

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



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DEVELOPMENT OF REGIONAL IMPACT STAFF REPORT

PROJECT: SANDWICH WIRELESS COMMUNICATIONS FACILITY
TR17003

PROPERTY: 145 ROUTE 130, SANDWICH, MA

OWNER: PJR REALTY TRUST, PASQUALE J. RUSSO IV AND PASQUALE J. RUSSO III

APPLICANTS: ECO-SITE, LLC AND T-MOBILE NORTHEAST, LLC
C/O PRINCE LOBEL TYE LLP

DATE: JUNE 19, 2017

PROJECT DESCRIPTION

The Applicants are proposing to install a 135-foot multi-user monopole-style wireless communications tower and associated improvements for personal wireless service use on a 70'x70' leased portion of the Property. This leased portion of the Property and the stormwater management system constitute the Project Site. The proposed wireless tower will include six (6) wireless communications panel antennas at a centerline height of 130 feet. Associated appurtenances include equipment cabinets on concrete pads, and Remote Radio Heads ("RRH") with accessory junction boxes and surge suppressors to be mounted alongside the antennas. The antennas will be connected via cabling inside the monopole and through a proposed ice bridge to the ground based equipment. A stormwater management system, underground utilities, 8-foot high chain link fence, and vegetated buffer are also proposed. The tower and appurtenances are contained within a 50'x50' fenced compound.

The project has been designed to accommodate three (3) wireless telecommunications carriers in addition to T-Mobile. The facility will connect to existing on-site electric and telephone utilities.

Access to the Project Site is proposed within a 15-foot wide access easement from Route 130 that the Applicants have secured from the property owner. A portion of this easement area contains an existing driveway; the Applicants propose to construct a 50'x12' gravel driveway from this existing driveway to the tower and fenced compound.

The Property is approximately 17.13 acres, in a Residential 2 zoning district, and is mostly disturbed with a commercial landscape center and associated building, paved site driveways, gravel and dirt parking areas, equipment and vehicle laydown areas, and storage sheds.

JURISDICTION

This project qualifies as a Cape Cod Commission (Commission) 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, ...*".

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

Section 7(c)(viii)[2](d) states, for wireless communication towers subject to jurisdiction as a DRI, "*The Commission may waive application of Minimum Performance Standards of the RPP, provided that the Commission finds that such standards are outside the scope of the proposed project.*"

PROCEDURAL HISTORY

The mandatory DRI referral was received by the Commission from the Town of Sandwich on February 28, 2017. The DRI application was received on March 7, 2017. The Applicants submitted additional materials in March, April, and May 2017. The DRI hearing period was opened for procedural purposes by hearing officer on April 28, 2017 at the Cape Cod Commission office located at 3225 Main Street, Barnstable, Massachusetts. The DRI application was determined to be complete, sufficient to proceed to a substantive public hearing, on May 1, 2017. The first substantive hearing on the DRI has been noticed and scheduled for June 26, 2017, 5:30 PM at the Human Services Building/Council on Aging located at 270 Quaker Meetinghouse Road, in Sandwich, Massachusetts.

COMMISSION STAFF ANALYSIS

The project was reviewed for consistency with the 2009 RPP, as amended August 2012, which is the RPP in effect at the time of the first public hearing on the application.

Commission staff reviewed the DRI application pursuant to relevant issue areas of the RPP and other standards of review, and provides the following analysis.

Regional Policy Plan

LAND USE

The Project Site is located within a Resource Protection Area on the town adopted Land Use Vision Map (LUVV), but meets Goal LU1 – Compact Growth and Resource Protection as the project is redeveloping a portion of an existing developed site.

One purpose of Goal LU2 – Capital Facilities and Infrastructure is to use infrastructure efficiently. RPP Minimum Performance Standard (MPS) LU2.2 (Co-location of Telecommunication Facilities) requires that the Applicants demonstrate commitments from at least two (2) service providers to locate on the proposed tower. The facility provides spots for a total of four (4) co-locators; wireless carrier T-Mobile is a co-Applicant. The Applicants have contacted additional carriers serving Cape Cod to offer an opportunity to co-locate on this proposed tower, and have provided the Commission with letters committing to allow for future co-location.

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 titled “Initial Review of an Application for a DRI Review of a Wireless Communication Facility at 145 Route 130, Sandwich Massachusetts” from its wireless consultant, Isotrope, LLC, regarding the project’s consistency with, among other things, this Technical Bulletin.

ECONOMIC DEVELOPMENT

The aim of Economic Development Goal 4 (Infrastructure Capacity) is to provide adequate infrastructure that meets community and regional needs, expands community access to service, and improves the reliability and quality of services. MPS ED4.1 (Demonstrated Need and Public Benefit) requires that infrastructure be proposed in response to demand. The Applicants have provided coverage analysis using a high frequency bandwidth. Isotrope, LLC recommends that the Applicants provide information regarding low frequency bandwidth coverage, which can be used to supplement total wireless coverage, in determining whether there is a gap in coverage necessitating the project.

WATER RESOURCES

The Property is within the Popponeset Bay watershed, a nitrogen-impaired watershed with a nitrogen Total Maximum Daily Load (TMDL) approved by the U.S. Environmental Protection Agency (EPA). The proposed project nitrogen loading is approximately 1.5 ppm (parts per million), which meets the 5-ppm nitrogen loading standard for General Aquifer Protection (Goal WR1) and Wellhead Protection Areas (Goal WR2 – Drinking Water Quality and Quantity). With stormwater management improvements proposed for the Project Site, nitrogen loading for the proposed development will be slightly lower than existing loading, meeting nitrogen loading standards for nitrogen-impaired Marine Water Recharge Areas (Goal WR3).

The Project Site also lies within the Freshwater Recharge Area to Peters Pond. Due to the existing pond health, nature of the project, and project distance from the pond, no impacts to Peters Pond are anticipated (Goal WR4 – Freshwater Ponds and Lakes).

As the project is located within a Wellhead Protection Area, no more than “household quantities of Hazardous Materials,” defined in the RPP as 25 gallons (or equivalent dry weight), may be used or stored on-site pursuant to MPS WR2.2 (Prohibition on Hazardous Materials/Wastes). The proposed backup generator fuel will be propane, posing little to no risk of aquifer contamination. The Applicants are assessing the need for a transformer on-site. If a transformer is required on-site, staff recommends that any fluids used therein be biodegradable and non-toxic, with secondary containment provided around the proposed transformer. To

further protect the aquifer, staff also recommends that fueling of vehicles during construction occur off-site and outside of a designated Wellhead Protection Area.

Regarding stormwater management, there are no existing stormwater management features currently on-site. The proposed stormwater system includes two (2) grassed conveyance swales with riprap aprons situated on either side of the proposed compound that will reroute water away from the concrete pad, and an infiltration trench that will capture and treat runoff from the project site. The proposed swales and infiltration trench result in an improvement in stormwater quality and management on the site. Though there is not anticipated to be a significant amount of stormwater generated by the project, the DRI application materials contain provisions for handling stormwater consistent with Goal WR7 (Stormwater Quality) and associated MPSs.

The Stormwater Pollution Prevention Plan (SWPPP) and site plans contain proper design and details regarding erosion and sediment control plans during construction. The included Stormwater Maintenance Procedures also address requirements for inspection, monitoring, operation and maintenance of the infiltration trench and swales.

While the Landscape Management Plan does provide for maintenance such as mowing and pruning, it does not include how the Applicants intend to address long term care of the landscaped area and grassed conveyance swales in regards to the application of fertilizer, pesticides, herbicides, or watering practices. Staff recommends the Applicants prepare a revised Landscape Management Plan that incorporates water conservation measures, and minimize the use of pesticides and chemical fertilizers therein.

NATURAL RESOURCES

The project is located within a Significant Natural Resources Area (SNRA) due to the presence of Priority and Estimated Habitats as mapped by the Massachusetts Natural Heritage and Endangered Species Program (NHESP) and Wellhead Protection Area. There are no mapped wetlands or vernal pools on or within the vicinity of the site. The Project Site is proposed to be located on an existing disturbed Property actively used for commercial and light industrial uses.

While the Project Site is mapped for rare species, the Applicants have received correspondence from the NHESP, meeting Wildlife and Plant Habitat MPS WPH1.4 (Rare Species), indicating that impacts to state listed species from the project are not anticipated. The Applicants have also provided correspondence from the U.S. Fish and Wildlife Service indicating that impacts to the federally listed Long-Eared Bat are not anticipated.

Due to the disturbed nature of the site, its isolation from any other meaningful habitat areas in the vicinity, and very small size, staff recommends that open space mitigation not be required for this project, and that no Natural Resources Inventory need be prepared.

TRANSPORTATION

The existing Property driveway will be used to access the Project Site from Route 130. As the proposed project will not generate traffic other than trips relating to construction and bimonthly maintenance visits, Transportation staff suggests that no sustained transportation impacts will result from this project.

WASTE MANAGEMENT

The storage of Hazardous Materials within a Wellhead Protection Area should be of Household Quantities or less. The need for a transformer on-site has yet to be determined. If a transformer is required on site, staff recommend that any fluids used therein be biodegradable and non-toxic, with secondary containment provided around the proposed transformer.

MPS WM2.2 (C&D Waste Plan) requires the submission of a Construction and Demolition 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 construction and demolition waste being produced, thus a plan is not required to be provided to comply with MPS WM2.2.

HERITAGE PRESERVATION/COMMUNITY CHARACTER

The proposed tower is located outside of town historic districts, and is approximately 1/4-mile north of the Forestdale area that was inventoried for historic resources in 1993 by PAL, Inc. No historic resources have been identified on the project site. The Applicants filed a Project Notification Form with the Massachusetts Historical Commission and received a determination that the project is unlikely to affect significant historic or archeological resources. An archaeological assessment was conducted for the area where disturbance is proposed, and the site was not found to be archaeologically sensitive.

The visual impact of the proposed wireless service tower and facility is the focus of the Community Character review (Goal HPCC2 – Community Character/Site and Building Design). A visibility analysis for the proposed project found the tower would be visible along the southern portion of Quaker Meetinghouse Road near the intersection with Route 130, and in some neighborhoods close to the project site. The tower is also visible from portions of Route 130 close to the project site. These areas are all outside of historic resource areas and distinctive scenic landscapes.

The proposed tower is set back 380 feet from Route 130 on a leased area on the 17-acre Property. Existing vegetation on the project site and in the surrounding neighborhood, along with the proposed landscaped buffer, would screen both the tower and the chain link fence surrounding the lease area from many locations. Eco-Site has proposed a Buffer Zone Agreement with the property owner to protect existing vegetation on the site that will partially shield the tower. A plan designating the 250'x100' proposed buffer zone, dated April 10, 2017, was provided to Commission staff, showing where existing mature vegetation will be retained. Commission staff suggested changes to the Buffer Zone Agreement document to ensure the property owner act with Eco-Site to provide this vegetated buffer to mitigate visual impacts from the project. Commission staff recommends Eco-Site incorporate those comments into a revised Buffer Zone Agreement. Commission staff believes the proposed buffer zone of existing vegetation appears adequate to provide on-site screening for the tower, and as such, staff believes the project would be consistent with RPP performance standards relating to heritage preservation and community character, subject to execution of such an Agreement.

Photosimulations provided by the Applicants show that the visual impact on the surrounding area appears to be minimal, as there are few vantage points in the immediate area from which the tower will be visible. Locating the tower behind an existing building aids in buffering the facility from the roadway.

Isotrope, LLC has recommended the Applicants provide additional information regarding siting and tower height to justify the proposed project design and location.

Technical Bulletin 97-001 (“Wireless Technical Bulletin”)/ Wireless Consultant’s Report

The Commission’s wireless consultant will present his report to the subcommittee at its June 26, 2017 hearing on the project. Isotrope, LLC has recommended the Applicants provide additional information for review regarding alternative project sites, coverage and need, visual impacts, and discussion on the methodology used in preparing photosimulations and coverage analysis.

Consistency with the Local Comprehensive Plan (LCP)

Staff recommends that the project is consistent with the Sandwich Local Comprehensive Plan, as the project furthers the Land Use and Growth Management goal of minimizing adverse impacts on the land by using the land efficiently, and directing redevelopment to appropriate locations (Goal LGM-2).

Consistency with Districts of Critical Planning Concern (DCPC)

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 Sandwich, implementing regulations were never adopted at the town level pursuant to this DCPC.

Consistency with Local Development Bylaws

The project site is in a Residential 2 zoning district, where the use of the property is not permitted for a wireless communications facility, and the maximum building height is 35’. Therefore, the facility will require a Use Variance and Dimensional Variance from the Sandwich Zoning Board of Appeals. As noted by the Applicant, in *Nextel Communications of the Mid-Atlantic, Inc. v. Town of Wayland*, 231 F.Supp. 2d 396, 406-407 (D. Mass. 2002), the “need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless services, constitutes another unique circumstance when a zoning variance is required.” T-Mobile will require variances as it cannot close a significant gap in coverage without installing the proposed facility in an area that prohibits wireless telecommunications facilities and structures at a height above 35 feet.

The project site is located within the town Water Resources Overlay District (Article V, Sandwich Protective Zoning Bylaws, 2015), the intent of which is to preserve the town’s quality and quantity of groundwater. The project use is not a prohibited use under this regulation, and appears to meet the applicable Performance Standards for allowed uses.

Sandwich does have a Wireless Telecommunications Overlay District (Sec. 3800), the purpose of which is to locate these facilities while protecting public health, safety, and welfare. The project site is not located within this Overlay District, but does appear to meet all off the Overlay requirements, including: provisions for abandonment or discontinuation of use; facility maintenance; and, siting requirements such as stormwater runoff contained on-site, undergrounding utilities, providing visual screening, adhering to property line setbacks, and height allowance (150’).

Based on correspondence with Joshua Peters, Assistant Town Planner for the Town of Sandwich, and review by Commission staff, the project is consistent with local development bylaws, provided the Applicants obtain Use and Dimensional Variances from the Sandwich Zoning Board of Appeals.

CONCLUSION

Commission staff suggests that the project is consistent with the Local Comprehensive Plan and municipal development bylaws, subject to the Applicants obtaining all required local permits. No DCPC regulations apply to the project site.

Additional information should be provided to further assess: consistency with the Wireless Technical Bulletin, as outlined in the Commission's wireless consultant's report; project need; RPP consistency; and to determine project benefits and project detriments.