

PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453  
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

## Minutes of the Commission Meeting Held on December 21, 2017 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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Commissioners: (P= Present; A= Appointed; E= Elected)

P Gail Barmakian (A-Oak Bluffs)	- Michael Kim (A-Governor)
P Trip Barnes (E-Tisbury)	- Joan Malkin (A-Chilmark)
- Christina Brown (E-Edgartown)	- Katherine Newman (A-Aquinnah)
- Peter Connell (A-Governor; non-voting)	P Ben Robinson (A-Tisbury)
P Robert Doyle (E-Chilmark)	P Doug Sederholm (E-West Tisbury)
P Josh Goldstein (E-Tisbury)	- Linda Sibley (E-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Ernie Thomas (A-West Tisbury)
- Leonard Jason (A-County)	- Richard Toole (E-Oak Bluffs)
P James Joyce (A-Edgartown)	P James Vercruysse (E-Aquinnah)

Staff: Adam Turner (Executive Director), Bill Veno (Senior Planner), Dan Doyle (Transportation Planner).

**Chairman James Vercruysse** called the meeting to order at 7:30 p.m.

### 1. CHAPPY PERMANENT TOWER-EDGARTOWN DRI 662-M DELIBERATION AND DECISION

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Commissioners Present: G. Barmakian, T. Barnes, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, B. Robinson, D. Sederholm, E. Thomas, J. Vercruysse.

#### 1.1 Land Use Planning Committee Report

**Fred Hancock** presented the following:

- There was a small attendance at the LUPC meeting.
- Due to the attendance, it was decided that there were not enough Commissioners present to make a meaningful recommendation for the full Commission.
- A couple of questions were posed to staff.

**Bill Veno** presented the following:

- Staff was asked to prepare information about the proposed site on Sampson Avenue and the two alternative sites, Majane Lane and Jeremiah Way.
- A map was prepared showing the relationship of the three sites with a 500 foot radius around each. The map was reviewed.
- A comparison of the WISP tower, the temporary tower, and the proposed tower was shown.
- The signal coverage of the permanent population compared to the Sampson Avenue location is as follows: it is 10% less (+/- 17 people) at the Majane Lane location, and 11% less at the Jeremiah Way location.
- Is this an appropriate proposal in light of the feasible alternatives? And the applicant is required to provide alternatives.

- The MVC cannot condition the applicants to build on an alternative site. The proposal is for the Sampson Avenue site, and that is what is being decided and voted on.

### **1.2 Commissioners' Discussion**

**Fred Hancock** said the applicant has proposed to build either a monopine or a monopole. The MVC discussed whether or not to leave that up to the Town, which still needs to be decided.

There was a discussion about alternatives.

- **Doug Sederholm** said if the project is appropriate in light of the available alternatives, it also needs to be kept in mind that the applicant has said they will not build anything else. This is the only thing that they will build. There are no alternatives, it is take it or leave it.
- **James Vercruysse** said the applicant has testified that there are leases on the other sites.
- **Doug Sederholm** said that the applicant has said this is the proposal, and if not approved, they will not build anything.
- **Gail Barmakian** said she somewhat disagreed. The applicant has available alternatives, but are choosing not to exercise them.
- **Doug Sederholm** said yes, there are other alternatives that are quite feasible, but the applicant has said this is what we are going to do and Commissioners have to weigh that. The residents of Chappy want cell service and the first responders do also.
- **Fred Hancock** said it has also been said that companies are not lining up to build towers on Chappy.
- **Ben Robinson** said he was not sure the MVC asked directly if the applicant would not build on the other sites. He did not remember them saying they would not build a tower on the alternative sites.
- **Bill Veno** said this was a good example of conflicting information regarding this application.
- **Doug Sederholm** said it was clear on the type of tower the applicant wants to build. They did say they would not build on the other sites with guy wires. Would asking the applicant for clarification, not taking testimony, be acceptable to do?
- **Adam Turner** said the applicant would build a monopole or a monopine and has leases on alternative locations, but AT&T feels the Sampson Avenue site is the best site.
- **Brain Grossman** said regarding the alternatives, Adam Turner is correct. When talking about the design, it will either be monopole or monopine. As for the alternatives, the other two sites are leased; they noted Sampson Avenue because it is the preferred site. He does not recall saying that they would not build at the other sites.
- **Doug Sederholm** said he stands corrected and was glad that the MVC asked for clarification from the applicant.

### **1.3 Benefits and Detriments**

#### **Benefits**

**Traffic and Transportation:** The Commission finds that the proposal should have negligible impact other than during construction, but the tower will help with the safety aspects of public service on Chappaquiddick.

**Impact on Services and Burden on Taxpayers:** The Commission finds that the cell tower should help with improved responsiveness of emergency services for residents and visitors of Chappaquiddick. It has a big impact on services, and will help a lot especially for public safety.

**Use Efficiently or Unduly Burden Other Public Facilities:** The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities (other than municipal) or those that are to be developed within the succeeding five years. The proposed



development will help the public. The project will provide more reliable cell phone service, which has been identified by the Town as an important asset to residents and visitors, and particularly for improved emergency communications.

**Consistency with/and Ability to Achieve Town, Regional, State Plans and Objectives:** The Commission finds that the proposed development does not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan. The Commission finds that the proposal was made in response to a Request for Proposals issued by the Town to meet a perceived need to provide more reliable cell phone service on Chappaquiddick, particularly with respect for the ability of residents and visitors to contact emergency services. It meets the objectives, especially if the State upgrades to wireless communication. The requested project as a whole is consistent with the Commission's land development objectives and the Commission notes that the development is consistent with the policies of the 1991 MVC Regional Policy Plan and the 2008 Martha's Vineyard Island Plan.

**Conforms to Zoning:** The Commission finds that the project is subject to Special Permit review by the Planning Board. The Commission notes the stated purpose of Article 23 (Personal Wireless Service Facilities) in the Edgartown Zoning Bylaws is to enable adequate and comprehensive cellular service "while protecting the character of residential neighborhoods." The proposal conforms to zoning.

#### Detriments

**Scenic Values:** The Commission finds that the proposed 115 foot tall monopole with external appurtenances and antennas or the monopine will be more visible than the 104 foot tall temporary tower and will be a detriment to scenic values from some locations. It will have impacts from some locations. There is a tower there already, but is still a slight detriment as it will be seen from more locations.

**Character and Identity:** The Commission notes the proposal was made in response to a Request for Proposals issued by the Town to meet perceived need to provide more reliable cell service on Chappaquiddick, particularly with respect to emergency services. It will have impacts from some locations.

**Impact on Abutters:** The Commission finds that the tower will have visual impacts for several neighbors in the small densely packed non-conforming Enos Lots. Testimony was also received concerning safety of properties and structures within and near the Fall Zone of the tower. The Commission notes that several neighbors expressed their concern that the proposal may have some negative impact on real estate values. The Commission further notes that several neighbors testified to their concerns with exposure to radiation through radio frequency emissions. However, the Commission finds that the 1996 Telecommunications Act Section 704 B.IV does not allow State or local governments to regulate the placement, construction or modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with Federal regulations concerning such emissions. The Commission further notes that the applicant has testified that it will comply with such regulations. Chappaquiddick will have better cell service but the tower will be in view. Some people felt it was imposing and others felt it will eventually become common place and be "unseen."

#### Neutral

**Wastewater and Groundwater:** The Commission finds that the proposal should have little impact.

**Open space, Natural Community and Habitat:** The Commission finds that it will not require removal of trees or impact significant habitat. There is a tower on the Sampson Avenue property already.

**Night Lighting, Noise:** The Commission finds that the proposal will not have lighting, but could have some impact relative to noise. The Commission finds that generators for backup energy will be intermittent and contained within buildings with sound mitigation. However, the Commission notes that

this is a tightly packed residential neighborhood of houses on small pre-existing non-conforming lots with several neighboring houses relatively close to the proposed tower. There will be noise from the AC but it is equivalent to household AC.

Not Applicable

Low and Moderate Income Housing: The Commission finds that the proposed development would have no impact upon the supply of needed low and moderate income housing for Island residents.

Conforms to DCPC Regulations: The Commission notes that the proposed development is not within any Districts of Critical Planning Concern (DCPC).

Appropriate/Essential in View of the Alternatives

There was a discussion about if the proposed development is appropriate/essential in view of the alternatives.

- **Doug Sederholm** said the proposed development is in one of the most densely populated locations on Chappaquiddick.
- **Josh Goldstein** said it has been seven years and AT&T is the only one who is willing to build a tower.
- **Doug Sederholm** said the infrastructure is already in this location (Sampson Avenue).
- **James Vercruysse** said there was testimony from people that were on the committees over the seven years that said to not consider another location as this has taken so long to happen.
- **Gail Barmakian** said they want the tower sooner than later.
- **Ben Robinson** said people are worried about not getting anything, and Commissioners need to worry about how it will affect the 23 residences of Sampson Avenue, versus having the service.
- **Ernie Thomas** said the 23 residences don't all object to the tower.
- **James Joyce** said there is property in the area that just sold, and another under agreement in the circle area on the Proposed Cell Tower and Alternatives map, so properties are still transferring.
- **Trip Barnes** said that Mr. Fynbo has helped a lot of people over the seven years and now AT&T can do it. It needs to be voted on now, it is a safety issue. The Police and Fire Chiefs have given testimony, and even residents who want it and need it have sent comments.
- **Doug Sederholm** said there was no question that cell service was needed on Chappy. That is the easy part. But, is this the right location? He applauded Mr. Fynbo for his efforts, but it would be a mistake, and not appropriate, to focus on the owner of the property even though he has provided service to Chappy. It does impact a significant number of people. There is no doubt that the cell service is needed, and to not delay another year or two, and that is the balance.

***Fred Hancock moved and it was duly seconded to condition the proposed development that the Edgartown Planning Board is to make the decision if the tower would be a monopoly or monopine. Voice vote. In Favor: 10. Opposed: 0. Abstentions: 0. The motion passed.***

There was a discussion about a decommissioning bond.

- **Fred Hancock** said there was testimony at the LUPC from the Planning Board that they would require a decommissioning bond. Should the MVC add the bond as a condition, or just recommend that the Planning Board post the decommissioning bond?
- **Robert Doyle** suggested that it be made a condition.
- **Fred Hancock** said he thought it would be better to have the bond at local control.
- **Gail Barmakian** said it could be the same condition and it would be one bond.
- **Fred Hancock** said sometimes the MVC asks to hold the bond.
- **Doug Sederholm** said the MVC could condition it and say that the Planning Board holds the bond. Do we have to state the amount?



- **Fred Hancock** said the Planning Board can determine the amount.
- **Adam Turner** and **James Vercruysse** said there was some testimony to the approximate cost to decommission.

***Fred Hancock moved and it was duly seconded that a Decommissioning Bond is to be held by the Edgartown Planning Board and the amount is to be determined by the Planning Board. Voice vote. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.***

After careful review of the plan, its attendant submittals, the testimony presented by the applicant and others, and the addition of conditions, the Commission has concluded that the probable benefits of the proposed development in this location exceed the probable detriments.

***James Joyce moved and it was duly seconded to approve the cell tower with the approved conditions. Roll call Vote. In favor: T. Barnes, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, D. Sederholm, E. Thomas, J. Vercruysse. Opposed: G. Barmakian, B. Robinson. Abstentions: none. The motion passed.***

#### **4. NEW BUSINESS**

Commissioners Present: G. Barmakian, T. Barnes, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, B. Robinson, D. Sederholm, E. Thomas, J. Vercruysse.


##### **4.1 Executive Director Report**

**Adam Turner** said the MVC received a grant from the Energy and Environmental Affairs Office to continue the outreach to the Towns, and commended Dan Doyle who wrote the grant. He reminded the appointed Commissioners to get re-appointed before the next meeting. He wished everyone a Merry Christmas.

The meeting was adjourned at 8:10 p.m.

##### **DOCUMENTS REFERRED TO DURING THE MEETING**

- Minutes of the Commission Meeting – October 5, 2017 (Approved)
- Minutes of the Commission Meeting – November 2, 2017 (Approved)
- Memo from Bill Veno to the Martha's Vineyard Commission, Dated December 21, 2017, DRI 662-M Chappaquiddick Permanent Tower Alternatives
- Memo from MVC Staff to Martha's Vineyard Commission, Dated December 14, 2017, DRI 662-M Chappaquiddick Permanent Tower- Possible Conditions
- Memo from MVC Staff to Martha's Vineyard Commission, Dated December 14, 2017, DRI 662-M Chappaquiddick Permanent Tower- Draft Possible Benefits & Detriments

  
Chairman

3-29-18  
Date

  
Clerk-Treasurer

4-10-2018  
Date