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CAPE COD
COMMISSION

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DEVELOPMENT OF REGIONAL IMPACT DECISION

Date: October 31, 2024
Project: Quaker Road Monopole (File No. 24011)
Project Applicant: Vertex Towers, LLC
c/o Francis Parisi, Esq., Parisi Law Associates, P.C.
225 Dyer Street, Providence, RI 02903
Property Owner: Roman Catholic Bishop of Fall River
c/o St. Elizabeth Seton Parish
Property/ Site: 481 Quaker Road, Falmouth (Assessors ID 12-05-001-010)
Title Reference: Book 187 Page 54

SUMMARY

The Cape Cod Commission ("Commission") hereby grants Development of Regional Impact ("DRI") approval, with Conditions, for "Quaker Road Monopole," to construct a 120-foot wireless communications tower with associated improvements at 481 Quaker Road in Falmouth, pursuant to a vote of the Commission at its meeting on October 31, 2024.

FINDINGS

The Cape Cod Commission hereby finds and determines as follows:

- F1. The Applicant proposes development on a leased portion of a 10.40-acre +/- parcel, which currently contains a church and associated parking lot ("Property" or "Site"), by constructing a 120-foot multi-carrier monopole-style wireless communications tower with associated equipment ("Project"). The Applicant has legal standing to pursue the Project through a letter of authorization from the Property owner and a memorandum of lease (Roman Catholic Bishop of Fall River).
- F2. Given the surrounding uses and development patterns and the type of development being proposed, the Site is best represented by the "Suburban Development Area" Placetype. Suburban Development Areas are characterized by moderately dense residential neighborhoods as well as automobile-oriented commercial development.

- F3. The Applicant proposes to develop and operate on the Project Site an approximately 120-foot-tall wireless communications tower with other supporting and ancillary improvements, including:
- clearing +/- 4,900 square feet of vegetated area;
 - constructing a 48'x58' compound surrounded by a 6'-tall fence; and
 - 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.
- F4. Ongoing operations and activity at the Property would be minimal. Due to the minimal ongoing operations, the Project does not involve regionally significant or sustained effects on the transportation network.
- F5. The Federal Telecommunications Act of 1996 at 47 USC §332(c)(7)(B)(i) provides that any regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
- F6. The Federal Telecommunications Act of 1996 at 47 USC § 332(c) (7)(B)(iii) provides that any decision by a State or local government or instrumentality thereof to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

BACKGROUND

- F7. The Commission retained, at the Applicant's expense, a consultant with expertise in reviewing technical aspects of the proposal. The consultant, Michael Lawton of Isotope Wireless, LLC ("Isotope"), provided an initial report on the application, followed by supplemental comments on additional materials submitted during review. The comments were reviewed as part of the proceedings.

PROCEDURAL HISTORY

- F8. 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 November 2021) as the "[c]onstruction of any Wireless Communication Tower exceeding 35 feet in overall height...".
- F9. The Commission received a mandatory DRI referral for the Project from the Town of Falmouth ("Town") on June 16, 2024.
- F10. The hearing period was opened procedurally on August 13, 2024
- F11. The Applicant submitted a DRI application for the Project to the Commission on August 9, 2024. Additional materials were submitted on October 11, 2024 and October 23, 2024.
- F12. The first substantive hearing was held by a DRI Subcommittee ("Subcommittee") on the Project on October 10, 2024. The hearing was continued to October 23, 2024. A final public hearing was conducted by the Cape Cod Commission on October 31, 2024.

- F13. The Subcommittee held a public meeting to further discuss the Project on October 28, 2024. At this meeting, the Subcommittee voted to recommend to the full Commission that it grant DRI approval for the Project, with conditions, as set out in the draft written DRI decision reviewed by the Subcommittee.
- F14. The full Cape Cod Commission held a hearing on the Project at its meeting on October 31, 2024. It considered the recommendation of the Subcommittee, including the draft written DRI decision. At the hearing on October 31, 2024, the Commission voted to adopt the draft written DRI decision, and approve the Project, with the Conditions set out in said decision.

DRI REVIEW STANDARDS

- F15. Section 6(c)(viii) of the *Enabling Regulations* contains the standards to be met for DRI approval, which include, as applicable, consistency with the RPP, District of Critical Planning Concern (“DCPC”) implementing regulations, municipal development bylaws, and Commission-certified Local Comprehensive Plans (“LCP”). The Commission must also find that the probable benefit from the Project is greater than the probable detriment.

MUNICIPAL DEVELOPMENT BYLAWS, LCP, AND DCPC CONSISTENCY

- F16. There are no DCPC implementing regulations applicable to the Project.
- F17. The Town of Falmouth’s current Local Comprehensive Plan (LCP) was adopted in 2016. It includes sustaining economic vitality among its goals, especially emphasizing the infrastructure necessary to attract and support the business sector. It specifically identifies poor cell and internet connectivity among the areas of concern.
- F18. The Project is located in the Single Residence B (RB) Zoning District. Section 240-6.6B of the Town’s Zoning Ordinance provides that television or radio antennas exceeding 50 feet above ground are a Special Permit use in the RB district, to be granted by the Falmouth Zoning Board of Appeals.

RPP CONSISTENCY REVIEW

- F19. The Commission reviewed the Project relative to the 2018 RPP and companion Technical Bulletins, which were those in effect at the time the Commission commenced substantive hearing on the Project. Under Section 9 of the RPP, the Commission assesses the Project’s consistency with the RPP by determining whether the Project is consistent with the goals and objectives in the RPP that are deemed applicable, material and regionally significant with respect to the Project. The companion Technical Bulletins assist in elaborating and interpreting the RPP’s goals and objectives.
- F20. The RPP goals and objectives specifically referenced in this section of the Decision and discussed in detail below are those determined to be applicable, material, and regionally significant with respect to the Project and are thus subject to RPP consistency review.
- F21. Subject to the Conditions set out in this Decision, the Project is consistent with the RPP goals and objectives and with the corresponding provisions from the Technical Bulletins, as discussed in detail below, and as such the Project is consistent with the RPP.

Water Resources

- F22. 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. Water Resources Objectives WR1 and WR4 are applicable and material to the Project:

- Protect and preserve groundwater quality (WR1);
- Protect, preserve, and restore marine water resources (WR3); and
- Manage and treat stormwater to protect and preserve water quality (WR4).

F23. The Project Site is mapped as a Potential Public Water Supply (“PPWSA”) and a Marine Water Recharge Area (“MWRA”) to Wild Harbor, a nitrogen sensitive embayment.

F24. The Applicant has proposed the installation of backup emergency generators. All proposed generators will be fueled with propane, posing little to no risk of drinking water contamination, consistent with WR1.

F25. Commission staff has reviewed the project plans and stormwater report, and the system is appropriately sized and designed consistent with Objectives WR3 and WR4.

F26. Nitrogen loading from the Project will be generated only by stormwater runoff from impervious areas. The only impervious area proposed is the compound area, which would contain the ground equipment and monopole.

F27. Given the small amount of impervious surface and lack of wastewater generation, Project is expected to result in less than 0.75 parts per million (“ppm”) sitewide nitrogen loading concentration, below the 1ppm limit for projects in PPWSAs.

F28. The stormwater system is designed to contain all runoff from the 2-year storm event on-site and will result in no offsite nitrogen impacts within the Wild Harbor embayment.

Open Space

F29. 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. Open Space Objective OS3, which seeks to protect or provide open space appropriate to context, is applicable and material to the Project.

F30. The Area of Development Impact for purposes of the required open space mitigation, excluding area used for naturalized elements of the stormwater management systems, is 4,900 sf.

F31. Projects in Suburban Development Areas are required to provide high-quality open space in a ratio of 1:1 on-site, offsite, or by cash contribution.

F32. A payment in lieu of the provision of restricted open space land is appropriate given the relatively small Area of Development Impact for the Project and the Project’s location adjacent to developed areas. Provided that the Applicant makes a cash contribution to provide open space in the Town of Falmouth, the Project meets Objective OS3.

F33. Based on the current per-acre open space mitigation figure of \$92,256 for the Town of Falmouth, the .11-acre Development Impact Area results in a required payment of \$10,148.

Community Design

- F34. 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. Community Design Objectives CD2 and CD3 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 to scenic resources (CD3).
- F35. The Applicant has sited the Project to limit its impact on community character. The proposed 120-foot-tall monopole is sited to the rear of an existing developed property, behind a church and its associated parking lots. The site is surrounded by mature vegetation to the north, east, and south, and is partially blocked from views to the west by the church and existing trees on the site. The monopole equipment will be screened at ground level by a variety of native plantings along the western and southern boundaries of the fenced compound.
- F36. The Applicant provided photosimulations of the proposed monopole from vantage points identified by the Commission. Based on the location and on photo simulations provided by the Applicant, the proposed monopole would have limited visibility from surrounding roadways and public spaces. The Applicant provided photosimulations of the proposed monopole from vantage points identified by the Commission.
- F37. The Project will use the existing site access, thus limiting the amount of newly disturbed land and impervious surface.
- F38. There are no identified scenic resources in the vicinity that would be impacted by the Project.
- F39. The Project meets the RPP Community Design Goal and objectives CD2 and CD3.

Capital Facilities & Infrastructure

- F40. 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. Capital Facilities & Infrastructure Objective CAP2, which seeks to 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, is applicable and material to the Project
- F41. Based on the materials provided by the Applicant, the Project is infrastructure that would improve cellular service in the area of the proposed site, in response to the needs of the region.
- F42. Wireless network connectivity is influenced by many factors, including proximity to a cell site, physical obstacles and signal interference. Wireless service can be affected by severe weather, topographical features, or large structures or other objects between a phone and the nearest cell site.
- F43. The Applicant suggests that Verizon has identified a significant gap in wireless coverage in this area of Falmouth. The Applicant identified the proposed site as the only feasible location to close Verizon's significant gap.
- F44. The Project would improve cellular coverage in Falmouth for Verizon and includes space for additional carriers.

F45. The Commission retained a wireless consultant to review the claimed coverage gaps as required under Technical Bulletin 97-001. The wireless consultant confirmed that there are coverage gaps in this area of Falmouth.

Cultural Heritage

F46. The Cultural Heritage Goal of the RPP is to protect and preserve the significant cultural, historic, and archaeological values and resources of Cape Cod. 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).

F47. There are no historic resources located in close proximity to the proposed monopole. Based on the state's cultural resource database, the North Falmouth National Register District and West Falmouth National Register District are each located over half a mile away. These and other inventoried historic properties are unlikely to be impacted by the monopole due to distance from the tower, along with heavy vegetation and changes in topography. As such, the Project is consistent with Cultural Heritage Objectives CH1 and CH2.

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

F48. The purpose of the Wireless Technical Bulletin is to provide general guidelines for DRI applicants regarding application requirements and conformance with the Regional Policy Plan as applied to Wireless Communication Facilities. The Commission may waive one or more of the requirements outlined in the Wireless Technical Bulletin if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

F49. The Wireless Technical Bulletin includes noise standards, generally prohibiting noise greater than 50 db at the property line. The Applicant agrees to maintain the Project in compliance with these noise standards. Given the substantial setbacks, existing vegetative buffer, and minimal noise emissions based on the equipment to be used, annual monitoring and monitoring is not necessary at this time.

F50. The Commission retained a wireless consultant, Michael Lawton of Isotrope Wireless, LLC ("Isotrope") to assist the Commission in the review of technical data, including the coverage analysis provided by the carrier, Verizon.

F51. Isotrope reviewed the data and found that a significant gap in coverage at the 2100MHz band does exist for Verizon, potentially having an impact most acutely on the provision of wireless data services. Some evidence of a gap at 700MHz was also presented. No indication of coverage gaps or interest from additional carriers was provided by the Applicant during the review.

F52. In consultation with Commission staff, Isotrope reviewed the proposed alternative site analysis which did not identify any other sites that would be available or preferential to the proposed site.

Regional Benefits/Detriments

F53. Probable benefits of the Project identified include:

- The Project will address identified wireless coverage and capacity problems in the area, providing needed service to a variety of users including area residents, the traveling public, and visitors who rely on such services for emergency communications to operate their businesses and to communicate with friends and family either at home or in their vehicles. Wireless communications are used by many homeowners who have eliminated land lines and use of multiple wireless platforms creates high data demand that will be served by the Project.
- The Project provides opportunities for other national wireless carriers to site-share on the proposed wireless communications tower, potentially eliminating or limiting the future need for additional wireless towers in the area.

F54. Probable detriment of the Project identified include:

- The proposed tower may be visible when viewed from locations near the site drive and from some more distant locations near the shore. Visibility could increase if the landowner clears existing vegetation on the site, which is not under the Applicant's control.

F55. The Commission finds that the Probable Benefit of the Project is greater than the Probable Detriment.

CONCLUSION

F56. Based on the Findings above and subject to the Conditions set out herein, the Commission further determines, finds, and concludes that the Project is consistent with the 2018 Cape Cod Regional Policy Plan, applicable provisions from the Falmouth Local Comprehensive Plan, and applicable municipal development bylaws; the probable benefit of the Project is greater than the probable detriment; there is not substantial evidence in the record to warrant a denial under the standards of the Federal Telecommunications Act of 1996; and the Commission hereby grants DRI approval for the Quaker Road Monopole Project described herein.

CONDITIONS

- C1. This Decision shall be final when the appeal period set out in Section 17 of the Cape Cod Commission Act has elapsed without appeal (or if such an appeal has been filed, when the appeal has been finally settled, dismissed, adjudicated, or otherwise disposed of in favor of the Applicant). Thereafter, this Decision shall be valid and in effect, and local development permits may be issued pursuant hereto for a period of seven years from the date of this Decision, or for such extended period as may be permitted by the Commission pursuant to the *Enabling Regulations*.
- C2. A copy of the Decision, when final and prior to commencement of the Project, shall be recorded with the Barnstable Registry of Deeds.
- C3. This Decision shall be appurtenant to and run with the Property. The Decision shall bind and be enforceable against, and inure to the benefit of, the Applicant, its heirs, successors, and assigns.
- C4. The Applicant shall obtain all required federal, state, and local permits, licenses, and approvals for the Project, including without limitation a Special Permit from the Falmouth Zoning Board of

Appeals. Consistency with Municipal Development Bylaws shall be confirmed by the Applicant and provided to the Commission staff after obtaining all said required local permits, licenses, and approvals for the Project. Prior to commencement of the Project, the Applicant shall provide the Commission with copies of all required local permits, licenses, and approvals for the Project. Any changes to the Project resulting from the municipal review process may require modification of this Decision.

- C5. The Project shall be constructed, operated, and maintained consistent with the following documents ("Approved Project Plans"). Plans, protocols, and other documents received or required to be submitted as Conditions of this Decision shall be treated as incorporated into the Approved Project Plans once received, reviewed, and approved for consistency with this Decision by Commission staff, and the Project shall thereafter be constructed, operated, and maintained consistent with the Approved Project Plans, as so supplemented:
- Plan set entitled "VT-MA-0231E North Falmouth RT28" consisting of 8 sheets, prepared by Scott Adams, P.E., final revision dated 10/22/2024
- C6. The Applicant shall provide a copy of this Decision and the Approved Project Plans to the Project's general contractor prior to commencement of the Project. The Applicant shall maintain a copy of this Decision and the Approved Project Plans on the Project Site throughout Project construction.
- C7. Prior to and as a Condition to issuance of a building permit/s for the Project from the Town of Falmouth, the Applicant shall request and obtain from the Commission a Preliminary Certificate of Compliance; the issuance of such Preliminary Certificate of Compliance evidences that the Applicant has satisfied all Conditions in this Decision required to have been satisfied prior to the issuance of a local building permit/s.
- C8. Prior to and as a Condition to issuance of a Certificate/s of Use and Occupancy or building permit sign-off/s for the Project from the Town of Falmouth Building Department, the Applicant shall request and obtain from the Commission a Final Certificate of Compliance; the issuance of such Final Certificate of Compliance evidences that the Applicant has satisfied all Conditions in this Decision required to have been satisfied prior to the issuance of a local Certificate/s of Use and Occupancy or building permits sign-off/s, and shall confirm that the Project was constructed or implemented in accordance with this Decision.
- C9. The Applicant hereby authorizes Commission staff to make site visits as necessary, at reasonable times and upon reasonable notice to the Applicant, to confirm that the Project has been implemented in accordance with this Decision, including upon an Applicant's request for a Certificate of Compliance hereunder.
- C10. Prior to and as a condition to issuance of a Preliminary Certificate of Compliance by the Commission, the Applicant shall make a cash contribution in the amount of \$10,148 payable to Barnstable County Treasurer to support acquisition and conservation of open space in the Town of Falmouth.
- C11. All proposed backup generators shall be propane fueled.
- C12. Transformer fluids used onsite shall be biodegradable and non-toxic.
- C13. The Applicant shall maintain the Project such that noise from equipment does not exceed 50 db at the property line. If there is any change in equipment or vegetative buffer on the Project Site,

at Commission staff's request, the Applicant shall provide, within 60 days, measurements signed by an acoustic engineer evidencing compliance with this Condition. Failure to provide such documentation is grounds to revoke or modify this Decision.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this 14th day of November 2024

For the Cape Cod Commission by:

Harold W Mitchell

Signature

Harold W Mitchell

Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

November 14, 2024

Before me, the undersigned notary public, personally appeared Harold Mitchell,

in his/her capacity as Chairman and on behalf of the Cape Cod Commission, whose name is signed on the preceding or attached document, and such person acknowledged to me that he/she 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 [X] personal knowledge of the undersigned.

Lisa P Dillon

Notary Public

My Commission Expires: 8/28/26

