

CAPE COD COMMISSION

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DATE: September 19, 2002

APPLICANT: Seacoast, LP
19 Brentwood Lane
Yarmouthport, Massachusetts 02675
(508) 362-7791
Richard P. Joyal, Jr., Project Manager

and

Verizon Wireless
400 Friberg Parkway
Westwood, Massachusetts
(617) 489-7211

RE: Development of Regional Impact
Cape Cod Commission Act

PROJECT #: TR02012

PROJECT: Seacoast, Inc./Mashpee
Echo Road, Mashpee, Massachusetts

MAP/PARCEL: Map 19/Parcels 6 & 7 Plan 39380-A
C.C.M. Realty Trust, Frank A. Maki, Jr., Trustee

LAND COURT: Doc. #536,047 Cert. Of Title: 124533

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Seacoast, LP and Verizon Wireless 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, for the proposed Seacoast, Inc./Mashpee project in Mashpee, Massachusetts. The decision is rendered pursuant to a vote of the Commission on September 19, 2002, with the intent of allowing only one wireless tower to be constructed on Echo Road. Therefore, the



Commission approves this project with the condition that the DRI permit for the Seacoast/Mashpee tower on Echo Road shall be suspended if ICE/Mashpee, project #TR02013, obtains its preliminary Certificate of Compliance first and shall be revoked thereafter upon completion of the ICE/Mashpee tower.

PROJECT DESCRIPTION

The applicants are proposing to lease approximately 7,500 square feet of interior and exterior space for the construction of a 150-foot high, six carrier monopole. The proposed site is currently developed. The monopole will not be lit, and is proposed to be constructed of hot dip galvanized steel. To provide a visual buffer, the applicant proposes to enclose the outdoor leased area within a 10-foot high chain link fence with woven vinyl inserts.

The proposed site is located within an industrial zone and is within the Mashpee Wireless Overlay District which allows towers of up to 200 feet by special permit from the Planning Board.

PROCEDURAL HISTORY

The Seacoast, Inc./Mashpee tower was referred to the Cape Cod Commission (CCC) as a mandatory Development of Regional Impact (DRI) by the Mashpee Planning Board on March 20, 2002, and received by the Cape Cod Commission on March 21, 2002. A duly noticed pro-forma public hearing was opened on May 16, 2002 by a hearing officer. On July 23, 2002, a substantive public hearing was held at Mashpee Town Hall. The hearing was continued until August 12, 2002, at which time it was closed by a hearing officer. A final joint public hearing with the ICE/Mashpee project was held before the Cape Cod Commission on September 19, 2002 at which the Commission voted 10 to 2 (with one recusal) to approve the project as a DRI, subject to conditions.

A Subcommittee meeting was held after the public hearing on July 23, 2002 to discuss the project. A joint Subcommittee meeting was held on August 29, 2002 at which members of the ICE/Mashpee and the Seacoast/Mashpee subcommittees were present. A Subcommittee meeting was held on September 5, 2002 at which staff was directed to prepare a draft written decision approving the project with conditions to forward to the full Commission. The Subcommittee Chair was authorized to review and approve the draft decision.

MATERIALS SUBMITTED FOR THE RECORD

Applicant Submittals:

- DRI Application and attachments, dated 3/22/02, received 3/25/02.
- Amended DRI Application and attachments, dated 3/25/02, received 3/26/02.
- Mashpee – Echo Road Wireless Tower Development Package, dated April 2002, received 4/2/02.
- Revised Title Sheet (T-1), Plot Plan (C-1), Abutters Plan (C-2), and Elevation (A-1) dated 3/18/02, revised 4/02/02.
- Revised Title Sheet (T-1), Plot Plan (C-1), Abutters Plan (C-2), and Elevation (A-1) dated 3/18/02, revised 8/06/02.
- Mashpee – Echo Road Wireless Tower Development Package, dated April 2002, received 4/12/02.

- Copy of correspondence from Chuck Webberly (Structure Consulting Group) to Richard Joyal dated 4/12/02, received 4/17/02.
- Fax with attachments (Noise Impact Study and Cingular letter of interest) from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated and received 4/19/02.
- Fax of land lease from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), received 4/22/02.
- Fax of report from Donald L. Haes, Jr. PhD., CHP dated 4/19/02, received 4/22/02.
- Copy of correspondence from Everett Oakes (ANG TERPS) to Richard Joyal (Seacoast), dated and received 4/23/02.
- Copy of correspondence from Maureen Sneesby (ATC Assoc., Inc.) to Richard Joyal (Seacoast) dated 5/2/02, received 5/3/02.
- Copy of correspondence from Maureen Sneesby (ATC Assoc., Inc.) to Elsa Fitzgerald (MHC), dated 4/24/02, received 5/3/02.
- Fax of the stamped ATC letter to MHC noted above.
- E-mail from Richard Joyal (Seacoast) to Tana Watt, dated 4/29/02, received 4/30/02.
- Fax of affidavit of Frank A. Maki, Jr., Trustee of C.C.M. Realty Trust, dated 4/30/02, received 5/13/02.
- Photosimulations and photographs, dated 5/2/02, received 5/3/02.
- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 6/4/02, received 6/5/02.
- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 6/4/02, received 6/5/02.
- Coverage plots, dated 6/11/02, received 6/13/02.
- E-mail and coverage plot forwarded from David Maxson (Broadcast Signal Lab) to Tana Watt (Cape Cod Commission) with e-mail attachment from Ajay Sawant (Bechtel), dated 6/10/02 and 6/14/02, received 6/17/02.
- E-mail and coverage plot forwarded from David Maxson (Broadcast Signal Lab) to Tana Watt (Cape Cod Commission) with e-mail attachment from Ajay Sawant (Bechtel), dated 6/4/02 and 6/6/02, received 6/17/02.
- Copy of letter and attachments from Chuck Webberly (Verizon) to David Maxson (Broadcast Signal Lab) dated 6/13/02, received 7/2/02.
- Copy of correspondence from Stacey Wetstein (MHC) to Richard Joyal (Seacoast), dated 6/18/02, received 6/24/02.
- Fax and correspondence from Atty. Walter Sullivan (representing Seacoast) to Tana Watt (Cape Cod Commission), dated 7/23/02, received 7/23/02.
- Memorandum from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 7/23/02.
- Memorandum from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 7/23/02, received 7/25/02.
- Fax from Angel Cases (FAA) to Richard Joyal (Seacoast) received 7/24/02.
- Correspondence from Atty. Kevin Kirrane (Dunning & Kirrane, L.L.P.) to Tana Watt (Cape Cod Commission), dated 8/1/02, received 8/2/02.
- Fax and attachment from Chuck Webberly (Structure Consulting Group) to Andrea Adams (Cape Cod Commission), dated and received 8/5/02.
- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 8/6/02.

- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 8/7/02.
- Fax with attachments from Chuck Webberly (Verizon) to Andrea Adams (Cape Cod Commission), dated and received 8/8/02.
- Faxed correspondence from Richard Joyal (Seacoast) to Subcommittee Members (Cape Cod Commission), dated 8/9/02, received 8/12/02.
- Fax of correspondence from Brian Reese, P.E. (Summit Manufacturing, LLC) to Richard Joyal (Seacoast), dated 8/12/02, received 8/14/02.
- Environmental, Health, and Safety Plan, received 8/12/02.
- Fax from Atty. Kevin Kirrane (representing Seacoast) to Tana Watt (Cape Cod Commission), dated and received 8/15/02.
- Fax from Atty. Walter Sullivan (Sullivan & Sullivan, P.C.) to Margo Fenn (Cape Cod Commission) dated 8/15/02, received 8/16/02.
- Fax from Atty. Walter Sullivan (Sullivan & Sullivan), P.C.) to Tana Watt (Cape Cod Commission), dated and received 8/15/02.
- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 8/21/02.
- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 8/29/02.
- E-mail from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated 8/29/02.
- Faxed correspondence from Marcello Posada (Summit Manufacturing, LLC) to Richard P. Joyal, Jr., dated 8/29/02, received 9/4/02.
- Memorandum from Richard P. Joyal, Jr. (Seacoast) to Seacoast Subcommittee, dated 8/30/02, received 9/5/02.
- Letter from Frank A. Maki, Jr. (C.C.M. Realty Trust) to Committee Members, dated 9/10/02 and received 9/11/02.
- Memorandum from Richard Joyal (Seacoast) to Tana Watt (Cape Cod Commission), dated and received 9/18/02.
- Specification Sheet for Tri-Seal Fence Slats.
- Sign plan by Sign A Rama.

Federal and Local Submittals:

- DRI Referral Form and attachments, dated 3/20/02, received 3/21/02.
- Map of Mashpee's Wireless Facility Overlay District.
- E-mail from Eric Smith (Mashpee Asst. Town Planner) to Tana Watt (Cape Cod Commission), dated and received 4/16/02.
- E-mail from Brian Nickerson, Planner at Mass. Military Reservation, dated 6/27/02.
- Fax of correspondence from Lieutenant Colonel Timothy A. Mullen (Mass. Air National Guard) to Richard P. Joyal, Jr. dated 7/31/02.
- LCP Consistency report from Eric Smith (Asst. Town Planner) to Tana Watt.

Other Submittals:

- Report issued by David P. Maxson, dated 4/26/02.
- Report issued by David P. Maxson, dated 6/6/02.
- Report issued by David P. Maxson, dated 7/8/02.
- Fax from Francis D. Parisi (Terracord, LLC) to Cape Cod Commission, dated 8/8/02, received 8/8/02.

- Correspondence from Myer R. Singer (Singer & Singer, LLC) to Mr. Robert Deane (Cape Cod Commission), dated and received 8/12/02.
- Correspondence from Eric W. Wodlinger, P.C. (Choate, Hall & Stewart) dated and received 8/23/02.
- Faxed correspondence from Andrew L. Singer (Singer & Singer, LLC) to Robert Deane (Cape Cod Commission), dated and received 9/4/02.
- Correspondence from Walter L. Sullivan (Sullivan & Sullivan, P.C.) to Elizabeth Taylor (Cape Cod Commission), dated 9/18/02, received 9/19/02.

The application and notice of the public hearing relative thereto, the Commission's staff reports, correspondence, notes and exhibits, minutes of subcommittee meetings and hearings, and all submissions received in the course of the proceedings, including materials submitted on File TR02012 (Seacoast/Mashpee) are incorporated into the record by reference.

TESTIMONY

July 23, 2002 Public Hearing:

The Subcommittee heard oral testimony from the following:

Mr. Kevin Kirrane, attorney for the applicant, described the project and said that they are proposing to locate on a site that has already been developed for industrial use.

Tyler McAllister, representing AT&T, said this is a good site for AT&T wireless to co-locate on.

Ajay Sarant, representing AT&T, showed maps of AT&T coverage with and without the tower.

Steve Bozkurtian, representing Verizon, said this site works well for them by filling a gap and a large need.

Lewis Tebez, representing Verizon, showed maps indicating existing coverage and coverage if the tower is built at this location at 150 feet, 140 feet and 125 feet.

Ms. Watt, Commission planner, presented the staff report.

Mr. Platt asked about height. Mr. Maxson discussed coverage and site selection issues.

Mr. Platt asked if additional carriers would have similar looking data. Mr. Maxson replied affirmatively.

Mr. Tevis, representing Verizon, said that the siting of the proposed tower has implications for future sites in the network. He said that they have existing coverage on Route 28 and Route 6 and are addressing Route 130 next, and that secondary roads to the east and west will need attention in the future. He said that the halfway point between Route 6 and Route 28 is Echo Road, and that this site is within their search ring.

Richard Joyal, representing Seacoast, Inc., said that the Town mandates a very limited area as a wireless district, and that this is where the towers are allowed.

Mr. Kirrane noted a letter from the FAA saying that they did not have a problem and did not expect this structure to interfere with air traffic.

Mr. Joyal said he had contacted Major Commander Dolan on the base who had been involved in the FAA determination and the crane test from the beginning of the process.

Arden Cadrin, Sturgis Lane, asked if the crane test was conducted at various heights or at one height. Ms. Watt said it was conducted at 150 feet with a marker at 120 feet. Ms. Cadrin asked if the test had been done before or after the tree clearing. Ms. Watt replied after. Ms. Cadrin asked if there would be any lights on the tower. Ms. Watt said no. Ms. Cadrin said she was concerned about the visual impact on Sturgis Lane.

Mr. Walter Sullivan, attorney representing Steven Comoletti, owner of the other tower site, said that the staff report did not take into account the requirement for a variance, and that the proposed property does not satisfy the statutory requirements and therefore has no standing. He said it should be dismissed without action. He said that 54 Echo Road satisfies the by-law.

Mr. Kirrane said the tower was designed so that only the top 10 feet would break away, significantly reducing the fall zone. He also noted that he was not convinced that a variance would be required since it was no different from a structure that was constructed to house wireless equipment. He said there were advantages to developing on an already-developed site, as the RPP recommends. Mr. Kirrane said that Verizon would use propane gas backup if they needed a backup generator, and no generator would be required for AT&T, so there would be no hazardous materials.

Michael Giamo, representing Verizon, handed out material describing lucent gell batteries that cannot spill because the material is solid or semi-solid.

An AT&T representative said that they would not use a backup generator, although they might use a small portable plug-in generator on rare occasions.

Mr. Kirrane said that issues raised by Mr. Sullivan are not real issues and relate only to competition. He said the goals of the RPP have been addressed and the site would have less visual impact on Sturgis Lane than the other site.

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.

FINDINGS

The Commission has considered the application of Seacoast LP and Verizon Wireless, and based on consideration of such application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General:

Finding 1) The proposed project is located within the Mashpee Wireless Overlay District on a developed industrial site on Echo Road in Mashpee, Massachusetts.

The leased area consists of approximately 7,500 square feet of both interior and exterior space for a 150 foot telecommunications monopole that will provide locations for a total of 6 carriers. The equipment shelters will be located within the existing building. The applicant has signed a lease with the site parcel owner, represented by Frank A. Maki Jr., Trustee of C.C.M. Trust, for the use and operation of a monopole wireless communications structure, equipment shelter space, and site access. The lease covers a period of 25 years renewable in 5-year increments, starting from the date of operation, and requires the applicant to remove the monopole when the lease is terminated.

Finding 2) A summary review of the proposed Seacoast Inc./Mashpee tower was prepared by David Maxson of Broadcast Signal Lab, the Commission's consultant on wireless facilities projects. He received copies of all material from the applicant and attended subcommittee hearings and meetings. His report analyzes Seacoast's proposal and supporting material from the carriers, and although no drive test data was submitted to verify the performance of any existing services and facilities, Mr. Maxson's report indicates that the proposed monopole would provide multiple carriers with additional or improved coverage in the area. His analysis of coverage, height, and number of viable carriers at the proposed location weighs favorably with the documented visual impact evidence, and the Commission finds that the proposed facility is in keeping with the goals of minimizing visual impact and encouraging multiple users on wireless communications towers provided that only one wireless tower is constructed on Echo Road in Mashpee.

Finding 3) The Regional Policy Plan (MPS 4.4.2:1) and Technical Bulletin 97-001, *Guidelines for DRI Review of Wireless Communication Towers*, requires telecommunications facilities to locate on existing structures, or to co-locate with other carriers wherever feasible to reduce visual impacts.

Finding 4) Structure Consulting Group, Inc., representing Verizon Wireless, and Turning Mill Consultants, Inc., representing AT&T Wireless Services, conducted searches for existing structures on which to locate, including municipal, private and commercial structures, and were unable to identify possible existing structures that would provide adequate coverage in this part of Mashpee. Commission staff, in conjunction with the Mashpee Asst. Town Planner, were unable to identify additional existing structures that the applicant should investigate.

Finding 5) The applicant has provided letters of interest from Verizon at 150', AT&T at 140', and Cingular at 130'. Three additional locations will be reserved at 120', 110' and 100' for future carriers.

Finding 6) The applicant has offered to provide space on the monopole and within the equipment shelter for town of Mashpee emergency service antennas as well as DPW dispatch transmitters.

Finding 7) The site has been previously developed and consists of a large paved parking lot and an existing building. The site has been largely cleared of vegetation due to this development. The project proposes no clearing of vegetation as the facility will be located entirely within the developed area.

Finding 8) In lieu of providing landscaping at or near the site, the applicant has offered to donate the sum of \$10,000 to the town of Mashpee to be used as seed

monies for the development of the Mashpee Incubator Project located in the Mashpee Industrial Park.

Finding 9) The project is not located within a historic district, and comments have been received by Massachusetts Historical Commission to confirm that the project is unlikely to have impacts on significant historic or archaeological resources.

Finding 10) In 1998 the town of Mashpee adopted zoning by-laws establishing requirements, standards and procedures to regulate the permitting and installation of communication structures and buildings within the Town. The property is within the Mashpee Wireless Overlay District which allows towers of up to 200 feet by special permit from the Planning Board.

Finding 11) The Commission finds that in regard to height requirements, the project is consistent with local zoning.

Finding 12) The 150 foot fall zone is within the property boundaries.

Finding 13) The project is not consistent with the Technical Bulletin and may not be consistent with the Town's by-law establishing setback requirements, which require that the fall zone for communications facilities be the height of the structure (including any antennas or other appurtenances), which in this case is 150 feet, from any property line, habitable dwelling, business or institutional use. An existing industrial building is located within the fall zone of the facility. Under Section V.D.1 of the Technical Bulletin, to ensure the public interest, the applicant must provide proof of a legal interest in the fall zone.

Section V.D.2. of the Technical Bulletin allows the Commission to reduce the required fall zone by as much as 50% if the Commission finds that a substantially better site design will result from such reduction. The distance from the base of the facility to the 50% fall zone perimeter is approximately 75'.

Finding 14) The applicant submitted a letter from Frank A. Maki, Jr. (CCM Realty Trust) stating that the area within the 50% fall zone will be used for storage of underground burial vaults and other commodities, that the front office space will be reserved for his own use, and that he agrees not to sublet the area within the fall zone to a third party.

Finding 15) After considering visual and safety impacts from the project, the Commission hereby finds that because the project is proposed on a developed site and will not entail land clearing, removal of vegetation or construction of a new equipment shelter, a substantially better site design will result, and a fall zone of approximately 75' is appropriate. (Also refer to Findings 24 and 32).

Finding 16) Prior to construction, the applicant will require a Finding from the Planning Board, as the Special Permit granting authority, stating that a substantially better design will result from such reduction. The applicant may also require a dimensional variance from the Zoning Board of Appeals to allow a building within the fall zone.

Finding 17) At a Subcommittee Meeting on September 5, 2002, Eric Smith, Mashpee's Assistant Town Planner, confirmed that the proposed plans are

consistent with the Mashpee Comprehensive Plan and local by-laws, with the possible exception of the fall zone restriction addressed in Finding 13 above.

Height:

Finding 18) Verizon data show more change in coverage when the height of the monopole is reduced from 150 to 125 feet than the AT&T/Bechtel data show for a change from 150 to 90 feet. Analysis by Mr. David Maxson, Broadcast Signal Lab, consisting of a shadow plot from 90 feet, suggests that providers will obtain respectable coverage at this elevation above ground. Given the lack of adjacent facilities with which to overlap coverage, and the Regional Policy Plan goal to maximize co-location, adequate coverage for six carriers may be obtained by a tower of 150' in height.

Finding 19) Consistent with the Regional Policy Plan and the Technical Bulletin, the proposed tower height would provide for co-location of 6 carriers at or above 100 feet.

Finding 20) Guidelines contained in Section VII of Technical Bulletin 97-001 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 alternative to a single 150 foot tower is multiple lower towers located throughout Mashpee and the region. The proposed project is designed to limit the number of cellular towers through maximized co-location, and is therefore consistent with these guidelines provided that only one wireless tower is constructed on Echo Road in Mashpee.

Finding 21) The Subcommittee requested that the applicant provide documentation that the proposed tower will not interfere with air safety or operations at the nearby military base. The Commission received correspondence from Mr. Everett Oakes, Chief Analyst, ANG TERPS confirming that a tower of up to 154 feet could be constructed with no impact to the instrument procedures at Otis Air National Guard Base. An e-mail from Brian Nickerson, Planner, E&RC, Mass. Military Reservation states that the Massachusetts Air Guard (which has overall control of the airfield) has been notified regarding the tower, and has made comments to the FAA. The FAA has verified that the facility poses no hazard to air navigation based on its height and location. An e-mail from Angel Cases of the FAA states, in part, "...in accordance with my regulations, I have come to agreement with all FAA lines of business, outside aviation industry concerns, and all military units including the Coast Guard, Army, Navy, Air Force and all their sub-components such as the reserves...I hope this helps clarify that an approval by the Regional ATD of the FAA is an approval by all aviation industry parties concerned." A letter was received from Lieutenant Colonel Timothy A. Mullen, Attorney Advisor, Massachusetts Air National Guard, stating, in part, "Based upon the regulatory compliances obtained and the proposed height, the 102FW has no objections to the tower location and height."

Public Safety and Noise:

Finding 22) Technical Bulletin 97-001, Section V.D. states that for safety reasons, businesses should not be located within the fall zone. At the proposed height of 150 feet, the fall zone of the proposed tower would include a portion of an existing industrial building.

Finding 23) As noted in Finding 14, the applicant has agreed to provide proof of a legal interest in the 50% fall zone (approximately 75 feet), and has committed to ensure that the area will be used for no other business than storage, which would require minimal access by employees.

Finding 24) The monopole has been designed with a theoretical failure point at approximately 75 feet from the top of the pole. According to Marcello Posada, Associate Engineer for Summit Manufacturing, LLC, this will result in a fall zone radius of approximately 75'. Monopoles are designed in accordance with the Electronic Industries Association/Telecommunication Industries Association (EIA/TIA) specifications 222F. When properly designed according to these specifications, and when properly maintained, monopoles have a high degree of structural stability under the most extreme conditions, which serves to reduce the possibility that the tower will fall.

Finding 25) Based on a study prepared by Cavanaugh Tocci Associates, Inc, the 24-hour background noise level at the south property line was 52 dB. The report states that the only noise-producing equipment associated with the project is the base transmitter station (BTS) cabinet which will be enclosed within an existing building. Cavanaugh Tocci Associates concludes that the maximum sound pressure level from the BTS cabinet will be less than 20 dBA at the nearest property line and will not increase the background noise level of 52 dB. Furthermore, the report concludes that the noise generated by this equipment is not expected to be audible at any location outside of the site. The nearest residential neighborhood is located approximately 850 to 900 feet away. Accordingly, the proposed facility appears to be consistent with the Commission standards relative to noise impacts.

Finding 26) The Commission is aware and concerned about the possible 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. Section IX of the Technical Bulletin requires the monitoring and maintenance of a wireless communications facility after it has been constructed. Ambient noise and RFR measurements must be taken prior to construction of the monopole, followed by measurements of RFR and noise levels taken 90 days after operation begins and at annual intervals thereafter.

Community Character:

Finding 27) Based on a crane test performed on April 23, 2002 as well as photosimulations, several locations were identified from which the tower would be visible. Locations with minimal public views include Echo Road, Lowell Holly Reservation across Mashpee/Wakeby Pond, James Circle looking north across Johns Pond, and Ashumet Road looking to the north. Areas with significant public views include Mashpee Heritage Park, Sturgis Lane intersection with Route 130, and Route 130 itself. The building that would house the equipment was not visible from any location except from the Echo Road site itself.

Finding 28) The applicant proposes to house the equipment shelters within the existing building, and to enclose the leased area by a 10 foot tall chain link fence with vinyl slats that will screen the base of the proposed monopole.

Finding 29) The applicant proposes to construct the monopole of hot dip galvanized steel which will be allowed to weather to a gray tone, the antenna mounts will be galvanized gray metal and the antenna will be white. Camouflage treatments also include the design and remote location of the facility. The applicant proposes to place the equipment shelters within the existing building on the site and to construct the tower itself as a monopole. The Echo Road site in Mashpee is remotely located with limited visual impact on the surrounding area (also refer to Finding 27 above).

Finding 30) The proposed monopole will not require exterior lighting per FAA regulations. Section VI(A)(5)(a) of the *Guidelines for Development of Regional Impact Review of Wireless Communication Towers* states that "lighting of equipment shelters and any other facilities on the ground" should be designed in accordance with the Commission's Technical Bulletin 95-001 on exterior lighting. The DRI application stated that the facility will "require no [exterior] lighting." As such, exterior lighting was not an issue in this DRI review. However, if exterior lighting is needed, the use of a motion sensor is preferred.

Finding 31) Proposed signage will consist of an 18" x 24" DANGER sign that will be posted on the fence, which will not be internally lit or flashing. According to the Assistant Town Planner, it complies with local sign regulations.

Finding 32) The Commission finds that this combination of factors is sufficient to limit adverse community character impacts provided that only one wireless tower is constructed on Echo Road in Mashpee.

Finding 33) The Commission expressed serious concern about the visual impact of two towers on Echo Road, believing that two towers would have much more of an adverse impact on the area than one tower. In addition, testimony was presented that only one tower is needed. Therefore, it is the intent of the Commission to allow only one tower to be constructed on Echo Road.

Natural Resources and Open Space:

Finding 34) The project site is located within a Significant Natural Resource Area (SNRA) due to a public water supply wellhead protection area. The site is not mapped as rare species habitat, and was excluded from the Mashpee National Wildlife Refuge boundary due to the previously developed nature of the site.

Finding 35) A natural resources inventory is not required due to the developed nature of the site. The project is located entirely within a previously developed area, and consequently likely poses no adverse impacts on wildlife or wildlife habitat.

Finding 36) As a redevelopment project located within a Significant Natural Resource Area, the project is required to provide open space equivalent to half the total development area, or 3,750 sq ft. In consultation with the town's Land Bank representative, the applicant has offered to make a cash contribution to the Mashpee Land Bank Fund in the amount of \$3,956 in order to meet this requirement.

Hazardous Materials:

Finding 37) Based on maps produced for the 2001 Regional Policy Plan, the site is located in an existing Wellhead Protection District, and as such, MPS 4.3.1.3 applies to both the construction and post-construction phases of this project. MPS 4.3.1.3 states that *development and redevelopment that involves the use, treatment, generation, storage, or disposal of hazardous wastes or hazardous materials, with the exception of household quantities, shall not be allowed within Wellhead Protection Areas.*

Finding 38) Information received as part of the DRI review indicates that the amount of hazardous materials attributable to construction of this particular project will be relatively small. Hazardous materials attributable to the project post-construction include used lead acid batteries, propane (for the emergency generator), compressor oil, antifreeze, a battery and other lubricants for the emergency generator.

Finding 39) MPS 4.3.1.1 states that *development and redevelopment shall make reasonable efforts to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.* Carriers that expressed an interest in locating on the Seacoast monopole included AT&T, Verizon and Cingular. AT&T indicated they do not need any back up system for their telecommunications equipment. Verizon intends to use both batteries and a propane-fueled generator, which is large enough to provide power to Cingular and any other potential carriers. As regards the air conditioning units, the applicant confirmed that mercury switches will be replaced with digital switches, eliminating the concern posed by mercury to people and the environment. The applicant also committed to using incandescent lights in place of fluorescent bulbs inside the equipment building, thereby eliminating the need to provide for recycling of mercury-containing fluorescent bulbs. Given the type of facility reviewed, these steps are sufficient to address MPS 4.3.1.1.

Finding 40) MPS 4.3.1.2 states that *development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.000. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.* Information received from Verizon and Seacoast LP indicates that Electronic Environments will service the air conditioners and emergency generator. Seacoast has provided EPA and state hazardous waste generator identification numbers for Electronic Environments. The company is registered with the Department of Environmental Protection. The class of generator the registration indicated would, if permits were in good standing, allow the company to handle the types and amounts of hazardous waste and waste oil generated by the proposed monopole facility. Given the type of facility, this information is adequate to address MPS 4.3.1.2.

Finding 41) MPS 4.3.1.4. of the 2001 RPP requires that *development and redevelopment shall prepare an emergency response plan that identifies potential threats to employee safety and health and threats of environmental releases and*

describes ways to reduce those threats. The company has a health and safety plan in place that satisfies MPS 4.3.1.4.

Other Issues:

Finding 42) There are no anticipated transportation impacts from the proposed project.

Finding 43) The proposed project includes an existing building with existing water and septic provisions. It therefore does not require any new water or sanitary sewer service.

Finding 44) If the monopole is no longer needed or not feasible to operate, the applicant may abandon it upon written notice to the parcel owner, other carriers, the Commission and the town of Mashpee. If abandoned, the applicant will be required to physically remove the monopole and all associated equipment. The applicant will be required to post a performance bond with the town of Mashpee, in an amount to be determined by the Town, to cover the expense of removal in the event that the company cannot or will not remove the structure.

CONCLUSION

Based on the findings above, the Commission hereby concludes:

- The proposed project is consistent with the applicable Minimum Performance Standards of the Regional Policy Plan.
- The proposed project is consistent with the Mashpee Comprehensive Plan and local development by-laws, so long as the applicant obtains a special permit from the Mashpee Planning Board, and a dimensional variance, if so required, from the Zoning Board of Appeals. This DRI approval is in no way intended to support or oppose the granting of this variance by the Town.
- The benefits of the proposed project outweigh the detriments resulting from the development. This is supported by the facts that the project as proposed would provide improved wireless communications service in the town of Mashpee (Finding 2); the proposed project will provide space for Department of Public Works and local emergency system communications antennae (Finding 6); and the applicant will provide seed money for the development of the Mashpee Incubator Project (Finding 8).

With the intent of allowing only one wireless tower to be constructed on Echo Road, the Commission hereby approves with conditions the application of Seacoast LP and Verizon Wireless for the proposed monopole wireless communications facility in Mashpee, MA as a Development of Regional Impact, provided the following conditions are met.

CONDITIONS

Based on the findings above, the Commission hereby attaches the following conditions.

Condition 1) Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.

Condition 2) The applicant shall obtain all necessary Federal, state and local permits for the proposed project.

Condition 3) No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed, or if such an appeal has been filed, until all judicial proceedings have been completed.

Condition 4) Prior to the issuance of a Building Permit for any phase of construction, the applicant shall obtain a preliminary Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to the issuance of a Building Permit have been met. The applicant shall obtain a final Certificate of Compliance from the Commission for each wireless carrier, prior to operation of each company's facility. Notification of the need for a final Certificate of Compliance shall be given to the Commission at least 30 days in advance of the intended start of operations for each carrier, to allow time for staff to inspect the site and ascertain that all conditions have been met.

Condition 5) Prior to issuance of a preliminary Certificate of Compliance for any phase of proposed construction, the applicant shall submit final plans as approved by local boards for review by Commission staff to determine their consistency with Section 7 of the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 6/3/99 and as amended from time to time.

Condition 6) The proposed structure shall be constructed as a monopole at a height limited to 150 feet and designed to accommodate standard antenna arrays for six carriers, with accessory equipment located within the existing building, as shown on a Plot Plan (C-1) dated 3/18/02, last revised 9/10/02, an Abutters Plan (C-2) dated 3/18/02, last revised 9/10/02, and an Enlarged Compound Plan and Tower Elevation (A-1) dated 3/18/02, last revised 9/10/02. Additionally, the applicant shall construct the tower to accommodate six carriers as shown on a two page tower elevation plan produced by Summit Manufacturing, LLC, dated 3/28/02. The monopole shall be galvanized steel, with galvanized antenna mounts and white antennas.

Prior to the issuance of a preliminary Certificate of Compliance the applicant shall provide a tower elevation plan showing the position of each committed carrier on the monopole.

Future facilities not reviewed and shown on the drawings at the time of Cape Cod Commission approval shall require review by the Commission through the modification process of the Administrative Regulations at the time they are proposed.

Condition 7) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall provide the Cape Cod Commission with bona fide, non-contingent, signed contracts from a minimum of four carriers, each for a minimum of five years renewable in five year increments. This decision shall be suspended if ICE/Mashpee, project number TR02013, obtains its preliminary Certificate of Compliance first based on the date of issuance, and shall be revoked thereafter upon completion of the ICE/Mashpee tower.

Condition 8) Prior to issuance of the preliminary Certificate of Compliance, the applicant shall make a cash contribution to the Mashpee Land Bank Fund in the amount of \$3,956 and shall provide proof of such to the Cape Cod Commission.

Condition 9) Prior to the issuance of a preliminary Certificate of Compliance, all collocators on the monopole shall provide to the Commission a report of Radiofrequency Radiation expected to be generated from their antennas, showing all calculations and assumptions. The carriers shall provide a copy of written clearance from the Massachusetts Department of Health that the RFR emissions are below the Department's threshold levels.

Condition 10) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall submit a report of the ambient and existing conditions of Radiofrequency Radiation (RFR) and noise at the site to the Commission and the Mashpee Board of Health. After the monopole is constructed and operational, the applicant shall submit a report of measurements of RFR and of noise/sound measurements from the tower. The first RFR and noise reports shall be submitted to the Commission and the Mashpee Board of Health within 90 days of commencing operations for the first carrier, and at annual intervals from the date of issuance of the final Certificate of Compliance for the first carrier. The noise report shall be signed by an acoustical engineer and show that the facility continues to meet the maximum noise threshold of 50 dB at the property boundary.

Condition 11) Prior the issuance of a preliminary Certificate of Compliance, the applicant shall provide to the Cape Cod Commission, for approval by staff, a revised lease agreement demonstrating that the applicant has control of the approved fall zone.

Condition 12) Consistent with a letter from Frank A. Maki, Jr. (CCM Realty Trust), and as shown on the plans approved in Condition 6, the area within 75' of the tower shall be used exclusively for storage by the property owner and as the equipment shelter for the project until such time as the monopole and associated structures are abandoned and removed.

Condition 13) The applicant shall maintain the monopole in good condition for the entirety of its operational period. Such maintenance shall include, but not be limited to, structural integrity of the mount and security barrier. The applicant shall not clear vegetation or disturb any area outside of the existing developed area.

Condition 14) If the applicant decides to abandon the monopole, it shall notify the property owners, the town of Mashpee and the Cape Cod Commission of this intention and the proposed date of abandonment, by certified U.S. Mail. Such notice shall be given no less than 30 days prior to abandonment. Within 90 days of abandonment, the applicant shall physically remove the monopole and accessory buildings, including all antennas, mounts, footings, and security barriers, as well as remove and properly dispose of any waste material from the site, and restore it to its original condition. The monopole shall be considered abandoned if it is not used for a period of at least six (6) months. Should any antennas become abandoned for more than six months, the applicant shall remove the antenna array.

Condition 15) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall provide a bond in an amount to be determined by the town of

Mashpee, to be held for the purposes of removal of the tower facility, including all above-ground and below ground equipment, structures and appurtenances, and site restoration. The bond shall be returned to the applicant at such time that the monopole is removed by the applicant and the site restored to its original condition.

Condition 16) The applicant shall provide space on the monopole and within the equipment shelter for the town of Mashpee police and fire communications system as well as Department of Public Works dispatch transmitters, at no cost to the town of Mashpee.

Condition 17) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall provide \$10,000 to the Town of Mashpee to be used as seed monies for the development of the Mashpee Incubator Project located in the Mashpee Industrial Park.

Condition 18) The amount of hazardous materials and wastes attributable to both the construction and post-construction phases of this project shall not exceed 25 liquid gallons or its approximate dry weight equivalent on site at any one time.

Condition 19) On-site fueling and refueling of construction equipment shall be prohibited. On-site servicing of all construction equipment shall be limited to lubrication of fittings and joints.

Condition 20) Equipment buildings and pads shall be constructed of an impervious surface, free of gaps and cracks, and without floor drains.

Condition 21) There shall be not more than one on-site emergency generator, and two air conditioning units as proposed by Verizon. The on-site emergency generator shall be sized to accommodate any carriers that wish to use it for backup power, and shall be restricted to propane or other compressed gas fuel.

Condition 22) All on-site air conditioning units shall use digital thermostats instead of a mercury switch, and equipment buildings shall use incandescent lights for interior lighting instead of fluorescent bulbs.

Condition 23) There shall be no exterior lighting of the monopole, the equipment shelter or the site installed as part of the project. If exterior lighting is needed, it shall be installed with a motion sensor and approved by Cape Cod Commission staff prior to installation.

Condition 24) All signage shall comply with the requirements of the RPP and all local and FCC regulations.

Condition 25) If all required site work is not complete at the time a final Certificate of Compliance is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall be equal to 150% of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow amount shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the applicant,

with interest, upon completion of the required work. All site work shall be completed within three months of the issuance of a final Certificate of Compliance.

Condition 26) Prior to the issuance of a final Certificate of Compliance, a field inspection shall be conducted by Commission staff to verify compliance with the conditions noted above.

Robert D. Deane
Robert D. Deane, Chairman

9/30/02
Date

Commonwealth of Massachusetts

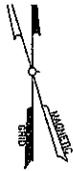
Barnstable, ss.

On this 30th day of Sept, 2002, before me personally appeared Robert Deane, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Katharine L. Peters
Notary Public
Commonwealth of Massachusetts

My Commission expires:

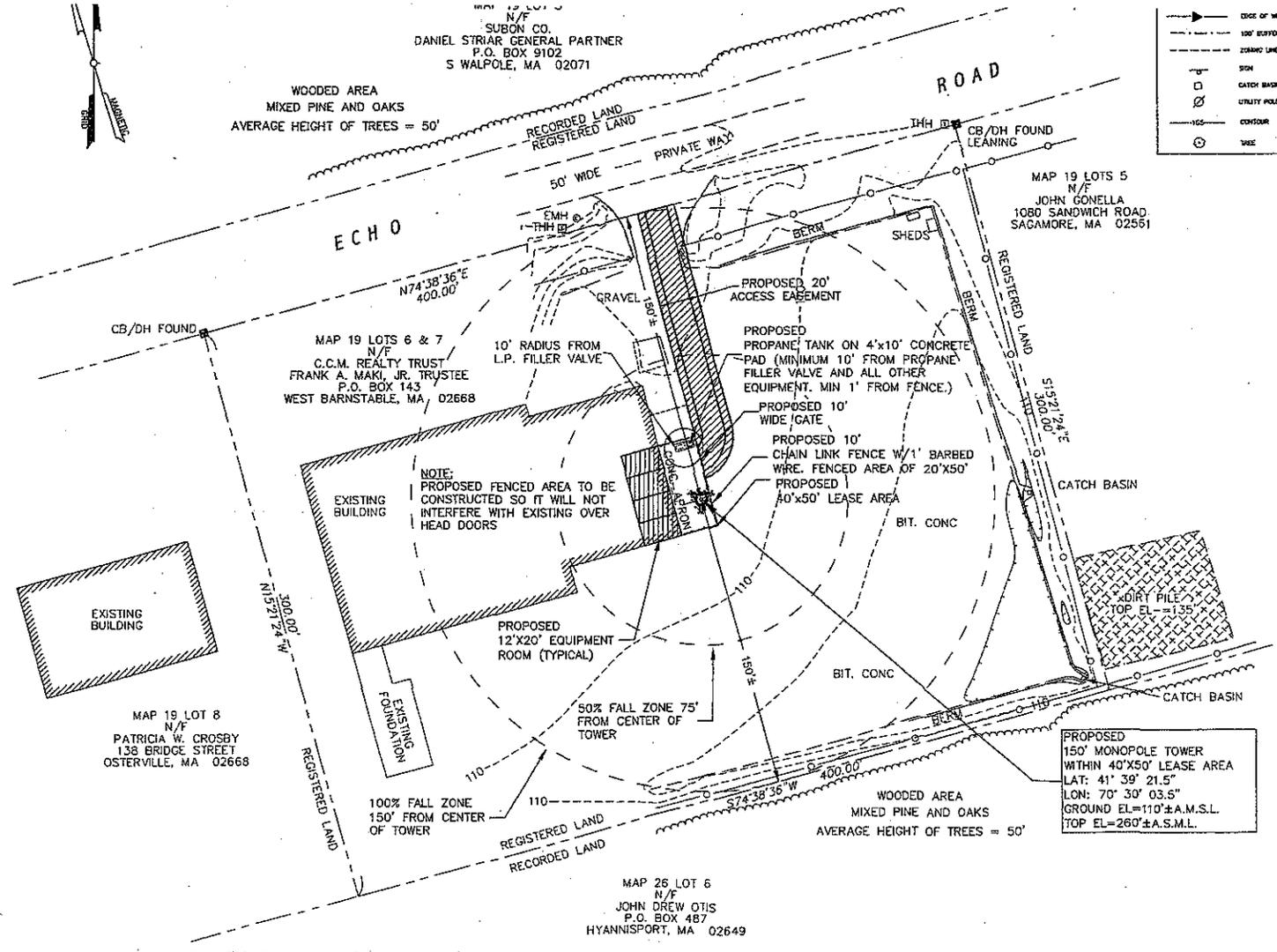
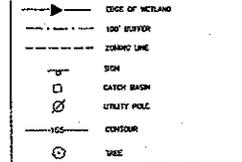




SUBDIVISION
 N/F
 DANIEL STRIAR GENERAL PARTNER
 P.O. BOX 9102
 S WALPOLE, MA 02071

WOODED AREA
 MIXED PINE AND OAKS
 AVERAGE HEIGHT OF TREES = 50'

ROAD



SITE
**SEACOAST TOWER
 MASHPEE**

ARE FROM
**TURNING MILL
 CONSULTANTS, INC**
 ENGINEERS AND CONSTRUCTION MANAGERS
 172 ROUTE 149 ROUTE 5
 MARSTONS MILLS, MA 02648
 PHONE: (508) 420-1244
 FAX: (508) 420-7380

SITE ADDRESS
**100 ECHO ROAD
 MASHPEE MA 02649**

SUBMITTALS

F	09/10/02	REV.4 FALL ZONE
E	08/06/02	REV.3 FOR FENCE
D	07/22/02	REV.2 FOR L.P.
C	04/02/02	REV.1 FOR LOCATION
B	03/19/02	ISSUED FOR ZONING
A	03/18/02	ISSUED FOR REVIEW

PROFESSIONAL STAMP

DRAWN BY: R.C.N.
 CHECKED BY: R.C.N.

SHEET TITLE:
PLOT PLAN

FAA CERTIFICATION
 I HEREBY CERTIFY THAT THE LATITUDE, LONGITUDE AND ELEVATIONS PRESENTED HEREON MEET THE REQUIREMENTS OF THE FAA WITH THE FOLLOWING ACCURACIES:
 * TWENTY (20) FEET VERTICALLY

RECEIVED
 SEP 11 2002

1
 C-1
 PLOT PLAN
 SCALE: 1" = 30'
 DATE: 09-11-02