications to the July 28, 1999 DRI Decision that resulted from the inclusion of ice bridges (shields) into the monopole site development. At this meeting, the Regulatory Committee voted unanimously to consider the change a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised).

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Revised plans 1/11/01

B. Materials submitted by Cape Cod Commission:

Memo, to Regulatory Committee, from Sharon Rooney 1/11/01

Note: No written materials or verbal comments were submitted on this modification request by State officials, Town officials or the Public.

The information and notice of the public hearings relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and meetings and all submissions received in the course of the proceedings, including materials submitted on file TR-98035 and MOD-TR98035 are incorporated into the record by reference.

JURISDICTION

The proposed changes to the Seacoast Limited Partnership/Seacoast Inc/Sandwich Tower project qualify as a modification to an approved DRI Decision under Section 9(n) of the DRI *Enabling Regulations*.

FINDINGS

The Commission's Regulatory Committee considered the proposed changes to the site plan for the Seacoast Inc. wireless facility (TR-98035) as a Minor Modification #2 under Section 7 of the *Administrative Regulations* (as revised).

MODIFICATIONS TO THE DRI DECISION

In accordance with the vote of the Regulatory Committee, the following modifications are made to the July 28, 1999 DRI decision:

Finding G2 is modified such that the following sentence is inserted just prior to the last sentence: **"The proposed equipment pads and equipment shelters will be equipped with ice bridges (shields) to protect either the equipment cabinets or associated cabling. The equipment area will also be encircled by an chain link fence 8 feet in height with one foot of added barbed wire at the top, for a total height of 9 feet, 0 inches."**

Finding NR8 is modified to add the following ending sentence: **"Condition #5 of the Special Permit issued on February 23, 2000 also requires that 'a minimum of 20 to a maximum of 40 additional trees or shrubs or a combination of trees and shrubs...shall be purchased, planted and maintained by the Applicant within the limit of clearing' under direction of the Sandwich Tree Warden."**

Condition 15 is modified to include the following last sentence: **"The proposed ice bridges (shields) incorporated into the equipment pads and shelters shall not be taller than 9 feet, 0 inches, the total height of the chain link fence encircling the equipment area."**

Condition 18 is modified to add the following ending sentence: **"Prior to issuance of the Final Certificate of Compliance by the Cape Cod Commission, the applicant or each carrier shall submit "as built" drawings to Commission for the equipment pads and equipment shelters."**

David J. Ansel
David J. Ansel
Chair, Regulatory Committee

2/1/01
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 1st day of February, 2001.

Katharine L. Peters
NAME, Notary

My Commission expires:

