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**Decision of the  
Martha's Vineyard Commission**

**DRI 677 – Verizon Tower Height Extension**

**1. SUMMARY**

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Referring Board: Zoning Board of Appeals, Town of Tisbury, MA

Subject: Development of Regional Impact #677  
Verizon Tower Height Extension

Project: Proposal to increase the height of an existing communications tower from 77 feet to 130 feet above ground.

Owner: Verizon New England, Inc.

Applicants: Verizon New England, Inc.; Geoghan Coogan Esq. (Agent)

Applicant Addresses: 125 High Street, Oliver Tower, 7<sup>th</sup> Floor  
Boston, MA 02110

Project Location: 228 Edgartown Road, Tisbury. Map 14-A, Lot 3.

Description: To increase the height of the Verizon Tower used to transmit data including landline calls and emergency access via narrow width microwave between Vineyard Haven and Falmouth (also handles Nantucket) from 77 feet above the ground level to 130 feet ± above ground.

Decision: The Martha's Vineyard Commission (the Commission) approved an increase in height of the communications tower at a vote of the Commission on July 11, 2019.

Written Decision: This written decision was approved by a vote of the Commission on August 1, 2019.

The permit-granting authorities of the Town of Tisbury may now review and approve the request for of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval.

## **2. FACTS**

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The exhibits listed below including the referral, the application, staff report, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha's Vineyard Commission.

### **2.1 Referral**

The request for the proposed modifications was referred to the Commission on June 28, 2017 by the Zoning Board of Appeals of the Town of Tisbury for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist 13 for Developments of Regional Impact. The project was referred based on checklist item 9.1

Telecommunications:

- a) Any development that proposes the construction or erection of any personal telecommunications tower as set forth in the Federal Telecommunications Act of 1996 and which would exceed thirty five (35) feet in height as measured from the natural grade of the site upon which the tower is to be located.

### **2.2 Description of Proposal**

- The tower is proposed to be heightened by 53 feet (a 69% increase) from 77' to 130' tall in order to avoid all possible future transmission interruption due to tree growth.
- The tower is 86' from the road; the property is 400' deep.
- Calls on the tower include police, fire department, EMS, E911 calls.
- The additional height will be constructed above the existing tower.
- One new piece of equipment, an 8' dish, will be installed on the tower at elevation 125'.
- The following existing equipment on the tower will be relocated to a different height:
  - A 6' diameter dish at elevation 55' above ground will be re-installed at elevation 95';
  - A 6' diameter dish at elevation 65' above ground will be re-installed at elevation 102';
  - An 8' diameter dish at elevation 75' above ground will be re-installed at elevation of 128'.

### **2.3 Hearings**

**Notices:** Public notice of the September 7, 2017 public hearing on the Application was published in the M.V. Times on August 24, 2017. The application was put on hold and the advertisement was re-published in the M.V. Times on August 9, 2018 for the August 23, 2018 public hearing. The final public hearing on May 23, 2019 was advertised in the M.V. Times on May 9, 2019 and in the Vineyard Gazette on May 10, 2019.

**Hearings:** The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on September 7, 2017. The application was put on hold, and the public hearing was re-advertised and re-opened on August 23, 2018 and was continued to September 20, 2018 without taking public testimony. On September 20, 2018, the public hearing was again continued without taking public testimony to October 4, 2018, and continued again without taking public testimony to November 15, 2018. The continued public hearing resumed on November 15, 2018 and was continued to December 6, 2018. The hearing closed on December 6, 2018 with the written record left open until January 10, 2019. The

hearing was re-advertised and re-opened on May 23, 2019 and closed on that date with the written record left open until May 31, 2019. Minutes of the public hearings are incorporated into the minutes of the full Commission meetings held on these dates.

## **2.4 The Plan**

The following plans and documents were submitted by the Applicant and contained in the Commission's project file constitute "the Plan."

- P1 "Application Package" consisting of twenty five 8.5" by 11" pages including Title Sheet; Site Plan, scale 1" = 30', dated April 27, 2017; Existing/Proposed Tower Elevation, scale 1" = 10', dated April 27, 2017; General Construction Notes dated November 11, 2016; Special Inspections; Bill of Materials; Specifications; Construction Sequence; Reinforcement Details; Tower Extension Details; Reinforcement Obstructions; Angle-X Safety Climb Details; and Tower Extension Safety Climb Details. Prepared for Verizon Wireless by Turning Mill Consultants, Inc., 68 Tupper Road, Sandwich, MA 02563 and Structural Components, 11611 E 51<sup>st</sup> Ave, Denver, CO 80239; Job# 160891.
- P2 DRI Application signed on August 22, 2017.
- P3 "(RF) Power Density Calculations Proposed Microwave System Relocation Vineyard Haven (KC087)" consisting of twenty two 8.5" by 11" pages prepared for Verizon by Comsearch, 19700 Janelia Farm Boulevard, Ashburn, VA 20147; dated May 2, 2017.
- P4 "Vineyard Haven to Falmouth CO (11GHz)" analysis of obstructions consisting of twenty nine 8.5" by 11" pages dated March 28, 2018; revised October 4, 2018; revised December 11, 2018; revised March 6, 2019.
- P5 "Vineyard Haven to Falmouth RX (6GHz)" analysis of obstructions consisting of twenty eight 8.5" by 11" pages dated March 28, 2018; revised October 4, 2018; revised December 11, 2018; revised March 6, 2019.
- P6 "Executive Summary - Path Calculations" and accompanying letter from Geoghan Coogan consisting of ten 8.5" by 11" pages dated May 10, 2018.
- P7 "Affidavit of Joseph Baker" dated July 11, 2018.
- P8 "Affidavit of Michael E. Shea" dated August 8, 2018.
- P9 "Vineyard Haven RSL Signal Degradation memo" dated August 23, 2018.
- P10 "Path Obstructions Summary Vineyard Haven to Falmouth CO (11GHz)" dated August 24, 2018.
- P11 Photographic simulations of the proposed facility from three different sites in Tisbury consisting of seven pages of before and after images of the facility prepared by EG Advanced Engineering Group, P.C. 500 North Broadway, East Providence, Rhode Island; dated September 17, 2018.
- P12 "Explanation of Submissions" memo sent from Geoghan Coogan to Paul Foley dated October 4, 2018.
- P13 "Signal Degradation Analysis" dated May 30, 2019.
- P14 "Answers to Commissioner Questions" memo sent from Geoghan Coogan to Adam Turner dated May 30, 2019.

## **2.5 Other Exhibits**

- E1. Referral to the MVC from the Tisbury Zoning Board of Appeals; June 28, 2017.
- E2. Staff report prepared by MVC staff dated August 14, 2017; revised September 7, 2017; August 23, 2018; September 19, 2018; November 15, 2018; and July 11, 2019.
- E3. Photographs of the site, taken on September 19, 2018.
- E4. Drone footage of the site, taken on October 4, 2018.
- E5. PowerPoint presentation prepared by MVC staff members dated August 11, 2017; revised September 28, 2018; and revised again on May 2, 2019.
- E6. Letters from the following committees, local officials and citizens: The Martha's Vineyard Public Safety Communications Committee dated September 4, 2017; Nancy Langman dated August 23, 2018; and Dukes County Sheriff Robert Ogden dated January 2, 2019.
- E7. "Oak Diversity and Ecology on the Island of Martha's Vineyard" article by Timothy M. Boland from *International Oak Journal No. 22* published in Spring 2011.
- E8. "Verizon Tower in Vineyard Haven and Island Trees" memo from Timothy Boland dated December 4, 2018.
- E9. Minutes of the Commission's Land Use Planning Committee meetings on August 14, 2017; July 16, 2018; January 14, 2019; February 11, 2019; June 17, 2019 .
- E10. Minutes of the full Commission meetings on September 7, 2017; August 23, 2018; November 15, 2018; December 6, 2018; May 23, 2018; July 11, 2019; and August 1, 2019.

## **2.6 Summary of Testimony**

The following is a summary of the principal testimony given during the public hearing on September 7, 2017:

- Presentation of the project by Geoghan Coogan (Agent), David Dolch and Ellen Cummings (Verizon Representatives).
- Staff report by Paul Foley, MVC staff.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public: Nancy Langman and Charles Noonan.

At the Public Hearing on August 23, 2018:

- Presentation of the project by Geoghan Coogan (Agent) and Joe Baker (Verizon Radio Technician).
- Staff report by Paul Foley, MVC staff.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public: Nancy Langman and Charles Noonan.

At the Public Hearing on November 15, 2018:

- Presentation of the project by Geoghan Coogan (Agent) and Jennifer McCray (Verizon Representative).
- Staff report by Paul Foley, MVC staff.
- Oral testimony from Public Officials: none.

- Oral testimony from the Public: none.

At the Public Hearing on December 6, 2018:

- Presentation of the project by Geoghan Coogan (Agent) and Ellen Cummings (Verizon Representative).
- Staff report by Paul Foley, MVC staff.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public: none.

At the Public Hearing on May 23, 2019:

- Presentation of the project by Geoghan Coogan (Agent) and Ellen Cummings (Verizon Representative).
- Staff report by Adam Turner, MVC Executive Director.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public: Michael Kramer.

### **3. DELIBERATION, DECISION AND CONDITIONS**

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#### **3.1 Benefits and Detriments**

The Commission considered the benefits and detriments of the project on July 11, 2019 at their deliberation. Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 of the Act.

**A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.**

**A1 The Commission finds that the proposed development at this location is appropriate in view of the available alternatives (Section 15(a) of the Act).**

- There has been a microwave communication tower at that location for approximately 40 years. Much of the existing infrastructure would need to be expanded to move it.
- Moving the tower on site could create other tree interferences. The applicant does not own an off-site location.

**A2 The Commission finds that the proposed development would have no impact upon the environment relative to other alternatives (Section 15(b) of the Act).**

- The project would have no effect on ground water, the habitat is not impacted, night lighting is neutral and there is no noise.
- Maintaining the tower location would not require any additional clearing.

**A3 The Commission finds that the proposed development would have a minimal overall effect upon other persons and property (Section 15(c) of the Act).**

- In regard to scenic value, the project will have a negative visual impact. The tower will be more noticeable and well above the tree line. Impacts are balanced somewhat by the fact that there

are several towers on island, and it is on a major roadway and is existing. If you are close to it there is not much difference, but it will be seen further away.

- A4 The Commission finds that the proposed development would have no impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act).**
- A5 The Commission finds that the proposed development would have a beneficial impact on the provision of municipal services or burden on taxpayers (Section 15(e) of the Act).**
- The project will be a benefit in that the 911 system will be favorably impacted.
- A6 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 (Section 15(f) of the Act).**
- A7 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 (Section 15(g) of the Act).**
- In light of impending climate change issues, a better 911 system is important. The project would provide a benefit.
- A8 The Commission finds that the proposed development would not contravene land development objectives or policies developed by regional or state agencies (Section 15(h) of the Act).**

**B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.**

**C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.**

The Commission finds that the project is subject to Special Permit review by the Tisbury Zoning Board of Appeals under Zoning Bylaw items 04.03.01: Government or Public Utility Structure; 07.01.03: Expansion of a pre-existing non-conforming use or structure; 09.02.04: vehicular access in Tisbury Island Road District; and 10.06.01: Site Plan Review Board.

The Commission notes that the project conforms to zoning, but the fall zone for the tower is not all within the limits of the Applicant's property bounds.

**D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.**

The Commission notes that the project is located in the Island Roads DCPC, but there is no height restriction in the DCPC regulation and the applicant would not be altering the setbacks.

**The Commission found the project generally offered a significant benefit** to user through improved performance operation and would be a more robust system and provides better service and safety for land line users.

### **3.2 Conditions**

After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions in order to increase the benefits and minimize the detriments of the project. The analysis of benefits and the resulting decision to approve the project is

based on the proposal as modified by these conditions. These conditions form an integral and indispensable part of this decision.

These conditions are an essential part of this decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce the condition, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission's and/or Town's attorney's fees and costs incurred in obtaining judicial relief.

**1      Tower Removal:**

1.1      As offered by the Applicant, the tower will be removed the tower at the Applicant's expense if it is no longer to be used for microwave transmission.

**2      Tower Specifications:**

2.1      As offered by the Applicant, there shall be no advertising placed on the tower.

2.2      As offered by the Applicant, there will be no equipment for cellular devices located on the tower.

2.3      As offered by the Applicant, the tower cannot be used to provide cell phone service.

**3.3      Decision**

The Martha's Vineyard Commission deliberated about the proposed modifications at a duly noticed meeting of the Commission held on July 11, 2019 and made its decision at the same meeting.

Motion *to approve the project as submitted by the applicant with conditions as described in Section 3.2.*

The following Commissioners, all of who participated in all hearing and deliberation on this project, participated in the decision on July 11, 2019.

- Voting in favor: C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.
- Voting against: none.
- Abstentions: none.

Based on this vote, the Commission approved application with the amendments as proposed.

This written decision was approved on August 1, 2019.

**4. CONCLUSION**

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**4.1      Permitting from the Town**

The Applicant must, consistent with this Decision, apply to the appropriate Town of Tisbury Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of Tisbury may now grant the request for approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

**4.2      Notice of Appellate Rights**

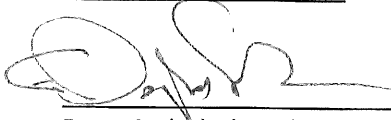
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Edgartown Town Clerk.

**4.3 Length of Validity of Decision**

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction. Should substantial construction not occur during said two (2) year period, this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.



**4.4 Signature Block**

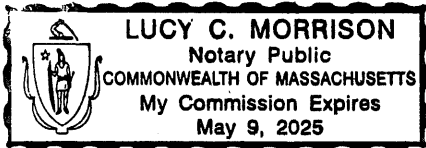
  
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Doug Sederholm, Chairman

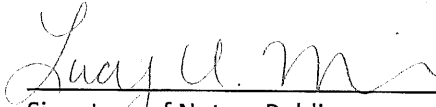
8-12-19  
\_\_\_\_\_  
Date

**4.5 Notarization of Decision**

Commonwealth of Massachusetts  
County of Dukes County, Mass.

On this 12<sup>th</sup> day of August, 2019, before me,  
Lucy C. Morrison, the undersigned Notary Public, personally  
appeared Douglas Sederholm, proved to me through satisfactory evidence of  
identity, which was/were personal knowledge to be the person(s)  
whose name(s) was/were signed on the preceding or attached document in my presence, and who  
swore or affirmed to me that the contents of the document are truthful and accurate to the best of  
his/her/their knowledge and belief.



  
\_\_\_\_\_  
Signature of Notary Public

Lucy C. Morrison  
\_\_\_\_\_  
Printed Name of Notary  
My Commission Expires May 9, 2025

**4.6 Filing of Decision**

Filed at the Dukes County Registry of Deeds, Edgartown, on: August 12, 2019

Deed: Book 1503, Page 177  
Document # 00004380