



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: September 23, 2004

APPLICANT: Sprint Spectrum, LP
1 International Blvd.
Mahwah, NJ 07495

RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

PROJECT #: TR# 03001

PROJECT: Sprint Spectrum LP/Harwich Port cell tower
Forest Street
Harwich Port, MA 02646

MAP/PARCEL: 22/S2-A

BOOK/PAGE: Book 87, Page 103

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Sprint Spectrum, LP (Sprint or Applicant) 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 Sprint Spectrum, LP/Harwich Port cell tower (Project) in Harwich Port, MA. The decision is rendered pursuant to a vote of the Commission on September 23, 2004.

PROJECT DESCRIPTION

Sprint Spectrum, LP (Sprint) proposes to build a 150-foot monopole on a parcel of land to be leased from Harwich Golf Associates, Inc. at the Harwich Port Golf Course located on Forest Street in Harwich Port, MA. The Project is proposed as a monopole and will provide space for four co-locators, each of which would place a standard array of antennas within the monopole to be hidden from public view. The accessory equipment compound is proposed to be contained within a fenced area of 2,500 square feet. The equipment compound will contain all necessary ground-based facilities and equipment for the antennas. This includes a proposal for up to four equipment cabinets placed at ground level, surrounded by a stockade fence and landscaping to shield and buffer the

Decision

Sprint Spectrum LP cell tower- #TR03001
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equipment. The monopole is proposed to be located approximately 123 feet from the northern property line, approximately 44 feet from the southern property line, and approximately 360 feet from Forest Street. The monopole will be set back more than 300 feet from the nearest residential or commercial properties on a site that is within the RL (residential low-density) zoning district. The remainder of the site is wooded and is owned by Harwich Golf Associates.

PROCEDURAL HISTORY

The Harwich Planning Board referred the Project to the Commission on February 4, 2003. A hearing officer opened the DRI hearing for procedural purposes on April 4, 2003. Duly noticed public hearings were conducted pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on November 5, 2003, July 14, 2004 and August 5, 2004 at the Harwich Town Hall. The subcommittee held a public meeting on August 5, 2004 to deliberate on the Project, reviewing it under the 2002 Regional Policy Plan (RPP). At this meeting, the subcommittee voted unanimously to recommend to the full Commission that the Project be approved as a DRI, subject to conditions. The final public hearing was held before the full Commission on September 23, 2004. At this hearing, the Commission voted unanimously to approve the Project as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

From the Applicant:

- Application materials submitted by TerraSearch, Inc. dated January 30, 2002
- Photosimulations completed by TerraSearch, Inc. dated November 20, 2002
- Site plan for proposed 120-foot wireless monopole dated December 13, 2002
- Navigable airspace study conducted by Ken Patterson Airspace Consulting dated December 18, 2002
- Affidavit of Radio Frequency Expert dated January 29, 2003
- Letter from Brown, Rudnick, Berlack and Israels to Harwich Planning Board dated January 29, 2003
- Letter from Brown, Rudnick, Berlack and Israels to the Harwich Zoning Board of Appeals dated January 29, 2003
- Support materials for a Special Permit and Site Plan Review submitted by TerraSearch, Inc. dated January 30, 2003
- Affidavit of Site Acquisition Specialist dated May 2, 2003
- Letter from Wampanoag Tribe of Gayhead dated June 24, 2003
- Letter from Brown, Rudnick, Berlack and Israels dated June 27, 2003
- Letter from TerraSearch, Inc., Inc. regarding NEPA Screening Summary dated June 27, 2003
- Check for \$2000 from Sprint United Management Company dated July 21, 2003
- Email from Attorney Edward Pare to Greg Smith dated October 23, 2003
- Letter from TerraSearch, Inc., Inc. to MA Fisheries and Wildlife dated October 23, 2003
- Affidavit of Real Estate Expert dated November 3, 2003
- Exposure Study for the Sprint PCS Equipment dated November 4, 2003
- Letter of Commitment on behalf of Cingular Wireless dated November 5, 2003
- Letter from TerraSearch, Inc. regarding hazardous materials compliance dated November 5, 2003
- Letter from Brown, Rudnick, Berlack and Israels dated November 25, 2003
- Letter from Massachusetts Historical Commission dated December 3, 2003
- Letter from the Division of Fisheries and Wildlife dated February 6, 2004
- Letter from Brown, Rudnick, Berlack and Israels dated February 24, 2004

- Letter from Brown, Rudnick, Berlack and Israels dated February 24, 2004
- Letter from TerraSearch, Inc. regarding NEPA Screening dated March 10, 2004
- Photosimulation completed by TerraSearch dated March 18, 2004
- Letter from TerraSearch, Inc. to Harwich Historical Commission regarding photosimulations dated March 19, 2004
- Letter from TerraSearch, Inc. to Massachusetts Historical Commission regarding photosimulations dated March 19, 2004
- Letter from Brown, Rudnick, Berlack and Israels dated April 1, 2004
- Letter from Massachusetts Historical Commission dated April 22, 2004
- Check from TerraSearch, Inc. for \$2000 extension agreement dated April 22, 2004
- Site plan for proposed 150-foot wireless monopole dated April 30, 2004
- Letter from TerraSearch, Inc. dated May 3, 2004
- Letter from TerraSearch, Inc. regarding NEPA Screening dated June 3, 2004
- GIS map of Harwich Port Country Club dated July 14, 2004
- GIS map of Existing Coverage with proposed Harwich Golf Course at 130 feet dated July 14, 2004
- Lease agreement between Sprint Spectrum, LP and Harwich Golf Associates, Inc. dated November 22, 2002
- Tower Profile Comparison and Revised Planting Plan from TerraSearch, Inc. dated July 27, 2004

From Cape Cod Commission staff:

- GIS map of crane test observations dated July 7, 2004

From Federal, State or Local officials:

- Application for Special Permit dated January 30, 2003
- Application for Site Plan dated January 30, 2003
- Referral letter from Harwich Town Planner Sue Leven received February 4, 2003
- Letter from the Office of the Harwich Selectmen dated March 12, 2004

From the Public:

- Letter from Raymond D. Sanzone dated November 20, 2003

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated in the record by reference.

TESTIMONY

Note: see minutes in project file for complete public hearing and subcommittee meeting proceedings.

At the November 5, 2003 public hearing the Applicant provided an overview of the proposed Project. Staff provided an overview of issues associated with community character, hazardous waste management and David Maxson's technical review. The Subcommittee heard oral testimony at the Public Hearing from:

Mr. Don Howell, Harwich Selectman stated that the water commissioners will not change the existing policy not allowing wireless communication facilities to be located on existing water towers. Water commissioners are elected officials and have historically not allowed wireless facilities on

Harwich's water towers. Mr. Howell also stated that the number of towers in town should be minimized. He felt that a higher tower (150-feet) at the proposed site might serve to minimize the need for new towers in the future.

Bruce Gibson, Harwich Selectman stated he felt the tower's height and diameter were not a huge issue and that he would like the applicant to provide a higher tower to accommodate better coverage. He also hoped that the town would be allowed to mount a wind monitor on the tower to gauge and track wind speeds.

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 facility 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 Sprint Spectrum, LP for the proposed monopole at the Harwich Port Golf Course in Harwich Port, MA, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General

1. The proposed Project is a cellular/wireless communications monopole, 150 feet in height, designed to hold up to four antenna arrays to be located within the monopole for both Sprint and Cingular Network (Cingular), as well as up to two additional wireless co-locators.
2. The proposed Project would provide improved cellular phone service in Harwich Port to both Sprint and Cingular customers.
3. The Applicant will be required to obtain all zoning approvals from the Town of Harwich. Also, the Project must be consistent with local zoning. The Applicant must obtain a height variance, a use special permit and a site plan special permit from the Town of Harwich. The Project site is located outside the two Wireless Telecommunications Overlay Districts that were passed at town meeting in May 1998, as the portion of town to be served is beyond the reach of facilities that are/could be located in the two wireless telecommunications overlay districts.
4. The proposed Project will be constructed in accordance with the site plans submitted by Terra Search, Inc. dated April 30, 2004 and the landscape plan dated July 27, 2004. The monopole and equipment compound will be located approximately 360 feet from Forest Street in a residential low-density (RL) zoning district. The monopole and equipment cabinets will lie within a fence-enclosed area totaling approximately 2,500 square feet.
5. The proposed Project is needed to provide signal propagation in this area of Harwich Port for both Sprint's and Cingular's wireless communications networks. The proposed monopole will also provide space for a majority of active wireless carriers that may also need to

improve their network coverage in this region. Sprint and Cingular have stated that there exist significant gaps in their network coverage, which creates the need for a new facility in Harwich Port. The Regional Policy Plan (MPS 4.4.2.1) requires telecommunications facilities to locate on existing structures, or to co-locate with other carriers wherever feasible to reduce visual impacts. The Applicant has provided a letter of commitment from Cingular. At a public hearing held on November 5, 2003, a letter was provided to the subcommittee stating that Cingular was negotiating with Sprint to lease space within and next to the proposed monopole for its wireless communications antenna and equipment.

6. Two privately owned and operated wireless facilities are presently located on Queen Anne Road in Harwich. There are also two wireless antennas located within the spire of the Pilgrim Congregational Church in Harwich. A 150-foot flagpole wireless facility is located at the intersection of Routes 137 and 39 in Harwich. The proposed 150-foot monopole would provide the necessary coverage for Sprint, Cingular and two additional co-locators within the identified area where a coverage gap currently exists and would be of sufficient height to negate the need for them to install additional wireless facilities within the existing coverage gap area in Harwich Port.
7. Elevation drawings submitted by TerraSearch, Inc. dated April 30, 2004 show the location of four internally-mounted antenna arrays for the co-locating wireless carriers on the monopole at 10-foot intervals. Sprint will have an antenna at 147 feet. Cingular will have an antenna at 137 feet, and two additional antenna arrays may be located at 127 and 117 feet.
8. Sprint signed an Antenna Access Agreement (Agreement) with Harwich Golf Associates, Inc. for the use of 2,500 square feet of golf course property for the construction and operation of a wireless communications facility. The lease covers a period of 25 (twenty-five) years, which would begin fifteen days following the issuance of a building permit for the monopole.
9. David Maxson of Broadcast Signal Lab, the Commission's consultant on wireless facilities projects, prepared a summary review of the proposed Project. He received copies of all materials from the Applicant and attended the public hearings and subcommittee meetings. His report analyzed Sprint's proposal and supporting material, and indicated that the proposed 150-foot monopole would meet the Commission's goals of wireless facilities co-locating multiple carriers to minimize the number of wireless towers, as well as providing needed wireless coverage.
10. According to the Site Acquisition Specialist, the proposed Project site was identified as a potential location for a wireless facility after Sprint completed an alternatives analysis of possible tower sites on existing structures and of available land in the town.
11. Section V.B of the Technical Bulletin states that, in general, the height of a wireless service facility should not be more than 10 feet above the average building height or tree canopy if there are no buildings within 300 feet of the site. The height of the proposed monopole at the Harwich Port Golf Course is higher than the surrounding canopy by approximately 100-110 feet. Sprint has proposed a monopole of 150 feet because this height is the minimum necessary to provide sufficient coverage for its cellular network while providing adequate height for co-locators.

12. The Technical Bulletin states that a fall zone should be equal to the height of the proposed monopole (150 feet), but the Bulletin allows for a reduction of that zone by half of the proposed height (75 feet) if a better design would result. To the north, south and east of the proposed site are numerous residential neighborhoods, none of which are within 300 feet of the proposed monopole. As designed, the proposed Project meets the guidelines of the Technical Bulletin. Also, as proposed, the 150-foot monopole would minimize visual impacts through the construction of a wireless facility of sufficient height to allow for the co-locating of two (2) additional wireless carriers, which may negate the need to construct additional wireless facilities in this area of town.
13. Section VI-A of the Technical Bulletin states that wireless facilities should not be located in areas open to view from public roads, recreational areas or residential development. Views of the proposed monopole and associated equipment compound would be minimal from Forest Street, due primarily to a ten-foot earthen bank that will serve to screen the base of the monopole and the equipment compound.
14. TerraSearch, Inc., Inc. also prepared photosimulations of how a monopole would appear from a height of 120 feet based upon results of the crane test conducted on November 20, 2002. Photosimulations suggest that a monopole at this height would be visible from six locations.
15. At the request of the Town of Harwich, the Commission found that this 120-foot height would necessitate the construction of additional wireless facilities that may not otherwise be required with a 150-foot tower.
16. A photosimulation of the Project's visibility in Harwich Port was prepared by TerraSearch, Inc., based on a crane test conducted on March 18, 2004, when a crane at the site was raised to 150 feet. The photosimulation indicated that the monopole would be visible from ten locations. Based on the photosimulations of the crane test, staff has determined that the proposed 150-foot monopole will primarily be visible to an area located within a 2,000-foot radius of the structure (less than 1/2 mile), with one location approximately 4,500 feet from the site. The areas from which the monopole will most likely be visible are neighborhoods immediately adjacent to the site (Grassy Pond Road and South Street). For other locations, the public will have limited or obstructed views of the monopole between vegetation and buildings. The Commission finds that a combination of a limited public viewshed, the sleek appearance of the monopole design, and a pale gray or pale blue color is sufficient to limit the long-range visual impact of the project on the surrounding communities.
17. Correspondence from TerraSearch, Inc. to Sprint dated June 27, 2003 stated that the proposed wireless communications facility complies with the National Environmental Policy Act (NEPA) and will not adversely affect any environmentally sensitive areas.
18. Technical Bulletin 97-001 states that to the extent that it extends above the height of the vegetation immediately surrounding it, the monopole should be painted a light gray or light blue hue to blend with the sky and clouds. The monopole will be constructed of steel and painted a color to be approved by the Town of Harwich.
19. The Golf Club utilizes a compost and landscape materials storage area directly adjacent to the proposed project site and has constructed a berm approximately 10 feet high to provide

screening. The berm will also provide screening to limit views of the proposed Sprint equipment compound from Forest Street to the west.

20. A buffer of existing natural woodland vegetation provides approximately 110' of screening between the proposed site and the greens and fairways located to the south. In addition, the applicant proposes to construct a six-foot high Homestead Board fence around the compound, and to provide landscaping on the eastern, southern and western sides of the compound.
21. As shown on the revised planting plan dated July 27, 2004, the applicant proposes to install rosebay rhododendron (*Rhododendron maximum*, 2.5/3', 10 feet on center) and mountain laurel (*Kalmia latifolia*, 2/2.5', 10 feet on center) along the south, east and west sides of the equipment compound.
22. As shown on the revised planting plan dated July 27, 2004, the applicant proposes to plant rosebay rhododendron (*Rhododendron maximum*, 2.5/3', 10 feet on center) and white spruce (*Picea glauca*, 6/7', 20 feet on center), along the access road to the proposed facility.
23. The applicant states that no trees will need to be removed during construction except within the immediate compound area itself.
24. The applicant has provided a draft three-year maintenance contract that includes watering, pruning, mulching, and replacement of dead plant materials, fertilization, and pest control for all landscaped areas within the limit of work.
25. The applicant states that the only signage requested for the project is an emergency contact sign that is roughly two square feet that will be attached to the fence.
26. When considering the visual impacts (including design, location, color, height and public views), the alternatives analysis, coverage and co-location capacity of the proposed project versus the alternative of using multiple shorter facilities (which would have less visual impact and less coverage), the Commission finds that this combination of factors is sufficient to limit adverse community character impacts, and that the benefit of providing better coverage offsets the greater visual impact caused by height. The Commission further finds that the proposed facility is in keeping with the RPP goals of minimizing visual impacts and encouraging multiple carriers on wireless communication towers.
27. According to Ken Patterson Airspace Consulting, Inc., no lighting is required by the Federal Aviation Administration (FAA) because at 150 feet, the proposed monopole does not require FAA notification.
28. According to Section VI-B of the Technical Bulletin, noise impacts from wireless facilities should not exceed 50 decibels (dB) at the property line. Cavanaugh Tocci Associates conducted a noise assessment on December 16, 2002, and noted that the proposed wireless facility sound levels are sufficiently low, and that the potential for noise nuisance complaints is negligible.
29. Section VI-C of the Technical Bulletin requires authorization to certify that the Radiofrequency Radiation (RFR) from the proposed telecommunications equipment is

compliant with federal and state safety standards. Sprint includes a statement by David Eichler, RF Engineer, in his affidavit that the proposed Sprint emissions of radio frequency energy will be compliant with federal and state requirements. Based on the proposed antenna height, and the specifications of 47 CFR §1.1307, Table 1, it is the opinion of Mr. David Maxson that the proposed Sprint monopole emissions will inherently be compliant with applicable RFR regulations.

30. Section IX of the Technical Bulletin requires monitoring and maintenance of a cellular tower after it has been constructed. Measurements of RFR and noise levels must be taken 90 days after operation begins, and at annual intervals thereafter.
31. The site is located within a Potential Public Water Supply Area. As such, MPS 4.3.1.3 would apply to this Project.
32. The Plans show space for four equipment pads within the equipment compound capable of accommodating a total of four carriers, each of which shall be placed at ground level on a three-inch above grade concrete equipment pad. The equipment cabinets will be painted a non-reflective gray finish and will not extend above the height of the proposed fence. Sprint will be installing one equipment pad with four equipment cabinets that will have integrated battery backup. Cingular will install up to two equipment cabinets mounted on an equipment pad inside the Equipment compound. Batteries will be used to provide for backup power by Sprint, Cingular, and all other co-locators.
33. Technical Bulletin 97-001- *Guidelines for Development of Regional Impact Review of Wireless Communication Towers*- specifies that the Commission may require full containment of any hazardous materials used on site, including provision of an enclosed containment area without floor drains or sumps. Although Sprint's equipment configuration includes an outdoor equipment cabinet on a concrete pad, it is not known if the future on-site carriers will use equipment pads or shelters. Any future buildings should be designed without floor drains to provide additional secondary containment in the event of a release.
34. Sprint provided the Commission with proposed lease language for this wireless facility. The language in the Agreement prohibits the use of any hazardous materials on site, as well as the on-site disposal of hazardous wastes.
35. The Commission recommends that all carriers use only batteries or compressed/liquefied gas fuel to provide back-up power generation. Sprint submitted plans for a backup power supply, which is to be comprised of four (4) sealed batteries to be stored in a sealed storage cabinet located within the Equipment compound. The backup power will be used to supply emergency or backup power to the facility and associated equipment.
36. MPS 4.3.1.1 requires projects to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling. Applicants are required to submit a plan to demonstrate how their project will achieve conformance with this standard. Carriers contacted by Sprint to locate on the monopole include AT&T, Cingular, NEXTEL, T-Mobile and Verizon. Based on prior DRI reviews or wireless projects, some carriers use equipment cabinets and some use shelters. Equipment cabinets have different environmental requirements than machinery housed in shelters, therefore the site may generate additional hazardous waste in the future, primarily

from interior lighting and air conditioning units. Sprint will require incandescent (non-mercury) interior lighting, as well as digital (non-mercury) thermostats for future equipment shelters.

37. MPS 4.3.1.2 requires projects to be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00. Applicants are required to submit a plan to demonstrate how their project will achieve conformance with this standard. The proposed facility will generate waste sealed lead-acid batteries from Sprint's equipment cabinets. It may also generate oil and other fluids in the future from air conditioning units. It also included an on-site transformer that uses hazardous materials to function. Given this, the transformer pad should be increased in size to provide additional space for containment of a potential leak. Sprint should provide a plan to dispose of the lead-acid batteries and other hazardous waste attributable to the site in a manner consistent with 310 CMR 30.00.
38. 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 consistent with the Commission's Technical Bulletin 95-001. The applicant has confirmed that there will be no exterior lighting of the facility. The only lights required are located within the equipment cabinets.
39. The Project is located in a Significant Natural Resources Area (SNRA) as mapped by the 2002 RPP, due to the presence of potential public water supply area. However, it is not located in estimated rare species habitat as mapped by the Natural Heritage and Endangered Species Program. Also, there are no wetlands on or within 100 feet of the site.
40. A natural resources inventory was not required for the Project due to the small area of the site and its isolation from undeveloped areas.
41. The Project is required to provide open space in an amount equal to twice the total disturbed area of the project site, which equals 8,101 square feet. The open space requirement is therefore 16,202 square feet. The applicant will make a cash donation to the Harwich Land Bank as required by MPS 2.5.1.3.
42. There are no water resources or transportation impacts anticipated from the proposed Project's construction and operation.

CONCLUSION

Based on the findings above, the Commission hereby concludes:

1. The Project complies with the applicable Minimum Performance Standards of the 2002 Regional Policy Plan and meets the guidelines of Technical Bulletin 97-001.
2. Provided that the Applicant obtains a height variance, a use special permit and a site plan special permit from the Town of Harwich, the Project is consistent with the Town's development regulations. Granting DRI approval is in no way intended to support or oppose the grant of such waiver at the local level.

3. The proposed Project complies with the Harwich Local Comprehensive Plan, which has been certified by the Cape Cod Commission.
4. 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 cellular phone service in Harwich Port to customers (finding #5); the design conceals the antennas within the monopole (finding #7); and the placement of this monopole would have a high probability of providing space for a majority of active wireless carriers in Harwich Port (finding #10). These benefits outweigh the detriment of the visual impact resulting from the construction of the monopole at the Harwich Port Golf Course on Forest Street in Harwich Port.

The Commission hereby approves with conditions the application of Sprint Spectrum, LP for the Sprint Spectrum LP Harwich Port cell tower as a Development of Regional Impact, provided the following conditions are met:

CONDITIONS

General:

1. This DRI decision is valid for 7 years. Local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision. 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.
2. The Applicant shall obtain all necessary Federal, state and local permits for the proposed Project.
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.
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. Prior to the monopole becoming operable for the cellular networks, the Applicant shall obtain a final Certificate of Compliance from the Commission. Such Certificates of Compliance shall not be issued unless all conditions have been complied with. Notification of the need for a final Certificate of Compliance shall be given to the Commission at least 30 days in advance of the Project's start of operations, to allow time for staff to inspect the site and ascertain that all conditions have been met.
5. Prior to the issuance of a preliminary Certificate of Compliance, 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.
6. The proposed Project shall be constructed as a 150-foot monopole with internally mounted antenna for Sprint, Cingular and up to two (2) additional wireless carriers, with accessory

equipment shelters and landscaping, as shown on the site plans dated April 30, 2004 prepared by Terra Search Design Group. The color of the monopole will be determined at a later date by the Town.

7. Prior to the issuance of a preliminary Certificate of Compliance, the applicants shall provide the Cape Cod Commission with at least one bona fide, non-contingent, signed co-location contract from a wireless carrier for a minimum of five years and renewable thereafter.
8. The site shall be landscaped as approved in the Tower Profile Comparison and Revised Planting Plan dated July 27, 2004.
9. No trees shall be removed except as required within the immediate equipment compound itself.
10. The applicant shall install landscaping as shown on the approved landscape plan prior to the issuance of a final Certificate of Compliance. The applicant shall maintain the landscaping installed as part of the Project as detailed in the landscape maintenance contract.
11. All signage shall comply with the requirements of the RPP, Technical Bulletin 97-001 - *Guidelines for Development of Regional Impact Review of Wireless Communication Towers*, and Technical Bulletin 95-001.
12. The Applicant shall maintain the Project in good condition for the entirety of its operational period. Such maintenance shall include, but not be limited to, structural integrity of the mount, security barrier, painting, fencing and landscaping. The Applicant shall not build upon or disturb any areas other than those that are under lease agreement (Agreement) with Harwich Golf Associates, Inc.
13. If Sprint intends to abandon the Project, it shall notify the Commission and Harwich Golf Associates, Inc. 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 the abandonment. Within 120 days of the of the termination or expiration of the Agreement between Sprint and Harwich Golf Associates, Inc., Sprint will remove all Facility improvements. Sprint will then, to the extent reasonable, restore the portion of the Site to its condition at the commencement of the Agreement.
14. All wireless carriers on the proposed monopole shall be limited to the use of battery packs located in the equipment shelters to provide emergency or backup power to the facility and associated equipment.
15. The Equipment compound pads shall be constructed without floor drains or sumps.
16. There shall be no exterior lighting of the equipment shelter or the site installed as part of the project. If exterior lighting is needed, it shall be consistent with the RPP and Technical Bulletin 95-001 and approved by Cape Cod Commission staff prior to installation. Any exterior lighting shall be operated by a motion sensor. Prior to issuance of a final Certificate of Compliance, CCC staff shall perform a site inspection to verify that such exterior lighting conforms to Technical Bulletin 95-001.
17. Prior to issuance of a final Certificate of Compliance, Commission staff shall conduct a site inspection to verify compliance with the limitation on on-site fuel use and that equipment shelters

have been constructed without floor drains. If, based on the site inspection, the site is found not to be in compliance with these requirements, the Applicant shall modify the Project to conform to the decision. Such modification shall take place prior to issuance of a final Certificate of Compliance.

18. Prior to the issuance of preliminary Certificate of Compliance, the applicant shall provide the Cape Cod Commission with a check for \$30,864.14 made payable to the Barnstable County Treasurer. The Cape Cod Commission shall in turn disburse \$30,864.14 to the Town of Harwich Land Bank Fund following receipt of a proposal for the acquisition of open space.

The Cape Cod Commission hereby approves with conditions the application of Sprint Spectrum, LP as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Sprint Wireless Facility in Harwich Port, Massachusetts.

David Ansel
David Ansel, Chair
Commonwealth of Massachusetts

9/23/04
Date

Barnstable, ss.

On this 23rd day of September, 2004, before me personally appeared

DAVID J. ANSEL, to be 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.

Dorr Steven Fox
Notary Public

My Commission expires:

