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## Martha's Vineyard Commission Land Use Planning Committee

### Minutes of the Meeting of February 11, 2013

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 p.m.

MVC Commissioners Present: Brian Smith (LUPC Chairman); Christina Brown; Fred Hancock; Jim Miller; Doug Sederholm.

MVC Staff Present: Mark London; Bill Veno.

The meeting was called to order at 5:35 p.m.

#### 1. Verizon Wireless Cell Tower (DRI 640) Mid-Hearing Discussion

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**Applicant:** Verizon Wireless; agent: Carl Gehring (Gehring & Associates, LLC)

**Project Location:** A 50'x50' leasehold parcel within the parcel at 21 New Lane, West Tisbury; Map 31 Lot 48.

**Proposal:** To erect a personal communications cellular transmitter tower.

**Project History:** The public hearing on the project opened January 24, 2013 and was continued to February 21, 2013, allowing an opportunity for the applicant to discuss informally with Commissioners at a public meeting of the LUPC issues concerning land use regulatory constraints, alternative locations, and tower options.

#### **Discussion:**

Tucker Hubbard, Chairman of the West Tisbury Zoning Board of Appeals, provided background and clarifying information:

- He had met with the town Planning Board and verified that it agrees with his interpretation that the bylaw's intent of requiring presentation of "alternative sites" allows them to be on a single property.
- The town's consultant who developed the communications tower bylaw concluded that the Verizon proposal meets the bylaw.
- He met individually with Town Counsel but did not get a formal legal opinion. It would appear that under section 6.1-5b a cell tower is a permissible use in any district. However, under section 6.1-6a3, the town regulation which allows for varying the height was never approved by the MVC as conforming to the DCPC guidelines, and therefore would not appear to apply within the Coastal DCPC.

Fred Hancock asked about the bylaw's requirement for three alternatives. The applicant has already provided more than three alternatives, with three locations and two designs for each one – a stealth monopole or a monopine. If the Commission were to only approve, say, two locations, would the ZBA consider that the bylaw requirement had been satisfied or would it insist on another location requiring the applicant coming back to the MVC for that location?

Tucker Hubbard discussed the bylaw's regulation limiting the height of cell towers to 15' above the tree canopy. The bylaw's use of "ambient" and "surrounding area" in the bylaw are not completely clear, so

there could be some interpretation as how one determines the canopy height. He noted that although the average height of the canopy seems to be about 50', there is one evergreen tree in the area that is 62.5' so it could be argued that the cell tower could be 15' higher than that, namely 77.5'. Mark London noted that that reference in the bylaw is immediately after a discussion of the need for dense trees within a 20' radius from the tower, so it could be argued that the bylaw refers to the height of the canopy within that radius.

Carl Gehring said that the applicant has reviewed the situation in light of the public comment and has a new preferred proposal, namely a 66' stealth monopole on a new site located near site B but outside the Coastal District. He wants to keep the other options outside the Coastal District on the table because of the bylaw's requirement that alternatives be provided, but at this point, Verizon would prefer to proceed with this latest proposal.

- The new location is 526' to the east to get the tower and the supporting utility building outside of the Coastal DCPC. This location is still about 600' from New Lane, 300' from the nearest property line, and at least 450' for neighboring dwellings.
- According to Verizon's survey, the average height of the tree canopy is 51'. The tower is proposed to be 66' high, to avoid any question about compliance with the bylaw.
- The 66' height limits the ability for co-location, as a second carrier would be located only about 5 feet above the tree canopy. Whether this would be attractive to a carrier depends upon how the signal from that location would fit with its existing coverage.
- Verizon's first preference is a stealth tower. They are keeping the option of the monopine on the table to continue to provide three alternatives as required by West Tisbury (two locations and two designs each). A monopine would be a flat-topped tree, as if it had been hit by lightning, because a "crown" would extend above the height restriction.

He will prepare the new proposal and recreate the photo simulations, but these cannot be prepared for the February 21 continued hearing.

Brian Smith said the February 21 hearing will be procedurally continued to March 7, which was acceptable to the applicant. The MVC will contact abutters and people who have contacted Paul Foley to advise them of the change in hearing schedule and to make them aware of the pending plan revision.

## **2. Oak Bluffs Fuel (DRI 621-M) Permanent Expansion**

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**Applicant:** Town of Oak Bluffs Harbormaster, Todd Alexander.

Accompanied by Town Administrator Robert Whritenour; Selectman Mike Santoro; Conservation Commissioner John Breckenridge.

**Project Location:** Oak Bluffs Harbormaster Shack, Circuit Avenue Extension, Map 8 Lot 293

**Proposal:** To install a permanent underground 10,000 gallon fuel tank for the fueling of recreational and commercial boats in the Oak Bluffs marina. The tank would be located beneath the parking lot and the fueling would take place on the floating dock just north of the Harbormaster shack.

**Presentation:**

Todd Alexander reviewed that in 2009 the Commission had approved an above-ground 3,000 gallon tank for fueling marina watercraft on a temporary basis in response to a problem jeopardizing the ability of the existing private vendor to continue dispensing fuel. That problem was resolved and the Town never acted on the approved DRI. The Town has determined that the availability of fuel at the marina is an essential

service and there is considerable uncertainty about the private sector providing it, so it has concluded that the Town should provide this service on a permanent basis.

He described the new proposal as follows.

- The combined capacity of the fuel tanks would be 10,000 gallons. This means that the tanks would only need to be refueled, by truck, every few days.
- The tank would be buried under the parking lot in front of the Harbormaster shack, where harbor employees park, so there should be no conflict with truck access to fuel the tank.
- Fueling will occur on the floating dock adjacent the Harbormaster shack that is also used for cruise line ferry tenders. No fueling would be allowed when tenders are present. The Harbormaster is looking at reorienting the floating dock to provide fueling boats a wider docking area parallel to the harbor bulkhead.
- The fuel lines from the tank to the dock have quick release connections.
- The town has been working with the conservation commission and fire marshal, and has employed an engineer with experience with designing such tanks.

### **Discussion:**

In preparation for the March 7 public hearing on this proposal, Commissioners suggested the applicant provide the following information sufficiently in advance of the public hearing to allow staff to make them available to the public.

- Prepare an illustration showing the broader context of the tank's location.
- Present the decision making process in considering alternative locations for the tank.
- Explain vehicular circulation and frequency during fueling, as well how emergency access would work.
- Explain in simple language what technical and safety requirements will have to be met, especially with respect to storm conditions and the projected impacts of climate change with respect to sea level rise and increasing number and severity of storms.
- Provide examples of similar installations in other harbors.

It was suggested that the applicant have its engineer present at the hearing to address technical questions.

### **Actions:**

***The LUPC unanimously voted to waive requiring a traffic study by the applicant, with the understanding that the applicant will provide information on the vehicular operations for fuel delivery and emergency access.***

***The LUPC unanimously voted to recommend to the full Commission that the DRI application fee be waived for this town-sponsored project.***

The meeting adjourned at 6:50 p.m.

### **Documents referred to during the meeting**

- Preliminary plan of new location for the Verizon cell tower.
- Plans of the proposed fueling installation in the Oak Bluffs Harbor.