

**Statement in Support of Application
for a
Development of Regional Impact ("DRI")
submitted to the
Martha's Vineyard Commission**

Applicant: Bell Atlantic Mobile of Massachusetts Corporation Ltd. d/b/a Verizon Wireless ("Verizon Wireless" or "Applicant").

Subject Parcel: 21 New Lane, West Tisbury, MA, Assessor's Map 31, Lot 48 ("Subject Property")

Zoning District: RU

Proposed: Install a new Personal Wireless Service Facility, with associated ground equipment, on a leasehold portion of the Subject Property.

Requested: Approval of DRI Application pursuant to The Martha's Vineyard Commission Act and the Telecommunications Act of 1996, 47 U.S.C. 332(c)(7)(B).

Date: July 20, 2012

I. Introduction

While many of the DRI's that come before the Martha's Vineyard Commission ("Commission") for review indeed have regional impact, this one does not. Application is being made here because the DRI Checklist mandates the Commission review any tower over 35 feet in height. However, the proposed facility will have no "regional" impact as that term would commonly be applied and, in fact, will have very little impact beyond the bounds of its host Subject Property due to the relatively unobtrusive nature of the proposed installation. All of the normal review criteria typical of DRI consideration (e.g. traffic, nitrogen loading, waste water management, road access, etc.) are entirely non-applicable to this proposed unmanned, unoccupied, remotely-monitored wireless telephone utility structure.

The Applicant is proposing a wireless telephone utility pole. The installation itself is very simple and its construction will be extremely uncomplicated. A foundation is poured and covered to act as a counter-weight upon which the proposed monopole tower will be bolted. Antennas will be hung from the tower, and radio equipment will be placed inside a shelter at the base of the tower. The entire facility will be surrounded by a buried network of ground rods to protect against lightning strikes. Access to the facility will be via an existing curb cut, along an existing

driveway until a fork off that drive will be made to access the actual site compound. The facility is proposed to be located so deep within the interior of its host Subject Property that the equipment compound itself will not be visible from off site. The top of the proposed tower may be visible from certain distant perspectives, but such views will be minimal and mitigated through camouflaging the structure to appear as a tree. The only significant "impact" created by the construction of the proposed facility will be the beneficial impact of providing enhanced wireless communications to an area of West Tisbury that currently suffers from significant gaps in reliable network coverage.

II. Development of Regional Impact

In order to demonstrate the Applicant's compliance with MVC DRI guidelines, and also to illustrate the de minimis nature of the proposed installation in light of DRI criteria, the approval standards of Chapter 831 are enumerated below (*in italics*) with the Applicant's responses thereto (in plain text) as follows:

In adopting standards and criteria pursuant to this section, the commission shall consider, but shall not be limited by the following considerations:

(a) the extent to which a type of development would create or alleviate environmental problems, including, but not limited to air, water and noise pollution;

Not Applicable. The proposed unmanned, unoccupied, remotely-monitored wireless telephone utility facility will have no impact whatsoever on the environment and thus this criteria is a complete non-issue. No water or sewer services are required. No air pollution will be created. Noise will be insignificant and well below all Town of West Tisbury guidelines. The development will create no environmental problems whatsoever.

(b) the size of the site to be developed;

The Applicants have leased a 50' x 50' area (2500 square feet) but only a fraction of that will actually consist of impervious development in the form of structural foundations. The remainder of the site compound will be treated with geotechnical fabric and gravel in order to permit proper drainage without any runoff. The area "to be developed" is therefore smaller and less obtrusive than that of a typical single family home.

(c) the amount of pedestrian and vehicular traffic likely to be generated;

Insignificant-to-none. The proposed installation will be unmanned and unoccupied. It will host no employees, visitors or customers. Occasionally (perhaps once per month) a service technician may check on the site in a normal passenger vehicle. Operations on-site are remotely monitored 24/7 thereby obviating the need to perform more frequent site visits. The installation will

therefore produce less vehicle traffic than a single-family residence and no pedestrian traffic whatsoever.

(d) the number of persons likely to be residents, employees, or otherwise present;

None. Not Applicable. The installation consists of an unmanned, unoccupied, remotely monitored wireless telephone utility.

(e) the extent to which a type of development is intended to serve a regional market;

The proposed installation is intended to close significant gaps in the Applicant's wireless network in the vicinity of the subject site, specifically between its other locations at the Airport and the West Tisbury DEM Fire Tower. Although the proposed site, once on air, will indeed become part of a nationwide (hence "regional") wireless network, the extent that this particular site itself can be considered "regional" is minimal. The wireless transmissions utilized by the Applicant, which are highly regulated by the FCC, are generally speaking considered weak and quite "local" in nature, rather than "regional." For that reason, multiple sites are needed throughout a region to be able to cover broad areas. So although the Applicant's wireless network itself could be considered regional, the specific site that is the subject of this Application is not.

(f) the location of a type of development near a waterway, publicly-owned land, or a municipal boundary; and

Not Applicable. The proposed site is located deep within the interior woods of private property. No public lands or municipal boundaries are close enough to be impacted. The greater subject [host] property enjoys riparian boundaries along Town Cove, but the Applicant's specific site is located several hundred feet upland where it will have no impact whatsoever on this body of water.

(g) the extent to which the development would require the provision of the following municipal or regional services: solid waste disposal, public water supplies, sewage treatment facilities, parking facilities and tourist services and public education facilities.

None of the above. The proposed unmanned, unoccupied, remotely monitored wireless telephone utility installation requires no water or sewer services; no waste will be generated on site; no nitrogen loading will occur because of the proposed installation; no parking is needed; no tourism will take place on site; and no public education facilities will be impacted in any manner.

The standards and criteria shall be reviewed at least every two years.

In light of the very “non-regional” impact installations such as this create, perhaps the Commission might consider amending the DRI Checklist to remove wireless facilities from future consideration.

III. The Island Plan

The Applicant’s proposed development furthers certain goals and objectives of the Island Plan (“Plan”) adopted by the Commission on December 10, 2009. (Citations that follow are all from the Plan). The Plan, which is deemed “*both a blueprint and a call to action*” (p. 1-5), specifically enumerates the desire for “*a vital, balanced, local economy that is more self-reliant and more diverse.*” (p. 1-17). Reliable and uninterrupted telecommunications services are vital to a strong economy. There is scarcely a business in existence that does not rely on some sort of telecommunications and/or data transmissions in some manner. Whether to communicate with clients, customers, employees or suppliers, most businesses appreciate a reliable communications network. The Applicant’s proposed installation will help in this regard.

Furthermore, one of the ways the Plan envisions “*attracting many young people to stay on the Island*” is through an increase in “*knowledge-based jobs.*” (p. 1-18). Knowledge-based jobs can take on many forms, but most would benefit from the availability of reliable high-speed telecommunications. Reliable communications would support all residents, not just vacationers and second-home owners. This would support the Plan’s assertion that “*a more diverse and stronger year-round economy would be good for the Island’s residents.*” (p. 6-2).

The Plan talks about the “*need to concentrate efforts on building the infrastructure and capacity to export high-value services from the Island to other places*” (p. 6-4)(emphasis added); and that this might be accomplished through the “*development of more web-based jobs.*” (p. 6-4). Again, enhanced, high-speed telecommunications with fast data-downloading abilities would seem to fit this objective well. And this portion of such “infrastructure and capacity” is proposed to be constructed and maintained by the Applicant at no cost to the MVC or Island’s residents.

The Plan cites to a statistic of “*roughly 3400 self-employed individuals*” on the Island (p. 6-5). In this day and age, when self-employed people rely so dearly on their ability to stay connected, it is hard to see the Applicant’s proposed development as anything other than a valuable asset for those folks attempting to make a living on their own.

Along those same lines, the Plan addresses those who “*work ‘freelance’ or for a remote employer via computer [and] telephone*” (p. 6-6); and the “*need to explore what infrastructure and linkage improvements could promote development of remote work professions*” (p. 6-6)(emphasis added). The facility being proposed by the Applicant will serve to provide infrastructure and linkage that will most definitely improve communications thereby supporting remote employees and freelance workers.

Remote employees, freelance workers, and many of the 3400 self-employed individuals use home offices rather than conventional office space. According to the Plan, "[h]ome businesses play an important role in the Vineyard economy" (p. 6-13). The provision of enhanced, high-speed wireless telecommunications will benefit home businesses, home offices, and self-employed individuals.

The foregoing are specific, Plan-related areas where the Applicant's proposed installation will benefit businesses and the local economy. What may not be as obvious is how the proposed facility will also benefit tourism and many of the Island's existing conventional summer-focused activities which are so vital to the Island's overall viability. Many of the folks who vacation on the Island come from areas where enhanced wireless connectivity is already reliable, expected and, in fact, often taken for granted. Whether one intends to use a wireless device while on vacation is an option that should be left to the user; the decision should not be dictated by the existence of the infrastructure, or lack thereof. So if someone vacations on the Island and never turns their phone on, that is fine. But if a call needs to be made, especially one of an urgent nature, then service better be available. The Applicant's proposed installation will help this by filling significant gaps in coverage that currently exist in this section of West Tisbury.

IV. Conclusion

The installation proposed by Verizon Wireless is in harmony with both the Town of West Tisbury Zoning Bylaws governing such installations as well as the Martha's Vineyard Commission's approval criteria of Developments of Regional Impact. Additionally, the proposed installation will help to further certain goals, objectives and strategies proffered by the Commission's Island Plan.

In addition to state, regional and local law, certain provisions of federal law are also applicable to Verizon Wireless' proposal in that Verizon Wireless is a federally licensed communications provider. Pursuant to the Telecommunications Act of 1996 ("TCA"), Verizon Wireless is afforded certain protections in the analysis of local land use issues which, in effect, act as a federal overlay on the local permitting review process. Denying the Applicant the right to construct this Facility where no existing facilities or suitable tall structures currently exist would "have the effect of prohibiting" its service in the area. Such prohibition would violate the protective provisions of the TCA relating to this application. (47 U.S.C. Section 322(c)(7)(B)(i)). The Applicant requires the requested location to close significant gaps in its wireless network that currently exist in West Tisbury.

The TCA also provides that local governments must treat competing wireless service providers equally and "shall not unreasonably discriminate among providers of functionally equivalent services." This provision is particularly relevant to the petition at hand as Verizon Wireless is a functionally equivalent service provider that competes with other service providers (other carriers) that previously obtained similar approvals to construct tower facilities in West Tisbury. Verizon Wireless now respectfully wishes to be treated with the same consideration in the

analysis of its proposal which the Commission has afforded its competitors, which should result in an approval, as was previously granted to others.

Notwithstanding the relatively modest height requested, it is undisputed that the facility will indeed be visible from certain perspectives. There is nothing that can be done to completely hide the fact that a tower will exist on site. Wireless towers of the 21st century have replaced the telephone poles of the 20th century as part of the new infrastructure of civilized societies. Indeed, the Courts have made note of the inevitable, thus permissible, sighting and view of such structures when it said "[i]t would be a rare event to be able to buffer a communications tower so that it is not visible at all." OPM - USA - Inc v. Brevard County, 7 F. Supp. 2d 1316 (M.D. Fla. 1997).

The same court went on to point out *"towers cannot always be compatible with the character of the surrounding property. If this were so, all towers would be grouped together. However, in order to meet the increasing demand by consumers for wireless services, telecommunication towers have to be separated and located in areas in which they may not have been traditionally located such as residential, commercial and rural areas."* Id. In the present petition, the Applicant is proposing a structure that is compatible with the surrounding area. Either the offered monopine or stealth stick proposed will blend in with the surrounding terrain and will not alter or impact the character of surrounding properties.

The Applicant is also proposing a facility that will provide a tremendous benefit to the Town of West Tisbury. Wireless communications are good for public safety and convenience, good for economic development, and good for the residential quality of life in a community. It is an undeniable fact, whether the Commission members are, personally, wireless users or not, that our society as a whole has become increasingly enamored with, and dependent upon, wireless devices and good wireless connectivity. The Applicant is, in effect, proposing to enhance the Town's (and Island's) (wireless) utility infrastructure at no cost to the Town or to the Commission. The proposed Facility will be unmanned and unoccupied and will have no impact on traffic. Water and sewer services are not required. Nitrogen loading is a non-issue. No impact on the school system will result. There will be no nuisance or disturbance created by the proposed installation – it is just an inanimate object used to support radio antennas. The use proposed is really more of a "non-use" in the conventional sense in that, once constructed, nothing will occur on site.

It is true the Facility may be visible from certain perspectives, but its impact will only be visual and it will be lessened and minimized as the Town's Zoning Bylaw requires. The Zoning Bylaw is in place to protect the citizens of the community with the understanding that sometimes a beneficial addition to the community as a whole may have some slight deleterious effect on a few, but the good outweigh the negative. This is the case here.

Accordingly, the Martha's Vineyard Commission can, in clear conscience, approve the requested Application knowing that the submitted application conforms in all respects with the DRI approval criteria and the purpose and intent of the specific wireless communications provisions enumerated in the West Tisbury Zoning Bylaws. Furthermore, the proposed use and requested

permit are consistent with federal law governing this federally licensed telecommunications installation.

For all the foregoing reasons, the Applicant respectfully requests approval of the application, plans and supporting material as submitted.

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