



# CAPE COD COMMISSION

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**DATE:** June 24, 2004

**APPLICANT:** Sprint Spectrum L.P. c/o TerraSearch  
270 Centre Street  
Holbrook, Massachusetts 02343  
(781) 767-9285  
Joseph Pereira, TerraSearch

**RE:** Development of Regional Impact  
Cape Cod Commission Act

**PROJECT #:** TR03011

**PROJECT:** Sprint Spectrum L.P./Dennisport  
20 Candlewood Lane, Dennisport, Massachusetts

**MAP/PARCEL:** Map 89/Parcel 43 Book 13974 Page 91  
Northern Sealcoating & Paving

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Sprint Spectrum L.P. c/o TerraSearch 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 L.P./Dennisport project in Dennisport, Massachusetts. The decision is rendered pursuant to a vote of the Commission on June 24, 2004.

### PROJECT DESCRIPTION

The applicant has an agreement to lease approximately 2,500 square feet with a 12' wide access easement of industrially zoned land on the Northern Paving site in Dennisport for the construction of a 100-foot high, three carrier monopole with internally mounted antenna arrays and one  $\pm$  240 square foot concrete pad that is proposed to hold an exterior weather tight equipment cabinet for Sprint. The proposal includes two additional concrete pads and/or equipment shelters for co-locators. Sprint will occupy the 100' location, and Verizon Wireless has indicated



that they will complete a lease agreement with Sprint for the 87' height. The lease between Sprint and the property owner covers a period of 25 years renewable in 5-year increments, starting from the date on which the lease is executed.

The monopole will be constructed of steel with a hot dipped galvanized finish, and will be painted light blue or light gray. The applicant proposes to enclose the facility within a six foot high chain link fence, and does not propose to light the top of the monopole.

The proposed site is located within an industrial zone which allows towers up to 150 feet by special permit from the Dennis Planning Board. The project site is a developed site serving as a materials yard for a paving company. An existing 15' high berm has been constructed along the entire eastern edge of the property. The berm is planted with pines ranging in height from 10' to 15'.

#### PROCEDURAL HISTORY

The Dennisport Sprint tower was referred to the Cape Cod Commission (CCC) as a mandatory Development of Regional Impact (DRI) by the Dennis Planning Board, and was received by the CCC on May 30, 2003. An extension agreement to allow the applicant time to redesign the project was approved on November 3, 2003 and expires at the close of business on July 23, 2004.

A site visit and Public Hearing were held in the town of Dennis on April 12, 2004. A Subcommittee meeting was scheduled for April 29, 2004 which was rescheduled for May 11, 2004, at which members of the subcommittee directed staff to prepare a draft written decision approving the project with conditions to forward to the full Commission. The Subcommittee met on May 27, 2004 and June 24, 2004 to review and approve the draft decision.

A summary review of the proposed Sprint Spectrum L.P. proposal 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.

#### MATERIALS SUBMITTED FOR THE RECORD

##### *Applicant Submittals:*

- Application materials re: Sprint Spectrum L.P., d/b/a Sprint PCE - Application for Special Permit to Install a Wireless Communications Facility at Northern Paving, 20 Candlewood Lane. Dated May 9, 2003.
- Letter: re: Sprint Spectrum L.P., Dennisport by Atty. Edward D. Pare, Jr., Brown, Rudnick, Berlack, Israels, LLP to Tana Watt. Dated October 7, 2003.
- Extension Agreement. Dated November 3, 2003.
- Application materials Dated December 5, 2003.
- E-mail re: Additional RF Information for Sprint Dennisport Application from [deich102@sprintspectrum.com](mailto:deich102@sprintspectrum.com). Dated February 9, 2004.
- E-mail re: Additional RF Information for Sprint Dennisport Application from [deich102@sprintspectrum.com](mailto:deich102@sprintspectrum.com). Dated February 16, 2004.

- E-mail re: Additional RF Information for Sprint Dennisport Application from [deich102@sprintspectrum.com](mailto:deich102@sprintspectrum.com). Dated February 18, 2004.
- Overview of the Drive Testing and Coverage Analysis Procedures Used by Sprint PCS for the Dennisport Wireless Facility Application. Dated February 13, 2004.
- E-mail re: Dennisport Sprint from [jpereira@terrasearchllc.com](mailto:jpereira@terrasearchllc.com). Dated March 15, 2004.
- Letter: re: Sprint Spectrum LP, dba Sprint PCS - Abutters List, 20 Candlewood Lane, Northern Paving, Dennisport. Dated March 16, 2004.
- Photo Simulation. Dated March 17, 2004.
- Letter: Response to Cape Cod Commission Staff Report by Steven C. Govoni, TerraSearch, LLC. Dated April 8, 2004.
- Sprint Coverage Maps. Dated April 8, 2004.
- Appendix A: MHC Letters. Submitted April 12, 2004.
- Fax: re Sprint Tower Proposal for Property Located off Candlewood Lane, Dennisport, from Charles Webberly, Verizon Wireless to Tana Watt. Dated April 12, 2004.
- Letter re: Sprint Spectrum L.P./Dennisport Project No. TR03011 from Mr. Pare to Ms. Watt. Dated April 13, 2004.
- Sprint Coverage Maps. Dated April 20, 2004.
- New Policy Regarding Radiofrequency Facility Installation Approval from Mass. Dept. of Public Health, Radiation Control Program. Submitted May 27, 2004.

*Federal and Local Submittals:*

- DRI Referral form and attachments. Received May 30, 2003.
- E-mail correspondence from Dan Fortier to Tana Watt dated March 31, 2004.
- Letter: re Proposed Telecommunications Installation at Northern Paving, 20 Candlewood Lane, Dennis MA; MHC# RC34033. Dated April 22, 2004.
- Town of Dennis Planning Department Comments on Sprint Tower Proposal.

*Other Submittals:*

- E-mail from [bdoherty@capecod.net](mailto:bdoherty@capecod.net) to [tswatt@capecodcommission.org](mailto:tswatt@capecodcommission.org). Dated March 18, 2004.
- Letter of opposition: Burton N. Derick to Nancy T. Reid, Chair, Dennis Historical Commission. Dated March 21, 2004.
- Letter of concern: from Thomas E. Huettner, Chair, Dennisport Revitalization Committee to Mrs. Nancy Reid, Chair, Dennis Historical Commission. Dated March 29, 2004.
- Letter in opposition: from Barbara Ann Daly to Cape Cod Commission. Dated April 7, 2004.

*Cape Cod Commission Submittals:*

- Letter: Tana Watt to Atty. Edward D. Pare, Jr., Brown, Rudnick, Berlack, Israels, LLP. Dated October 1, 2003.
- Letter: Tana Watt to Atty. Edward D. Pare, Jr., Brown, Rudnick, Berlack, Israels, LLP. Dated October 17, 2003.
- Dennisport Sprint Crane-test, Commission Staff Observations. Dated March 16, 2004.
- Letter re: DRI Application, Sprint Spectrum, L.P. Wireless Facility Application, 20 Candlewood Lane, Dennisport from David P. Maxson, Broadcast Signal Lab, LLP to Tana Watt. Dated February 2, 2004.
- Staff Report. Dated April 2, 2004.
- E-mail re: Dennis part 4 from [maxson@broadcastsignallab.com](mailto:maxson@broadcastsignallab.com) to [tswatt@capecodcommission.org](mailto:tswatt@capecodcommission.org). Dated April 28, 2004.
- Letter: re Sprint Spectrum L.P./Dennisport from Tana Watt to Joe Pereria. Dated June 6, 2004.

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 TR03011 (Sprint Spectrum L.P./Dennisport) are incorporated into the record by reference.

TESTIMONY

*April 12, 2004 Public Hearing*

Mr. Ed Pare, attorney for Sprint, described the project and distributed photosimulations based on an additional crane test responding to Massachusetts Historical Commission concerns. Mr. David Eichler, RF engineer for Sprint, described the existing and proposed coverage needs and coverage areas.

Ms. Tana Watt presented the staff report.

Mr. Kevin McNeil asked a number of questions concerning coverage, the dimensions of the tower, and whether there was a conflict between the Town's interest in better coverage and the visual impact on Dennisport.

Mr. Fortier, Dennis Town Planner, explained the local residential setback formula which is intended to minimize the visibility of cell towers from residences. He said that it is important to have improved wireless communication capability in order to promote redevelopment of the Dennisport village center.

Ms. Nancy Reed, Dennis Historical Commission, said the Commission was concerned about the proximity of the proposed tower to historic structures. She suggested several other existing structures that Sprint should consider as an alternative to the new tower, including Belmont Condominiums, Great Western Road, and the old landfill site. She said the photographs were taken from angles that do not show direct views from the historic houses. She noted that trees are not

permanent and could come down. She asked about lighting. She asked that other existing sites be considered before a new tower was approved.

Ms. Reed read two letters into the record (from Thomas E. Huettner of the Dennisport Revitalization Committee and Burton N. Derick), both of which expressed concern about views of the tower.

Mr. Fortier said that the water tower would be a good location, but the water district would not allow it despite many requests. Mr. Fortier noted that Sprint had proposed another location in west Dennis that had many problems, and the project had been withdrawn. He said that he was much less concerned about the visibility of this proposed tower as compared to the west Dennis proposal. He said that the project met stringent setback requirements, and the tower could almost disappear from view. He noted there were very few areas that would offer the needed coverage that didn't have greater visual impacts. Mr. Fortier noted the wireless communications use was appropriate for the Dennisport zoning district. He said that the business community was in favor of the increased coverage the tower would provide because it needs to be responsive to its customers. He spoke at length about the economic need for and benefits of enhanced wireless capability for Dennisport.

Ms. Dot Murray, resident in the Candlewood Condominiums, noted that there was no cellular capability on Route 28 now, and she had no quarrel with the proposed project.

Mr. Maxson said that it was unfortunate that the water tower could not be used for wireless communication towers and that Sprint had to be asking for a new tower when there was an existing structure that was just as good or better.

#### 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 Sprint Spectrum L.P./c/o TerraSearch, 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:

##### *Coverage:*

Finding 1) David Maxson's report analyzes Sprint's proposal and supporting material, and indicates that the proposed monopole would provide multiple carriers with additional or improved coverage in the area and that the coverage plots are well supported by drive test measurements.

##### *Site Selection and Co-location:*

Finding 2) 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.

The applicant conducted searches for existing structures on which to locate, including municipal, private and commercial structures. Antenna located on the Dennis water tank may provide coverage as good as or better than the proposed site, however, the water tank has not been made available by the Dennis Water District.

At the public hearing, two church steeples (West Harwich Baptist Church and West Dennis Community Church) were identified that in combination with one or two other low structures may provide adequate, though less, coverage. The proposed concealed antenna monopole would provide better coverage, but would have greater visual impact than a combination of structures that include the two church steeples. In addition, the use of two church steeples could require extensive renovation including the likely removal of original materials in the wooden steeples and replacement of those materials with fiberglass, thus impacting the historic integrity of the buildings.

Finding 3) For new towers, construction on a developed site rather than construction on undeveloped land is preferred. To provide the desired coverage, the applicant is proposing to construct a new tower on a developed site after having conducted a search for an existing structure. The proposed site is developed and serves as a materials yard for a paving company which has been largely cleared of vegetation. The project proposes no clearing of vegetation as the facility will be located entirely within the developed area.

Finding 4) The applicant will provide space on the monopole and within the equipment shelter for town of Dennis emergency service antennas as well as DPW dispatch transmitters.

*Fall Zones and Property Line Setbacks:*

Finding 5) The Dennis Zoning Bylaw establishes a maximum height of 150' for wireless communication towers. It also establishes height limits based upon property line fall-zone setbacks (based on the height of the tower), and a formula is provided for the required setback from the nearest residential property line. As proposed, the project is set back 100' from the southern property line, 376' from the western property line, 281' from the northern property line and 286.4' from the eastern property line (consistent with the formula setback). With an adjustment to the property boundary between two parcels under the property owner's control (of which the applicant is aware), the proposed project will be consistent with the Dennis Zoning by-law for residential, commercial and industrial properties.

Finding 6) Technical Bulletin 97-001 states that a fall zone should consist of the height of the facility (plus any antenna or other appurtenances located on top) to any property line, dwelling, road or business use. With setbacks of 100 feet or more in all directions, the proposed project complies with the Technical Bulletin.

Finding 7) Technical Bulletin 97-001 states that all personal wireless service facilities and their equipment shelters should comply with the building setback provisions of the zoning district in which the facility is located. The Dennis

Industrial Zone sideline setback is 75 feet in front, 30 feet to each side, and 50 feet in the rear. The project complies with this requirement.

*Height:*

Finding 8) Sprint data show that the same coverage that would be provided by a single facility at 100' in height would require the use of three or four lower facilities, including two existing church steeples and one or two additional lower structures. Analysis by Mr. David Maxson, Broadcast Signal Lab, suggests that Sprint will obtain good coverage at 100' above ground level. Given the Regional Policy Plan goal to maximize co-location, adequate coverage for three carriers may be obtained by a tower of 100' in height.

Finding 9) 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".

Consistent with the Regional Policy Plan and Technical Bulletin 97-001, the proposed tower height would provide for co-location of 3 carriers at or below 100 feet. Verizon Wireless has submitted a letter of interest in locating at the 87' height.

*Public Safety and Noise:*

Finding 10) 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 100 feet, the fall zone of the proposed tower does not include buildings, although it does include the materials storage yard for the Northern Paving company.

Finding 11) The Technical Bulletin states that ground-mounted personal wireless service facilities should not generate noise from equipment and/or wind in excess of 50 db at the property line. The applicant submitted an engineering study of existing and anticipated noise levels prepared by Cavanaugh Tocci Associates, Inc., dated March 18, 2004, which concludes that, without the emergency generators running, the projected noise level produced by the facility would be 46 dBA at 100 feet (the nearest property line) and 35 dBA at 340 feet (the nearest residence). With two emergency generators running, and with silencers installed on the generators, the project would produce 51 dBA at 100 feet, and 40 dBA at 340 feet (the nearest residence).

Finding 12) The Commission finds that the projected sound level at the property line (51 dBA) is acceptable given that the project is 1) located in a paving company storage yard where existing equipment regularly creates noise, 2) the property line that is affected is non-residential, and 3) 51 dBA would only be generated in the event of a power failure.

Finding 13) The applicant submitted a report analyzing the proposed maximum emissions generated by three carriers on the facility prepared by a qualified professional. According to the conclusion of an April 11, 2002 report by Donald L. Haes, Jr., Ph.D., "The theoretical RF field calculations indicate a maximal potential increase above ambient RF levels of less than 0.2% of the current State and Federal MPEs from the personal wireless services antennas at six feet above ground level.

This result means that there could be over 500 similar additional antennas at this location, and still be within State and Federal limits for RF exposure.” Mr. Maxson states that the RFR analysis is adequate.

Finding 14) The Commission is aware of and concerned about the possible cumulative health effects associated with cellular facilities. Carriers are required to comply with FCC and with Massachusetts Department of Public Health (MDPH) regulations 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 15) Technical Bulletin 97-001 states that the facility should be designed so as to be camouflaged to the greatest extent possible. The applicant proposes to utilize a monopole with internally mounted antenna to achieve the sleekest look possible. The applicant will paint the facility light blue or light gray to blend with the sky or the clouds.

Finding 16) Technical Bulletin 97-001 states that personal wireless facilities should not be located within open areas that are visible from residential development, public roads, or recreational areas, and that all ground-mounted personal wireless facilities in these areas that are not otherwise camouflaged should be surrounded by a buffer of dense tree growth.

Commission staff attended a crane test on March 16, 2004 with Mr. Dan Fortier, Dennis Town Planner, and conducted a visual survey of the proposed tower on the community. Based on the survey, the tower would be visible from the following locations:

- Candlewood Condominiums, immediately adjacent to the site
- The Clipper Lane neighborhood, off Upper County Road immediately adjacent to the site
- Obstructed/limited views from Route 28
- Obstructed/limited views from Upper County Road looking west from the Harwich Town line
- Obstructed/limited views from Center Street

Finding 17) Based on the crane test, the proposed monopole will primarily be visible to an area located within a 2000 foot radius of the structure (less than 1/2 mile). Looking from the west toward the monopole, the tower will not be visible. The areas from which the monopole will be most visible are neighborhoods that are immediately adjacent to the site (Candlewood Condominiums and Clipper Lane). From other locations, the public will have limited or obstructed views of the monopole between vegetation and buildings. Given the commercial nature of Dennisport, and the presence of many existing utility and light poles, in most

locations the monopole will resemble another utility or light pole glimpsed between buildings and vegetation.

Finding 18) An existing vegetated berm currently screens the paving operations from the view of the residential neighborhood located to the east of the project. At the crane test, staff was unable to see the base of the crane from any location except on the site itself.

Finding 19) The applicant did not submit a landscape plan. Because the base of the crane was not visible during the crane test, the Commission finds that the existing berm and plantings are sufficient to screen the base and no landscape plan is required.

Finding 20) Technical Bulletin 97-001 states that equipment shelters should be designed consistent with traditional Cape Cod architectural styles and materials. Sprint proposes to install outdoor ground-mounted equipment on concrete pads surrounded by a 6' high chain link fence. Verizon Wireless has not provided information about its equipment shelter.

Finding 21) Sprint has requested an unlit, emergency contact sign which is roughly two square feet and which will be attached to the fence.

Finding 22) The applicant proposes to camouflage the monopole through its design: it will be painted light blue to blend with the sky or light gray to blend with the clouds, and all antenna will be concealed within the monopole for the sleekest appearance. Camouflage treatments also include locating the facility on a site behind an existing vegetated berm on the Northern Paving property that will only allow limited public views; the project location will ensure limited visual impact on the surrounding area.

Finding 23) 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. Sprint has confirmed that the only lights required are located within the equipment cabinets. As such, exterior lighting was not an issue in this DRI review. However, if exterior lighting is needed by Sprint or another carrier, a motion sensor controlled light should be utilized.

Finding 24) 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 impact and encouraging multiple carriers on wireless communications towers.

*Historic Resources, Natural Resources and Open Space:*

Finding 25) The project is not located within a historic district, and a letter was received from Massachusetts Historical Commission to confirm that the project is unlikely to have impacts on significant historic or archaeological resources so long as the structure is designed as a concealed antenna monopole.

Finding 26) The project site is not located in a Significant Natural Resource Area (SNRA) as mapped by the 2002 Regional Policy Plan. The site is highly disturbed due to truck activity from the existing business. There are no wetlands or vernal pools within the vicinity of the project site, nor is the site mapped for rare species. Based on these site characteristics, there are no natural resource issues at the site. As a project proposing to redevelop a disturbed and heavily utilized area, and one which is not located in an SNRA, there is no open space requirement.

Finding 27) Dennisport Sprint has not conducted a natural resources inventory (NRI) of the site consistent with MPS 2.4.1.1. Plans submitted with the application show extensive clearing and development of the site, and a site visit confirmed this. Based on the amount of disturbance the site contains, the Commission did not require a Natural Resources Inventory.

*Hazardous Materials:*

Finding 28) According to maps created for the 2002 RPP (as modified), the site is not located in an existing Wellhead Protection District or a Potential Public Water Supply Area. Based on this, MPS 4.3.1.3 does not apply to this project.

Finding 29) 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 with a sealed floor without floor drains. 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.

Finding 30) The Commission recommends that all carriers use only batteries or compressed/liquefied gas fuel to provide back-up power generation. Any on-site generator should be sited appropriately for all carriers that wish to use it. The DRI application states that Sprint will implement these requirements as part of arrangements with future tenant carriers.

Finding 31) 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 of 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.

Finding 32) MPS 4.3.1.2 requires projects to be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.000. 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 includes an on-site transformer which 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 30.000.

Finding 33) MPS 4.3.1.4. requires projects to 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. According to the DRI application, Sprint has not yet selected a site contractor, but will stipulate that the construction company provide an emergency response plan.

*Other Issues:*

Finding 34) There are no anticipated transportation impacts from the proposed project.

Finding 35) According to the lease, if the monopole is no longer needed or not feasible to operate, the applicant may abandon it upon written notice to the parcel owner, and will restore the site to the condition existing on the lease commencement date. Notice should also be provided to the Cape Cod Commission, the Town of Dennis and co-locators on the monopole.

Finding 36) The draft Dennis Local Comprehensive Plan identifies Dennisport as a Growth Incentive Zone. For many years, the Town has undertaken efforts to revitalize and redevelop Dennisport, including Village Center Zoning. The Town Planner submitted a statement detailing the economic benefits that improved wireless communication facilities would provide to the Dennisport area. Based on this, the Commission finds that improved wireless infrastructure will encourage revitalization in Dennisport, and that the project will provide economic benefits to Dennisport.

#### CONCLUSION

Based on the findings above, the Commission hereby concludes that:

- The proposed project is consistent with the applicable Minimum Performance Standards of the Regional Policy Plan as described in the findings above;
- the proposed project is consistent with local development by-laws, so long as the applicant obtains an ANR approval to relocate a property boundary (see Finding 5) from the Dennis Planning Board. This DRI approval is in no way intended to support or oppose the Town's approval of the ANR request; and

- 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 Dennis and in the Dennisport area specifically (Finding 1); the project will provide space for Department of Public Works and local emergency system communications antennae (Finding 4); the project will provide economic benefits for Dennisport (Finding 36); and the project will have minimal visual impacts (Finding 24).

The Commission hereby approves with conditions the application of Sprint Spectrum L.P. c/o TerraSearch for the proposed monopole wireless communications facility in Dennis, 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) The proposed structure shall be constructed as a concealed antenna monopole at a height limited to 100 feet and designed to accommodate antenna arrays for three carriers, with accessory equipment, as shown on Plans BS54XC881, Sheets T1 dated 20OCT03, EC1 dated 25APR03, Z1 dated 31JUL03 revised 20OCT03, Z2 dated 20OCT03, and Z3 dated 20OCT03.

Condition 2) 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 3) The applicant shall obtain all necessary Federal, state and local permits for the proposed project.

Condition 4) 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 5) 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 6) 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 7) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall provide the Cape Cod Commission with at least one bona fide, non-

contingent, signed contract from another carrier for a minimum of five years and renewable thereafter.

Condition 8) Prior to the issuance of a preliminary Certificate of Compliance, all co-locators 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.

Condition 9) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall provide an elevation plan showing the position of each committed carrier on the monopole. Prior to the issuance of a preliminary Certificate of Compliance, each committed carrier, excluding Sprint Spectrum L.P., shall provide elevations and line-of-site drawings for its proposed equipment shelter or cabinet. Carrier equipment shelters or cabinets shall not adversely impact the views from nearby residences.

Future carriers not reviewed and shown on the drawings at the time of the issuance of a preliminary Certificate of Compliance shall require review by the Commission through the modification process of the Administrative Regulations at the time they are proposed.

Condition 10) Prior to the issuance of a preliminary Certificate of Compliance, Sprint Spectrum L.P. shall submit plans for a larger transformer pad to provide additional space for containment of a potential leak for Commission staff approval.

Condition 11) . Prior to the issuance of a preliminary Certificate of Compliance, Sprint shall provide a plan to dispose of lead-acid batteries and other hazardous waste in a manner consistent with 310 CMR 30.000.

Condition 12) Prior to the issuance of a preliminary Certificate of Compliance, the applicant shall submit an emergency response plan consistent with Technical Bulletin 03-001 - *Guidance on Submission and Preparation of Hazardous Materials and Waste Management Plans*.

Condition 13) 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 Dennis, 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 14) After the monopole is constructed and operational, the applicant shall submit a report of measurements of RFR and of noise/sound measurements for the entire project. The first RFR and noise reports shall be submitted to the Commission and the Dennis 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 15) 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.

Condition 16) 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*, Technical Bulletin 95-001, and all local and FCC regulations.

Condition 17) Silencers shall be utilized on all generators consistent with the recommendations in the Cavanaugh Tocci report dated March 18, 2004.

Condition 18) 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.

Condition 19) The applicant shall provide space on the monopole and within the equipment shelter for the town of Dennis police and fire communications system as well as Department of Public Works dispatch transmitters, at no cost to the town of Dennis, if the Town so desires, so long as the municipal use does not interfere with the intended use of the facility by wireless communication carriers.

Condition 20) 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 21) 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 22) Equipment buildings and pads shall be constructed of an impervious surface, free of gaps and cracks, and without floor drains.

Condition 23) There shall be not more than one on-site emergency generator, and two air conditioning units. The on-site emergency generator shall be sized and sited to accommodate any carriers that wish to use it for backup power, and shall be restricted to propane or other compressed gas fuel.

Condition 24) 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 25) If the applicant decides to abandon the monopole, it shall notify the property owners, the town of Dennis 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 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 26) 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 27) 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 described above.

Susan Kadar  
Susan Kadar, Chairman

6/24/04  
Date

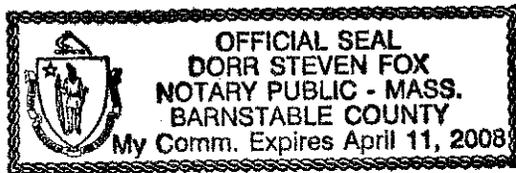
Commonwealth of Massachusetts  
County of Barnstable

On this 24<sup>th</sup> day of June, 2004, before me, the undersigned notary public, personally appeared Susan Kadar, proved to me through satisfactory evidence of identification, which were personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Don Steve Fox  
Notary Public  
Commonwealth of Massachusetts

My Commission  
Expires: \_\_\_\_\_  
Notary Public  
Commonwealth of Massachusetts

My Commission expires:





# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. BOX 226  
BARNSTABLE, MA 02630  
(508) 362-3828  
FAX (508) 362-3136

E-mail: [frontdesk@capecodcommission.org](mailto:frontdesk@capecodcommission.org)

## PRELIMINARY CERTIFICATE OF COMPLIANCE

**DATE:** May 31, 2005  
**APPLICANT:** Sprint Spectrum L.P. c/o TerraSearch  
270 Centre Street  
Holbrook, MA 02343  
(781) 767-9285  
Joseph Pereira, TerraSearch  
**PROJECT:** Sprint Spectrum L.P./Dennisport  
20 Candlewood Lane, Dennisport, MA  
**PROJECT #:** TR03011  
**LOT/PARCEL:** Map 89/Parcel 43 Book 13974 Page 91

I hereby certify that Sprint Spectrum L.P., applicant on the above referenced wireless communication tower project, properly complies with the portion of Condition 5 of the Development of Regional Impact (DRI) Decision dated June 24, 2004 which is required for the issuance of a building permit for the Sprint Spectrum LP and Verizon Wireless carriers.

In regards to the requirements set forth by the Decision of the Cape Cod Commission, the town of Dennis is hereby authorized to issue a building permit for the Sprint Spectrum L.P. tower and Verizon Wireless (carrier) in Dennisport, Massachusetts.

  
\_\_\_\_\_  
John Lipman, Chief Planner/Deputy Director

5/31/05  
\_\_\_\_\_  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

5/31/05, 2005

Before me, the undersigned notary public, personally appeared John Lipman, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 10/13/2011



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May 31, 2005

Joseph Pereira  
TerraSearch  
270 Centre Street  
Holbrook, MA 02343

**Re: Preliminary Certificate of Compliance for Sprint Spectrum LP/Dennisport (#TR03011)**

Dear Mr. Pereira,

Attached please find a preliminary Certificate of Compliance for the Dennisport Sprint project required for the issuance of a building permit for installation of the Sprint Spectrum and Verizon equipment.

Please note that a future carrier (in the third location on the tower) may not install equipment until the CCC issues a preliminary Certificate of Compliance certifying compliance with Condition 8, Condition 9 and Condition 11.

As your project proceeds, also please be aware of the requirements of the Decision relative to issuance of the final Certificate of Compliance authorizing the carriers to become operational, including:

- Condition 5 requiring at least 30 days notification prior to the issuance of a final Certificate of Compliance *for each carrier*, which is required before each carrier may become operational.
- Condition 27 requiring a final site inspection conducted by Commission staff.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Tana Watt  
Project Planner

Cc: Dan Fortier, Town Planner/DRI Liaison  
Brian Florance, Building Commissioner  
Willette Murray, Dennis Planning Board Chairman



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## FINAL CERTIFICATE OF COMPLIANCE

**DATE:** March 8, 2006  
**APPLICANT:** Bay Communications, LLC and Sprint PCS  
c/o Carey Diehl  
Bay Communications, LLC  
20 Westminster Street, 3<sup>rd</sup> Floor  
Providence, RI 02903  
**PROJECT:** Sprint Spectrum L.P./Dennisport  
20 Candlewood Lane, Dennisport, MA  
**PROJECT #:** TR03011  
**LOT/PARCEL:** Map 89/Parcel 43 Book 13974 Page 91

I hereby certify that Bay Communications, LLC and Sprint PCS, applicant on the above referenced wireless communication tower project, properly complies with the Development of Regional Impact (DRI) Decision dated June 24, 2004 which is required prior to the operation of the Sprint facility.

In regards to the requirements set forth by the Decision of the Cape Cod Commission, the town of Dennis is hereby authorized to issue local permits for the operation of Sprint Spectrum in Dennisport, Massachusetts.

  
Margaret L. Fenn, Executive Director

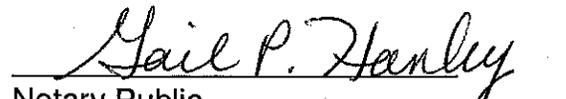
3/15/06  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

3/15, 2006  
Margaret L. Fenn

Before me, the undersigned notary public, personally appeared Fenn, in his/her capacity as Executive Director of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.

  
Notary Public  
My Commission Expires: 10/13/11