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CAPE COD
COMMISSION

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**CAPE COD COMMISSION STAFF REPORT
DEVELOPMENT OF REGIONAL IMPACT REVIEW**

Date: June 27, 2024
Project: Brick Kiln Monopole (File No. 24007)
Project Applicant: Vertex Towers, LLC
c/o Francis Parisi, Esq., Parisi Law Associates, P.C.
225 Dyer Street, Providence, RI 02903
Property Owner: Falmouth Self Storage Nominee Trust
G. Howard Hayes, Trustee
Property/ Site: 737 Gifford Street, Falmouth (Assessors ID 27-01-007)
Title Reference: Book 4670 Page 97
Subcommittee: Thomas Wilson (Chair), John Druley, John D. Harris, Kevin Grunwald, Stephen Mealy, and Richard Roy (Alternate)

Project Description and Context

The Applicant proposes development on a leased portion of a +/- 11.6-acre property ("Property"; "Project Site"). The Property currently contains an outdoor storage facility with associated site improvements. The Applicant proposes the construction of a 125-foot multi-user monopole-style wireless communications tower with associated equipment ("Project"). The Applicant has legal standing to pursue the Project through a Memorandum of Lease and a Letter of Authorization, both from the Property Owner. As proposed, the development and construction of the wireless communications tower would consist of:

- clearing +/- 5,500 square feet of vegetated area;
- constructing a 55'x70' compound surrounded by a 6'-tall fence;
- installing the monopole tower, carrier antennas, concrete equipment pads, and all associated ground equipment (including equipment cabinets, propane generators, and propane tanks) within the fenced area; and

- installing an approximately 12'x35' gravel driveway connecting the fenced area to the existing site drive.

The Project Site abuts Gifford Street to the west, which is sparsely developed with a mix of residential and commercial properties. The north and east sides of the Property abut a fully cleared utility easement area that runs to Brick Kiln Road. To the south is an indoor self-storage facility.

While there is a de minimis area of BioMap Core Habitat that intersects the Project Site, staff suggests the Project is located in a Suburban Development Area Placetype based on the surrounding mix of residential and commercial development. Suburban Development Areas are characterized by moderately dense residential neighborhoods as well as automobile-oriented commercial development.

Ongoing operations and activity at the Property would be minimal, thus the Project does not involve regionally significant or sustained effects on the transportation network.

DRI Jurisdiction

The Project requires mandatory DRI review pursuant to Section 3 of the Commission's *Chapter A: Enabling Regulations Governing Review of Developments of Regional Impact ("Enabling Regulations")* (revised May 2020) as the "[c]onstruction of any Wireless Communication Tower exceeding 35 feet in overall height...".

The Commission received a mandatory Development of Regional Impact referral for the Project from the Town of Falmouth ("Town") on April 1, 2024.

The Applicant submitted a DRI application to the Commission on May 15, 2024. Additional materials were submitted on May 23, 2024. The hearing period was opened procedurally on May 31, 2024.

DRI Review Standards

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

DRI review of the Project is subject to the 2018 RPP, amended in March 2021, which is the version of the RPP in effect at the time of the Commission's first substantive public hearing on the Project. The Commission determines the Project's consistency with the Act and 2018 RPP by determining whether the Project is consistent with the Goals and Objectives in Section 6 of the 2018 RPP, as particular goals and objectives are deemed applicable and material to the Project.

Cape Cod Regional Policy Plan

Applicable and Material RPP Goals and Objectives

Commission staff reviewed the details of the DRI Application Materials and suggest that the following RPP Goals are applicable, material, and regionally significant and are thus subject to RPP consistency review: Community Design, Cultural Heritage, Water Resources, Open Space, and Capital Facilities and Infrastructure. Commission staff make the following recommendations relative to the Project's consistency with these RPP Goals and relevant Objectives and Technical Bulletin guidance:

Community Design

The Community Design Goal of the RPP is to protect and enhance the unique character of the region's built and natural environment based on the local context. The following Community Design Objectives are applicable and material to the Project:

- Minimize the amount of newly disturbed land and impervious surfaces (CD2); and
- avoid adverse visual impacts from infrastructure on scenic resources (CD3).

The Applicant has sited the Project in ways that help to limit its impact on community character. The proposed Project encompasses only 5,500 square feet of new clearing and little new impervious area because it uses an existing entrance drive, consistent with the RPP's Community Design Objective CD2. Mature vegetation and the curved entrance drive will help to screen the lower portion of the proposed tower and the fenced enclosure from Gifford Street, but the proposed tower's height and proximity to an existing utility corridor would make the tower visible from other parts of Gifford Street and from Brick Kiln Road, especially where the utility corridor crosses the Brick Kiln Road and in nearby parking areas at the high school.

The proposed height is significantly above the height of trees in the vicinity, which the applicant states are 35 to 45 feet tall. While there are no identified scenic resources in the project vicinity that would be particularly impacted by the proposal, a shorter tower may be able to provide service with less visual impact on the surrounding area. Staff suggests that the height of the proposed 130-foot-tall monopole should be evaluated with only one carrier committed to locating on the tower. Regardless, staff suggests that the project is consistent with RPP Objective CD3 related to visual impacts from infrastructure on scenic resources subject to the determination that the visual impacts are the minimum necessary to provide wireless services.

While there is no proposed landscape plan, the Project will be set back substantially from the road and the is surrounded by a vegetated buffer that should effectively screen the project.

Cultural Heritage

The Cultural Heritage Goal of the RPP is to protect and preserve the significant cultural, historic, and archaeological values and resources of Cape. The following Cultural Heritage Objectives are applicable and material to the Project:

- To protect and preserve forms, layouts, scale, massing, and key character defining features of historic resources, including traditional development patterns of villages and neighborhoods (CH1); and
- Protect and preserve archaeological resources and assets from alteration or relocation (CH2).

There are few cultural resources in the project vicinity that would be impacted by the proposed tower. The inventoried historic properties are far enough away that any visual impact of the proposed tower would be limited and would not affect their historic significance. Because the proposed project involves some new clearing, however, there is potential for archaeological impacts. The applicant submitted a Project Notification Form (PNF) dated May 10, 2024, to Massachusetts Historical Commission (MHC) for comment but did not provide proof of receipt by MHC. MHC has 30 days to review and comment on PNFs from the date of submittal. The Commission should wait for a determination of archaeological sensitivity before issuing a decision on this project. If the property is not archaeologically sensitive, the project would be consistent with the RPP's Cultural Heritage Goal and Objectives CH1 and CH2.

Water Resources

The Water Resources Goal of the RPP is to maintain a sustainable supply of high-quality untreated drinking water and protect, preserve, or restore the ecological integrity of Cape Cod's fresh and marine surface water resources. The following Water Resources Objectives are applicable and material to the Project:

- protect and preserve groundwater quality (WR1); and
- manage and treat stormwater to protect and preserve water quality (WR4).

The Project Site is mapped by Mass DEP for Outstanding Resource Waters (ORW) as classified under the Massachusetts Surface Water Protection and a MassDEP-designated Surface Water Supply Zone B Area. These designations are associated with Long Pond, a public water supply reservoir. Disturbances greater than 1,000 square feet in these mapped areas require additional stormwater management design, which the applicant has acknowledged in the Stormwater Report. Additionally, placement of fill would require a 401 Water Quality Certification and MEPA review, but the existing topography of the site means there will be minimal grading and no fill is proposed.

To ensure the protection of Long Pond, the Applicant has agreed to a condition requiring any backup power generators only use natural gas or propane for fuel. Subject to this condition, staff suggests the Project is consistent with Objective WR1

The Applicant indicates that the stormwater drainage patterns will resemble the existing drainage patterns. According to the plans, the flat grade of the project site and the proposed gravel drive and compound area will be designed to encourage infiltration. The proposed gravel road and storage pad will be sloped to direct stormwater not infiltrated to sheet flow towards existing vegetated areas where it will infiltrate, thus not resulting in stormwater runoff impacts to any applicable resource areas.

Erosion control will be important during the construction phase and after the tower and appurtenances have been installed. The exposed soil will be prone to erosion by wind and water during construction. An erosion and sedimentation control (ESC) plan will be critical to establish and maintain during construction and before the seed mixes are established. Commission staff recommend conducting weekly monitoring of the erosion and sediment controls plus additional checks within 12 hours of rain events.

Appropriate project management during and after construction should mitigate potential impacts allowing the project to be consistent with Objective WR4.

Open Space

The Open Space Goal of the RPP is to conserve, preserve, or enhance a network of open space that contributes to the region's natural and community resources and systems. The following Open Space Objective is applicable and material to the Project:

- protect or provide open space appropriate to context (OS3).

The Project entails a small amount of new clearing (+/- 5,500 square feet or 0.13 acre) for the proposed development.

In the project narrative the Applicant has stated that the requirements of Objective OS3 are not applicable to the project. The Board should consider whether this Objective is applicable, material, and regionally significant to the Project.

The Area of Development Impact for the project has been minimized, but similar projects reviewed under the 2018 RPP have not requested waivers from this Objective, and those applicants have made cash contributions toward open space protection.

Suburban Development Areas are required to provide open space in a ratio of 1:1. Staff suggests a cash contribution to the Town's open space acquisition fund may be an appropriate method for meeting Objective OS3 due to the small Area of Development Impact. Based on current figures, this cash contribution would be in the amount of \$11,993.

Capital Facilities & Infrastructure

The Capital Facilities & Infrastructure Goal of the RPP is to guide the development of capital facilities and infrastructure necessary to meet the region's needs while protecting regional resources. The following Capital Facilities & Infrastructure Objective is applicable and material to the Project:

- coordinate the siting of capital facilities and infrastructure to enhance the efficient provision of services and facilities that respond to the needs of the region (CAP2).

Wireless network connectivity is influenced by many factors, including proximity to a cell site, physical obstacles, signal interference, severe weather, topographical features, or large structures or other objects between a phone and the nearest cell site.

The Applicant suggests that the tower is necessary to address a potential gap in wireless coverage and identified the proposed site as the only feasible location to close the potential gap. Provided such gap has been verified, the Project would improve cellular coverage in Falmouth for Verizon customers and includes space for up to three additional carriers.

Based on the information provided in the DRI Application, the proposed tower is infrastructure that would improve cellular service in the area of the proposed site in response to the needs of the region, and thus staff suggests the Project is consistent with Objective CAP2.

Other DRI Standards of Review

Consistency with Technical Bulletin 97-001: Guidelines for DRI Review of Wireless Communication Towers (Revised September 2010)

Commission staff direct applicants to Technical Bulletin 97-001 for guidance on location and design of wireless towers. The Commission has retained Isotrope Wireless, LLC ("Isotrope") as its wireless technical consultant to review the Project relative to, among other things, consistency with these guidelines.

Detailed analysis as to the Project's consistency with Technical Bulletin 97-001 can be found in Isotrope's report, which is attached to this staff report. The wireless technical consultant will present his report to the subcommittee at the July 2nd hearing on the Project.

Consistency with applicable Municipal Development Ordinances/Bylaws (including DCPC implementing regulations)

The Project is located in the Agricultural B (AGB) Zoning District. Section 240-6.1B of the Town's Zoning Ordinance provides that television or radio antennas exceeding 50 feet above ground are a Special Permit use in the AGB district, to be granted by the Falmouth Zoning Board of Appeals.

No DCPC implementing regulations apply to the Project.

EXHIBIT A

ISOTROPE WIRELESS – REVIEW OF APPLICANT’S DEVELOPMENT OF REGIONAL IMPACT APPLICATION, DATED JUNE 25, 2024



Thinking outside the sphere

Review of Application for DRI: New Tower at 737 Gifford Street, Falmouth

June 26, 2024

Vertex Tower (Applicant) proposes a 130-ft monopole tower at 737 Gifford Street for Development of Regional Impact (DRI) approval by the Cape Cod Commission (Commission). It would be a new structure.

Summary

The application materials are mostly complete and describe a proposed facility that has a design familiar to the Commission. From a wireless communications perspective, the proposed design raises no red flags on topics such as radio energy safety, facility size and capacity.

The application includes information provided by C-Squared Systems on behalf of Verizon Wireless depicting predicted existing and proposed coverage at 700 MHz and 2100 MHz, as well as measured coverage data (drive data) in the area of the proposed monopole, in order to demonstrate the need for the site (for Verizon Wireless).

Application Requirements:

The DRI Review requirements state, by section (summarized):

1. Demonstration of a coverage and/or capacity problem requiring a solution

As mentioned in the summary, above, the application includes information in Section 9 from C-Squared Systems on behalf of Verizon Wireless to demonstrate the need for the proposed facility. Reviewing these plots and subsection 4 of the RF report contained in Section 9, the proposed site is intended to provide primarily a coverage improvement in the area, specifically to Brick Kiln Road, Gifford Street, Falmouth High School and “surrounding roads, neighborhoods and shopping areas”. Later, in subsection 7, it is stated that “much of Falmouth is in an area of deficient coverage” which may be a typo as this application addresses only a small portion of the town of Falmouth.

Also, the Falmouth High School is identified as an area of need but the measured data does not include data collected on the High School grounds, to demonstrate this need. Additionally, a group of Small Cells are shown on the map, in the lower left, yet coverage (neither predicted nor measured) seems to have been included from these Small Cells in the plots provided?



On the whole, this response seems to be substantially complete, however there could be some confusion on the specific problem as the narrative in subsection 4 speaks specifically about coverage, while later in the document including in subsection 9 “Summary”, mention is made of some capacity issue as well, but not specifically with any demonstration of a capacity issue.

2. Demonstration that all existing structures have been identified and fairly rejected

Included and noted, although as above, coverage from the Small Cells SW of the proposed site appears to be missing.

3. Demonstration that proposed location and height will solve (the) problem

Included and noted with respect to location, as well as plots to show the potential solution viability for Verizon in the area, although no alternative height analysis has been provided (discussed below under #4).

4. Demonstration that proposed height is minimum necessary to achieve coverage of target area.

No alternative height analysis has been provided, so it is not possible to determine from the materials provided whether the height of 125’ AGL (Verizon) is “minimum necessary”, or whether the other available heights on the tower (115’, 105’ and 95’) will meet the potential needs of any future carrier additions on the tower. The tower does appear to be designed to support the 4 carriers currently licensed in Falmouth but the application only includes one carrier to locate on the tower (initially).

5. Demonstration of visual impact of proposed new structure.

Included and noted. The location does appear to be well chosen for minimum visual impact.

6. Demonstration of Camouflaged Siting and Design Features

Included. This site does appear to be screened from public view to the extent possible (by site selection) by the surrounding vegetation.

7. Demonstration of Co-Location Capability

Included. The site appears to be designed for a total of 4 carriers to collocate in the future. (Verizon + 3 additional carriers)

8. Radiofrequency Radiation (RFR) Filing Requirements

The radio frequency energy safety analysis confirms the facility would be compliant with the FCC requirements, which is the extent to which the placement of the facility on this basis can be controlled. The analysis only includes Verizon and therefore, any future carrier tenants will need to provide their own safety analysis, including any existing carriers (Verizon initially) and their proposed



operation in aggregate. The carriers' final designs of their facilities, in combination with the other carriers on site, are required to be always compliant under the terms of their FCC licenses.

9. Hazardous Materials Filing Requirements

Included in Narrative, Page 11 – no Hazardous materials will be on site.

10. Noise Filing Requirements

Included. Cut sheets of a Kohler Propane Generator have been included and the applicant is requesting a waiver from the requirement to do an existing and existing + proposed noise measurement at this time.

Conclusion:

The applicant has addressed all sections of the DRI review requirements, as listed above.

This concludes our initial review of the application.

Michael Lawton