

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

STAFF REPORT

PROJECT: DRI REVIEW
WELLFLEET COMMUNICATIONS CELL TOWER
724 ROUTE 6, WELLFLEET, MA
TR15011

OWNER/APPLICANT: VARSITY WIRELESS INVESTORS, LCC
AND
BELL ATLANTIC MOBILE OF MASSACHUSETTS CORP ("APPLICANTS")

SUBCOMMITTEE: KEVIN GRUNWALD
ROGER PUTNAM
ROYDEN RICHARDSON
MICHAEL SKELLEY
ELIZABETH TAYLOR
JOYCE BROOKSHIRE (ALTERNATE)

STAFF: JONATHON IDMAN, CHIEF REGULATORY OFFICER
SARAH KORJEFF, PLANNER II, ARCHITECTURAL DESIGN SPECIALIST
HEATHER MCELROY, PLANNER II, NATURAL RESOURCES SPECIALIST
SCOTT MICHAUD, HYDROLOGIST
ELIZABETH PERRY, REGULATORY OFFICER II
JEFFREY RIBEIRO, REGULATORY OFFICER II
STEVEN TUPPER, TECHNICAL SERVICES PLANNER

DATE: SEPTEMBER 3, 2015

PROJECT DESCRIPTION

The Applicant is proposing to install a 90-foot multi-user monopole type personal wireless service facility in order to close a gap in wireless coverage for Verizon Wireless in this area of Wellfleet. The monopole proposes external antennas, and can accommodate up to a total of 5 wireless service providers antennas and equipment. The proposed 57' x 57' compound area,

primarily located in a previously disturbed gravel parking area, will be surrounded by an 8' tall stockade fence.

Verizon Wireless proposes a 12 panel antenna array, 4 antennas per sector, to be located at a centerline elevation of 87 feet above ground level. Remote Radio Heads ("RRH") with accessory junction boxes and surge suppressors will be mounted alongside the antennas. The antennas will be connected via cabling that will run from the antennas, inside the tower and through a proposed ice bridge to the ground based equipment.

Access to the personal wireless service facility will be over a 15' wide access easement from Route 6 over existing parking areas and driveways to the proposed facility. Utilities will be run underground within easement areas to serve the facility.

The Applicant is the lessee on the project site pursuant to a lease recorded with the Barnstable Registry of Deeds in Book 28288 Page 44.

JURISDICTION

The Project qualifies as a Development of Regional Impact (DRI) pursuant to Sections 3(i)(1) of the Commission's *Enabling Regulations* (revised November 2014) as the construction of any Wireless Communication Tower exceeding 35 feet in overall height, including appurtenances, from the natural grade of the site on which it is located.

The project is being reviewed in light of the 2009 Regional Policy Plan (RPP), as amended August 2012, which is the RPP in effect at the time of the first public hearing on the application.

Section 7(c)(viii) of the Commission's *Enabling Regulations* contains the standards to be met for DRI approval, which include consistency with the Act, the RPP, Districts of Critical Planning Concern (DCPCs) (as applicable), municipal development by-laws, and the Local Comprehensive Plan. The Commission must also find that the probable benefit from the proposed development is greater than the probable detriment.

PROCEDURAL HISTORY

The DRI mandatory town referral was received by the Commission on June 11, 2015. The DRI application was received on July 11, 2015. The Applicant submitted additional materials in August 2015. The DRI hearing period was opened for procedural purposes by hearing officer on August 7, 2015 at Cape Cod Commission offices located at 3225 Main Street, Barnstable, Massachusetts. The DRI application was deemed complete, sufficient to proceed to a substantive public hearing, on August 11, 2015. The first substantive hearing on the Limited DRI has been noticed and scheduled for September 8, 2015, 5:00 PM at the Wellfleet Public Library located at 55 West Main Street, Wellfleet, Massachusetts.

COMMISSION STAFF ANALYSIS

Commission staff reviewed the DRI application, pursuant to the applicable Regional Policy Plan (RPP) and provides the following analysis.

LAND USE

RPP Minimum Performance Standard (MPS) LU2.2 (Co-location of Telecommunication Facilities) is the primary MPS dealing with wireless communication towers. The MPS requires that the Applicant demonstrate commitments from at least two service providers to locate on the tower. The Applicant has solicited interest from various carriers serving Cape Cod, and has provided copies of said correspondence in the application materials. The facility provides spots for at least five co-locators.

MPS LU2.2 also requires consistency with the Commission's Technical Bulletin 97-001 Guidelines for DRI Review of Wireless Communication Towers. The Commission has received a report from its Wireless Consultant concerning the project's consistency with, among other things, this Technical Bulletin. See discussion below under heading "Technical Bulletin/Wireless Consultant's Report."

ECONOMIC DEVELOPMENT

MPS ED4.1 (Demonstrated Need and Public Benefit) requires that infrastructure and capital facilities be proposed in response to demand. The application materials evidence a coverage gap in this area, and those materials have been peer reviewed and corroborated by an independent third party hired by the Commission, Isotrope LLC.

WATER RESOURCES

The project is not located within any mapped areas for Water Resources, and no wastewater will be generated by the project. Thus only standards under RPP Water Resources Goal WR1 (General Aquifer Protection) and Goal WR7 (Stormwater) apply to the project. MPS WR1.2 (Identification of Drinking Water Wells) protects wells located on properties within 400' of DRI projects. The Even'tide Motel to the south has a private well within this 400' zone. While the Applicant has proposed the use of a propane generator for back-up power, Commission staff suggests the subcommittee should condition the project on the use of propane/natural gas for back-up power so as to protect the aquifer.

Though there is not anticipated to be a significant amount of stormwater generated by the project, the DRI application materials contain provisions for handling such stormwater, consistent with Goal WR7 and its associated MPSs.

NATURAL RESOURCES

The site abuts the Cape Cod Rail Trail and Cape Cod National Seashore. The site is mapped for rare species habitat according to the Natural Heritage and Endangered Species Program Atlas. According to DEP mapping, there appear to be no wetlands in the vicinity of the project site. Based on the disturbed conditions of the site for the proposed tower and facilities, Commission Staff advised the Applicant on December 9, 2014 that the preparation of a Natural Resources Inventory was not necessary. The Applicant acknowledges the discussion of this application requirement, including the relevant correspondence, in the project narrative and attachments.

The Applicant is required to file project plans with the NHESP due to the rare species habitat mapping at the site. According to the application materials, NHESP has indicated that the site is mapped for Eastern Box Turtle and that a turtle protection plan may be required during construction. The applicant should provide the correspondence from NHESP indicating the

project's compliance with the Massachusetts Endangered Species Act, and/or any mitigation actions required to protect box turtles on the site. The Applicant should provide such correspondence prior to the subcommittee making a recommendation on the project.

Given the disturbed nature of the site and the limited footprint of the proposed project, staff recommends that the project is consistent with the natural resource interests of the RPP. As a practical matter, the Applicant may wish to consider the potential for the tower to become attractive nesting habitat for ospreys, given the site's proximity to the marsh to the west. The monopole design should minimize the availability of the tower to support a nest – however, depending on the configuration and hardware used to attach the antenna arrays, the top of the tower may be seen by ospreys as an attractive nest site. Steps should be taken in advance to design the tower to ensure that there will not be future conflicts between the tower operations and bird habitat.

TRANSPORTATION

The proposed project will not generate traffic other than trips relating to construction and to occasional maintenance activities. The existing commercial drive currently meets all MPS related to safety and design. Commission transportation staff suggests that the decision should be conditioned to comply with MPS TR1.6 (Sight-distance Obstructions) with the provision that, prior to issuance by the Commission of a Final Certificate of Compliance, Commission staff will conduct a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drive.

WASTE MANAGEMENT

The project does not propose the use or storage of hazardous materials, as defined in the RPP. Thus, MPS under Waste Management Goal WM1 (Hazardous Materials and Waste) do not apply to the project. MPS WM2.2 (C&D Waste Plan) requires the submission of a C&D waste plan for projects that will create significant construction and demolition waste. Commission staff suggests that the disturbed nature of the site and limited construction will result in minimal C&D wastes being produced, thus a plan is not required to be provided in order to comply with MPS WM2.2.

ENERGY

The MPS for the RPP issue area of Energy do not apply to wireless communication towers.

AFFORDABLE HOUSING

The MPS for the RPP issue area of Affordable Housing do not apply to wireless communication towers. Further, as outlined in the Applicant's DRI Review Narrative, the facility will be unmanned, thus no jobs are associated with the project and there will be no direct impact on affordable housing on Cape Cod.

HERITAGE PRESERVATION/COMMUNITY CHARACTER

The visual impact of the proposed cell tower project is the main focus of this review. There are no historic properties on the project site or in the vicinity. Review standards for this project are found in MPS HPCC2.3 (Avoid Adverse Visual Impacts) and in the specific requirements of the

Wireless Technical Bulletin which is also discussed in the Commission consultant Isotrope LLC's correspondence of August 14, 2015.

MPS HPCC2.3 requires that development proposed adjacent to scenic vistas shall preserve distinctive features of the scenic resource and shall be clustered to limit visibility of the new development. At 90 feet in height, the proposed tower will extend well above the existing tree line. The proposed location in an area screened by vegetation and with large undeveloped tracts of land to the east, however, does limit the locations where the tower is visible. According to the Exhibit 5 (Photographic Simulations of the Proposed Facility), the tower will primarily be visible along some portions of Route 6 near the project site. The tower would also be seen from portions of the Cape Cod Rail Trail, from the Marconi Station viewing platform, and would be glimpsed in limited areas of some local roads. None of the areas where the project would be visible are historic areas and no historic resources will be impacted by the project. Impacts to the Cape Cod Rail Trail would be softened by existing vegetation surrounding the site, and the trail's tree canopy would prevent seeing the tower from most locations to the north and south. The view from the Marconi Station site, however, is a recognized scenic vista within Cape Cod National Seashore. The Applicant's photo simulation for Location F shows how the proposed tower would break the tree line and be visible in the distance within the primarily natural scenic vista.

Given the requirement that personal wireless service facilities should not be located within open areas that are visible from recreational areas, and that any personal wireless service facility located within the viewshed of a scenic vista should not exceed the height of vegetation at the proposed location, staff has concerns about the visibility of the project from the viewing platform at the Marconi Station site. While it is possible to find that the proposed tower would not have a significant impact on the scenic characteristics of this vista because of its distance from the viewing platform and because of the breadth of the vista, it does exceed the height of vegetation and introduces a large man-made metal structure in the view from a recreational area.

As noted in Isotrope LLC's review, the applicant did not address all possibilities for limiting visual impact in their application. They did not evaluate the potential to locate on existing electric transmission poles nearby, and did not consider a concealed antenna monopole which would have a slimmer profile than the regular monopole design. The applicant did, however, lower the height of the proposed tower to 90 feet, which is close to the height at which Commission review would not be required if a concealed monopole were proposed. To address the issue of visibility within this scenic vista, Staff recommends that comments should be sought from Cape Cod National Seashore about the proposed tower and its visual impact. To comply with the Technical Bulletin, and to address staff's concerns concerning visibility of the project from the Marconi Station site, the subcommittee should also consider requiring the applicant to explore and address all possibilities for lessening visual impacts within the vista, such as lowering the height of the tower further or reducing the tower's profile.

Technical Bulletin 97-001/ Wireless Consultant's Report

The Commission's Wireless Consultant will present his report to the subcommittee at its September 8, 2015 hearing on the project. The principal issues he identified in his report concern visual impacts of the project and siting/ design alternatives, which are also addressed in the RPP analysis, above.

The Applicant's DRI Review Narrative addresses the criteria of Technical Bulletin 97-001, and to this end states in part that the project is not located within the viewshed of a scenic vista. However, the proposed tower is visible within the viewshed from the Marconi Station viewing platform, and consistency is discussed under the issue area of Heritage Preservation/Community Character, above.

CONCLUSION

Commission staff recommends that, in order to determine that the project complies with MPS HPCC2.3 (Avoid Adverse Visual Impacts), and thus is consistent with the RPP, subject to conditions, the Applicant explore and address all possibilities for lessening visual impacts within the Marconi Station viewshed, such as lowering the height of the tower further or reducing the tower's profile. Comments should also be provided from Cape Cod National Seashore about the proposed tower and its visual impact.

Upon review of Wellfleet's Local Comprehensive Plan (LCP), Commission staff recommends that the Project is consistent with Wellfleet's LCP. The Project furthers LCP goals by keeping the Town's communications infrastructure up to date.

Project consistency with DCPC implementing regulations is not applicable as no local DCPC implementing regulations apply to the Project site. Though the Cape-wide Fertilizer Management DCPC designation included the town of Wellfleet, implementing regulations were never adopted at the town level pursuant to this DCPC.

Based on correspondence with Brian Carlson, Assistant Town Manager for the Town of Wellfleet, and review by Commission staff, the project is consistent with local development bylaws. Consistency will be evidenced by the Applicant obtaining all necessary local permits.

The Applicant has previously advised that it expects its local, required permits for this project to include:

- 1) Multi-user Communications Structure Special Permit – Wellfleet Planning Board
- 2) Building Permit – Wellfleet Building Department
- 3) Certificate of Occupancy – Wellfleet Building Department

The subcommittee should discuss the probable project benefit relative to the probable project detriment, and receive further input from the town concerning the same.