



CAPE COD COMMISSION

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MINOR MODIFICATION TYPE #2

Date: July 6, 2009

To: Elizabeth R. O'Keefe, Esq.
Duval & Klasnick, LLC
10 Cedar Street, Suite 17
Woburn, MA 01801

From: Cape Cod Commission

RE: Modification of a Development of Regional Impact Decision

Applicant: Watts Farms, LLC
(Ground Lease to Global Tower Partners)

Project/Location: Watts Family Farm Wireless Telecommunications Facility
23 Falmouth-Sandwich Road
Sandwich, MA 02644

Project DRI #: TR02023

Map/Parcel: Map 6/Parcel 296, Watts Family Nominee Trust, Lot 91, Plan 61390-0
Map 2/Parcel 2, Watts Children Nominee Trust, Lot 89, Plan 61390-0

Land Court: Doc#: 314,555 Cert. of Title: 92606
Doc#: 500,106 Cert. of Title: 500106
Doc # 1,108,136 Cert. of Title: 188056

Background

The above referenced project, the Watts Family Farm Wireless Telecommunications Facility (Watts Wireless), was approved as a Development of Regional Impact (DRI), with conditions, by a vote of the Cape Cod Commission (Commission) on June 19, 2003.

In a letter with attachments received by the Commission on April 7, 2009, Attorney Elizabeth R. O'Keefe, representing Global Tower Partners (which has a ground lease agreement with Watts Farms, LLC, the property owner of the wireless facility site at 23 Falmouth-Sandwich Road)



states that as a result of the Town of Sandwich's further review of the Watts Wireless project, which occurred after the Commission had issued its DRI decision, the "*Town of Sandwich limited the height of the tower to 143 feet, rather than 150 feet as approved by the Commission.*" Furthermore, Attorney O'Keefe states that after the applicant submitted an application to the FAA for the telecommunications tower, "*the FAA returned a Determination of No Hazard to Air Navigation with a condition that the structure is marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 K.*" Attorney O'Keefe's letter also provides revised plans and correspondence from the FAA concerning its determination on changes to the Watts Wireless project.

Determination

At its meeting on May 26, 2009, the Commission's Regulatory Committee considered the request of Global Tower Partners for a modification to the Watts Wireless DRI decision. At that meeting, the Committee unanimously voted to approve the proposed height, lighting and painting changes to the Watts Family Farm Monopole project as a Minor Modification Type #2 according to Section 12 of the Commission's *Enabling Regulations* (as amended March 2005).

Changes to Findings

In accordance with the Regulatory Committee's May 26, 2009 vote, the following changes are made to the Findings of the June 19, 2003 Watts Wireless DRI decision:

Finding 1. The proposed project is located within the Sandwich Wireless Telecommunications Overlay District on a site at 23 Falmouth-Sandwich Road in Sandwich, Massachusetts. The area to be used for this facility consists of approximately 6,400 square feet of land for a ~~150-foot~~ **143-foot** telecommunications monopole that will provide locations for a total of 6 carriers, with additional space for public safety antennas. The equipment shelters/pads will be located within this area. The co-applicant (Watts Nominee Trust) owns the subject property and has signed a lease with the co-applicant (AT&T Wireless) and others that provides for the use and operation of a monopole wireless communications structure, equipment shelter, and site access.

Finding 10. Section VII of Technical Bulletin 97-001 stated that "licensed carriers should share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities". The alternative to a ~~150-foot~~ **143 foot** tower at this location would be a lower tower, or no tower, which would likely mean that additional towers would be needed in the Route 130 corridor in Sandwich. Analysis of the existing structures and their availability and the relative needs of the carriers in the area indicate that there is a need for a tower in this area to provide space for all the carriers to complete their network in the vicinity. Existing structures in the area would supplement wireless coverage from the tower. The proposed project limits the number of cellular towers by maximizing co-location, and is therefore consistent with the guidelines.

Finding 11. The applicants submitted documentation from the FAA dated December 19, 2001 that determined a facility of 190 feet at this location poses no hazard to air navigation if the tower was lighted. The subcommittee found that the 24-hour lighting of the tower, especially at night, had negative visual impacts. Testimony provided by Mr. Parisi at the May 19, 2003

subcommittee meeting indicated that the FAA would not require lights below 155 feet and the FAA made a determination on June 16, 2003 that a 150 foot tower would not be required to have air navigation lighting. **In a subsequent Determination dated November 3, 2008, the FAA determined that “the structure would not be a hazard to air navigation provided... [that] ...as a condition to this Determination, the structure is marked and/or lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, paint/red lights – Chapters 3(Marked), 45(Red), &12.”** The Commission finds that the visual impacts of the tower would be significantly reduced if the decision were conditioned such that an un-lighted, 150-foot a **143-foot** tower would be permitted.

Changes to Conditions

In accordance with the Regulatory Committee’s May 26, 2009 vote, the following changes are made to the Conditions of the June 19, 2003 Watts Wireless DRI decision:

Condition 5. The applicants shall submit an application for a ~~150-~~**143-foot** tower at the proposed location to the FAA, for a determination of the towers potential as hazard to air navigation. ~~The Commission intends that the 150-foot height permitted shall not require lighting by the FAA. Therefore,~~ Prior to issuance of a preliminary Certificate of Compliance, the applicants shall submit documentation from the FAA verifying that the **143-foot** tower does not present a hazard to air navigation and ~~does not require lighting.~~

Condition 6. The proposed structure shall be constructed as a monopole to a height of ~~150-feet~~ **143 feet** and designed to accommodate standard antenna arrays for at least six carriers with accessory equipment located within an equipment shelter or on a pad, as shown on the Site Plan dated 3/27/03 (Sheet C-1), and the Enlarged Site Plan and Elevation dated 3/27/03 (Sheet A-1). **The proposed monopole may also be painted and illuminated in a manner consistent with the November 3, 2008 FAA Determination, which is an alternating pattern of orange and white paint along the entire monopole surface, and with two, steady red beacon lamps at the top.** Plans submitted to the Town of Sandwich for a Special Permit from the Planning Board shall be similar in design to the monopole shown on the Enlarged Site Plan and Elevation dated 3/27/03, but shall clearly show the tower not to exceed ~~150-feet~~ **143 feet**. The monopole shall be galvanized steel, with galvanized antenna mounts. The applicants shall not clear vegetation or disturb any area outside of 15 feet from the perimeter of the leased area. The tower shall only be constructed with a minimum of two wireless telecommunication carriers.

Royden Richardson
Royden Richardson, Regulatory Committee Chair

07-06-09
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

7.6, 2009

Before me, the undersigned notary public, personally appeared Royden Richardson in his capacity as Chair of the Cape Cod Commission Regulatory Committee, 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