



## CAPE COD COMMISSION

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Date: July 13, 2006

To: Mr. George Calise  
Director of Public Works  
Town of Falmouth  
59 Town Hall Square  
Falmouth, MA 02540

From: Cape Cod Commission

Re: Development of Regional Impact Exemption Request  
Section 12(k) of the Cape Cod Commission Act

Applicant: Mr. George Calise  
Director of Public Works  
Town of Falmouth  
59 Town Hall Square  
Falmouth, MA 02540

Project #: EX #06005

Project: Falmouth DPW Communications Tower  
416 Gifford Street  
Falmouth, MA 02540

Property Owner(s): Town of Falmouth

Map/Parcel: 35-04-002-000  
Book/Page: 1130/226  
Land Court Cert. Of Title: n/a

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### DECISION OF THE CAPE COD COMMISSION

DRI Exemption Decision (EX006005)  
Falmouth DPW Communications Tower  
July 13, 2006  
Page 1 of 9



## SUMMARY

The Cape Cod Commission (Commission) hereby grants the Development of Regional Impact (DRI) Exemption request of the Town of Falmouth for the proposed Department of Public Works Communications Tower project located at 416 Gifford Street, Falmouth, MA, pursuant to Section 12(k) of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989, as amended. This Decision is rendered pursuant to a vote of the Commission on July 13, 2006.

## PROJECT DESCRIPTION

The Town of Falmouth Department of Public Works (the Applicant) has proposed to construct an 80-foot lattice style communications tower at its operations and maintenance facility (DPW facility) located at 416 Gifford Street, Falmouth, MA. The DPW facility was approved by Falmouth Town Meeting and planned to comprise a rebuilt 21,000 square foot operations and maintenance building, a 100 cubic yard salt and sand storage shed, a fueling depot for town vehicles, and the proposed 80-foot communications tower. The proposed tower is considered by the Town of Falmouth to be a vital piece of its municipal communications infrastructure.

The communications equipment to be located on the proposed tower will provide the DPW with superior radio communications between dispatchers and drivers for snow removal, trash pick-up, traffic detouring, maintenance scheduling and a variety of public works tasks. Importantly, the proposed location of the tower and the hardwiring of it to the public works garage will provide direct communication between the DPW facility and other Town offices, databases, and computer server systems to provide direct access to data such as GIS systems, assessors databases, and other data bases developed and used by town officials and staff.

The DPW facility is located on the southeast corner of the approximately 82-acre parcel that comprises Goodwill Park. The facility is situated between the Grews Pond area of Goodwill Park to the north and the Lawrence and Lynch bituminous concrete plant and screening facility to the south. The spot selected for the tower is on a  $\pm 30$ -foot rise of land just next to the maintenance building, so that the base of the tower would begin at about the roof height of the building. The spot is located adjacent to equipment trailers and storage sheds in a previously cleared area. A small (approximately 4 by 6 foot) wooden shed at the base of the tower is also proposed to house equipment that will be powered by an electric hookup; no fuel will be used in this shed. The tower site is located in such a way that there would be extensive tree screening between the tower and the public beach, parking area and access road at Grews Pond. No fencing or landscaping is proposed around the base of the tower or associated shed. The closest private residence lies within approximately 1,000 feet of the tower site. Approximately 2,000 feet away is the Atria/Woodbriar assisted living facility.

The project site is located within mapped natural resource areas. According to the Massachusetts Natural Heritage Atlas, 11<sup>th</sup> edition, the DPW facility and proposed location for the tower are located in mapped priority habitat of rare species. There is a certified vernal pool located approximately 350 feet from the proposed tower site. Additionally, the proposed tower site is

located within a mapped Wellhead Protection Area according to the 2002 Regional Policy Plan (RPP).

The Town's consultant, Homeland Security Wireless, Inc., determined an 80-foot tower to be necessary in order to provide the needed direct line of sight to the existing primary communication tower located at the Fire Department headquarters on Main Street. This is necessary in order to directly link the communications of the Town's main offices, facilities, and public safety officials. Additionally, the proposed height of the tower will provide a direct link to the pumping station at Long Pond, enabling staff to connect to town systems as well. A monopole was not chosen because of its cost.

### **JURISDICTION**

The proposed project qualifies as a Development of Regional Impact (DRI) under Section 3(i) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended. Section 3(i) requires DRI review of "any Wireless Communication Tower exceeding 35 feet in overall height...except for a new Concealed Antenna Monopole less than or equal to 80 feet in overall height...that is designed to accommodate at least two carriers...."

### **PROCEDURAL HISTORY**

After being referred to the Commission as a DRI by the Town of Falmouth Zoning Board of Appeals, the Falmouth Department of Public Works (hereinafter the Applicant) filed a DRI Application on March 21, 2006 for their proposed new Communications Tower. The Applicant stated that they were also seeking consideration as a DRI Exemption and a Hardship Exemption as a Project of Community Benefit.

A hearing officer of the Commission opened a pro-forma hearing for procedural purposes on April 27, 2006 at 10:00 a.m. for the DRI application.

A duly noticed Public Hearing pursuant to Section 5 of the Act was held on the DRI Exemption request, the DRI Hardship Exemption Request as a Project of Community Benefit, and the DRI by an authorized Subcommittee of the Commission on Wednesday, June 7, 2006 at 6:30 p.m. at the Gus Cauty Recreation Center, Falmouth, MA. At this hearing, the Subcommittee voted unanimously to recommend to the full Commission that a DRI Exemption be granted for the proposed project pending a determination from the Massachusetts Natural Heritage and Endangered Species Program (NHESP) that there will be no adverse impacts to rare species or their habitats as a result of the project, and to continue the public hearing to 1:00 p.m. on July 13, 2006 for consideration of a determination by the NHESP. The Subcommittee also voted on June 7, 2006 to authorize the Subcommittee Chair to review the draft DRI Exemption Decision.

At 1:00 p.m. on July 13, 2006 the project was continued by hearing officer to 3:00 p.m. for consideration of the DRI Exemption by the full Cape Cod Commission.

On July 13, 2006, the full Commission voted unanimously (by a vote of 12 to 0) to grant a DRI Exemption to the Town of Falmouth for the proposed project.

## TESTIMONY

### *Public Hearing – June 7, 2006*

Brian Currie, Falmouth Town Planner, presented the proposed project and the reasons for which the Town seeks an exemption from DRI review. Stacey Justus, Commission staff, summarized the June 1, 2006 Staff Report and the proposed project in the context of the RPP and Technical Bulletin 97-001, Guidelines for DRI Review of Wireless Communication Towers. There was discussion regarding the issue of the tower site being located in Significant Natural Resource Area (SNRA), due to the presence of mapped priority habitat of rare species, and the subsequent requirement that the Town file for a determination from the Massachusetts Natural Heritage and Endangered Species Program (NHESP) as to whether there will be adverse impacts to rare species or their habitats as a result of the project.

The Subcommittee deliberated on the exemption request and voted unanimously (4-0) to recommend approval of the DRI Exemption request to the full Commission provided that the NHESP finds there are no adverse impacts to rare species or their habitats as a result of this project.

## MATERIALS SUBMITTED FOR THE RECORD

In addition to the list of materials submitted for the record (see Table 1 below) the application and notices of public hearings relative thereto, Commission staff's notes and correspondence, the minutes of the public hearing, and all other written submissions received in the course of the proceedings are hereby incorporated into the record by reference.

<b><i>TABLE 1: Materials Submitted for the Record</i></b>	
<b><i>Materials from the Applicant</i></b>	<b><i>Date Received</i></b>
DRI Application from the Town of Falmouth	3/21/06
Letter from B. Currie to D. Fox re: support for Hardship Exemption	4/24/06
Letter from B. Currie to S. Justus re: site ownership	4/24/06
Letter from E. Kittila to T. Pucci re: soil on site evaluation	5/24/06
Letter from P. Butler to T. Pucci re: tower height justification	5/24/06
Memo from L. Major to S. Justus re: collocation	5/24/06
Memo from L. Major to S. Justus re: monopole type	5/24/06
<b><i>Materials from Commission Staff</i></b>	<b><i>Date Prepared</i></b>
Letter from S. Justus to G. Calise re: receipt of DRI referral	3/8/06
Letter from S. Justus to B. Currie re: request for information	4/4/06

Memo to new Subcommittee from S. Justus	5/22/06
Staff Report	6/1/06
Map of Water Supply Protections (prepared for Public Hearing)	6/7/06
<b><i>Materials from Town of Falmouth</i></b>	<b><i>Date Received</i></b>
DRI Referral from Zoning Board of Appeals	3/1/06
<b><i>Materials from NHESP</i></b>	
Letter from T. French to Town of Falmouth re: finding of “no take” of state-listed rare species	7/7/06

## FINDINGS

The Commission has considered the application of the Town of Falmouth for a DRI Exemption regarding the proposed DPW Communications Tower. Based upon its consideration of such application and information presented at the public hearing and submitted for the record, the Commission makes the following Findings pursuant to Section 12(k) of the Act:

### General Findings:

- F-G1.** The project qualifies as a DRI under Section 3(i) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, which provides that “any Wireless Communication Tower exceeding 35 feet in overall height...except for a new Concealed Antenna Monopole less than or equal to 80 feet in overall height...that is designed to accommodate at least two carriers....” shall be subject to mandatory DRI review.
- F-G2.** The project that is the subject of this Decision is as described above in the Project Description on page 2.
- F-G3.** Based on the information submitted for Commission review, the Commission finds that the location, character and environmental effects of the proposed project will minimize any significant impacts on the values and purposes protected by the Act outside of the Town of Falmouth and, therefore, although it literally qualifies as a DRI, it does not require DRI review.
- F-G4.** Based on the information submitted for Commission review, the Commission finds that any change in the impacts of the proposed project as articulated in this Decision, and/or a change to the Findings of this Decision may require further Commission review according to Section 12, Modifications to Approved Projects, of the *Enabling Regulations* (as amended).

**F-G5.** The proposed communications tower will only be used for municipal use and not for future commercial carriers. No leasing, subletting or other similar arrangements with commercial carriers shall be permitted.

**Water Resources Findings:**

**F-WR1.** According to the 2002 RPP, the proposed location of the tower is within a mapped Wellhead Protection Area. Electricity will provide needed power to the equipment shed by an existing power line. Because no generator, fuel oil, or batteries are proposed to be on-site, the proposed project is not anticipated to have impacts to water resources.

**Natural Resources Findings:**

**F-NR1.** The project site is located in a Significant Natural Resource Area due to the presence of rare species habitat. A certified vernal pool is also located nearby. The Town filed with the Natural Heritage and Endangered Species Program (NHESP) on June 9, 2006 for review under the Massachusetts Endangered Species Act. NHESP provided comments on July 7, 2006 stating that they did not anticipate impacts to rare species or their habitats from the project, consistent with MPS 2.4.1.4. The certified vernal pool is located more than 350 feet from the project site, consistent with MPS 2.4.1.5.

**Capital Facilities and Infrastructure and Community Character Findings:**

**F-CF/CC1.** MPS 4.4.2.1 states that new wireless telecommunications facilities shall be consistent with Technical Bulletin 97-001, Guidelines for DRI Review of Wireless Communication Towers (Technical Bulletin). The stated purpose of the Technical Bulletin is to minimize the visual and environmental impacts of wireless facility structures by covering issue areas including location, dimensional requirements, height, setback, design standards, noise standards, radio frequency radiation standards, hazardous material standards, co-location, modifications, monitoring/maintenance and abandonment. It also states that the Commission will review proposals for wireless facilities in keeping with the RPP and each town's existing bylaws and historic development patterns, including the size and spacing of structures and open spaces.

**Location**

**F-CF/CC2.** As a DRI, a proposed wireless facility should be located on existing structures or, when not feasible, should be designed to be camouflaged to the greatest extent possible. Presently, the Falmouth DPW communications equipment (antenna) is located on top of the operations and maintenance building adjacent to the proposed tower location. This location does not satisfy the need of the proposed tower, as it does not provide a line of sight connection with the Fire Department tower on Main Street. Additionally, it does not enable the pumping station to connect with town systems. While the tower is proposed to be at the edge of

protected open space (Goodwill Park), it is located at the edge of a very disturbed area with ongoing, large-scale industrial activities. The proposed tower site will be screened from the adjacent open space by dense tree growth and topography. There will likely be limited visibility of the tower from Gifford Street, however the view will already contain other large-scale heavy industrial uses that in effect may serve to camouflage the tower if seen from the south.

There is an existing lattice-style 80-foot radio antenna at the Gifford Street entrance to the Lawrence and Lynch facility (the adjacent land use). However, according to the Falmouth Director of Information Technology its specifications are such that it could not accommodate the DPW antenna equipment and fulfill the needs of the Town. Additionally, the Town does not want to locate its public safety equipment on a facility that it does not own. Also, the costs of wiring the tower from a distant location to the DPW facility are prohibitive.

### **Dimensional Requirements**

**F-CF/CC3.** As a DRI, ground-mounted wireless service facilities should not project higher than 10 feet above the average building height within 300 feet of the proposed site. Additionally, the set back or “fall zone” from any property line, road, habitable dwelling, business or institutional use, or public recreation area should be the height of the facility.

Because of a rise in topography on site, the proposed 80-foot tower appears to begin at the height of the top of the DPW operations and maintenance building. There is approximately 80 lateral feet present between the base of the proposed tower and the adjacent DPW building.

### **Design Standards**

**F-CF/CC4.** As a DRI, wireless facilities should be camouflaged or hidden from public view whenever possible by incorporating them into an existing or proposed structure. If they are not camouflaged, they should be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Generally the following should be satisfied: wireless facilities should not be permitted within open areas that are visible from public roads, recreational areas or residential development and should be painted a neutral color; equipment shelters should be designed consistent with traditional Cape Cod architectural styles and surrounded by a security barrier; facility mounts should be lighted only if required by the Federal Aviation Administration, and lighting of equipment shelters should comply with the Commission’s Lighting Technical Bulletin.

Although a crane or balloon test to demonstrate actual visual impact was not conducted, it is found that the proposed tower would likely be camouflaged both by dense tree growth on three sides and in effect by the active industrial uses occurring directly to the south facing side of the tower site. Because of the large-

scale of the operations at the nearby Lawrence and Lynch concrete plant, as well as DPW equipment and their own salt and sand shed, one's eye would be unlikely to distinguish the proposed tower from these other operations. Views from Goodwill Park would likely be entirely screened by dense tree growth and topography. The equipment shelter is a small, approximately 4 by 6-foot, wooden shelter with a pitched roof. No security barrier is proposed. No lighting is proposed on the tower or on the outside of the equipment shelter.

**Co-location**  
**F-CF/CC5.**

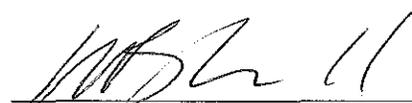
As a DRI, licensed carriers should share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of such facilities that are stand-alone facilities and all applicants should demonstrate a good faith effort to co-locate with other carriers.

The Town has indicated the necessity of this tower to be for the provision of public safety and public works and for the secure location of town public safety equipment. They do not plan to offer space to private, commercial carriers on this proposed tower and this Decision prohibits such commercial use. Additionally, it is the Town's understanding that the design specifications of this proposed tower are such that it could not accommodate additional equipment. Because this proposed tower will be outside of the regional network that serves to provide commercial wireless services, this installation would not serve to eliminate the need for other towers in the same area, should one be demonstrated in this vicinity.

**CONCLUSION**

Based upon the above Findings, the Cape Cod Commission hereby concludes that as proposed, the location, character, and environmental effects of the Town of Falmouth's proposed project, as described in this Decision, will prevent its having any significant impacts on the values and purposes protected by the Act outside of the Town of Falmouth (the municipality in which the development is located). Based upon the above Findings, the Commission hereby grants the Applicant a DRI Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act for the proposed Falmouth DPW Communications Tower to be located at 416 Gifford Street, Falmouth, MA.

This Exemption Decision shall be strictly construed, and is valid for three years from the date of issuance.

  
\_\_\_\_\_  
Mr. W. Bradford Crowell  
Chair, Cape Cod Commission

7-13-06  
\_\_\_\_\_  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

7/13, 2006  
W. Bradford

Before me, the undersigned notary public, personally appeared Mr. Crowell, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he 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.

Gail P. Hanley  
Notary Public  
My Commission Expires:

10/13/11