



CAPE COD COMMISSION

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DATE: February 14, 2001 MOD-TR98035 (2) (Modification/type 2)
Second of Two Modification Decisions

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 a modification to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations for the sole purpose of clarifying language in the original decision relating to issuance of the Final Certificate of Compliance.

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 February 12, 2001.

ORIGINAL PROJECT, MODIFICATION REQUEST and PROCEDURAL HISTORY

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.

A staff visit to the site on January 11, 2001 indicated that the wireless telecommunications carriers locating on the monopole are likely to be done with construction of each of their "cell" sites in a staggered fashion.

On February 2, 2001, Mr. Joyal contacted staff and requested that the Commission consider clarifying the original decision, as modified, to allow granting of multiple "final" Certificates of Compliance, for the wireless monopole itself as well as for each individual "site" for different wireless carriers locating on the monopole.

On February 5, 2001, the Commission received a fax from the Sandwich Office of Planning and Development indicating that it would be possible for "the conditions of approval and building code to be satisfied and then just the tower itself [would] be given a use permit. After that each cell site, as they [became] ready for permitting, could also be given a separate use permit..."



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.”

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

No comments from the public were received at the February 14, 2001 Regulatory Committee meeting on this project. Staff described the applicant’s request to modify the decision to allow issuance of multiple Final Certificates of Compliance, one for the monopole itself, and others for each telecommunications “site” developed by the individual wireless carriers. Staff noted that the Town of Sandwich Building Inspector was not opposed to structuring issuance of the required use permits at the local level in the same manner. In other words, a use permit could be issued for the monopole and then for each cell site. Staff noted that several conditions would need to be modified to reflect the fact that multiple Final Certificates of Compliance could be issued, but this was more a language change than a substantive change.

The Commission’s Regulatory Committee considered the modification request to the July 28, 1999 DRI decision, as amended in a January 19, 2001 decision, and found that issuance of a Final Certificate of Compliance for the monopole itself, as well as for each of the individual “cell sites” of the wireless carriers locating on the monopole was a Minor Modification #2 under Section 7 of the *Administrative Regulations* (as revised). The Regulatory Committee voted unanimously to that effect.

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Request that multiple Certificates be issued

2/2/01

B. Materials submitted by Cape Cod Commission:

None – Oral presentation to the Regulatory Committee

C. Materials submitted by State or Local Officials or the Public

Fax, from Town of Sandwich Office of Planning and Development Office

2/5/01

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, MOD-TR98035 and MOD-TR98035(2) 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 modification to the Seacoast Inc. wireless facility decision(TR-98035), as modified, for sole purpose of clarifying language in the original decision relating to issuance of the Final Certificate of Compliance. The Regulatory Committee found this request was 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, as amended:

Modifications are shown in ~~strikeout~~ (a**bed**) or **bold text**:

Condition #1 is modified as follows:

"Prior to the filing of an application for a building permit, the proponent shall obtain a Partial Certificate of Compliance from the Commission. **All conditions which may relate to site work, or construction of the monopole, or entrance road shall be met prior to issuance of a Final Certificate of Compliance by the Commission for just the monopole.** All conditions which may relate to each individual "cell site" shall be met, and the individual carrier's facility shall not become operational and shall not be used for commercial purposes prior to the issuance of a Final Certificate of Compliance for each cell site by the Commission. Prior to the time that a Final Certificate of Compliance is needed by the applicant or each carrier, notification shall be given to the Commission at least 7 business days in advance to allow time for staff to inspect the site and ascertain that all conditions have been met."

Condition #21 is modified as follows:

"After the each personal wireless service facility is operational, the applicant shall submit, within 90 days from the beginning of operations, and at annual intervals from the date of issuance of the DRI Final Certificate of Compliance, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards (subsection VI.C.) of Technical Bulletin 97-001, *Guidelines for DRI Review of Wireless Communications Towers, Adopted 10/9/97; Revised 3/4/99.*"

Condition #22 is modified as follows:

"After the each personal wireless facility is operational, the applicant shall submit, within 90 days from the beginning of operations, and at annual intervals from the date of issuance of the DRI Final Certificate of Compliance, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards (sub-section VI.B) of Technical Bulletin 97-001, *Guidelines for DRI Review of Wireless Communications Towers, Adopted 10/9/97; Revised 3/4/99.*"

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

2/26/01
Date

COMMONWEALTH OF MASSACHUSETTS
Barnstable, ss.

Subscribed and sworn to before me this 26th day of February, 2001.

Katharine L. Peters
NAME, Notary

My Commission expires:

