

## MEMORANDUM

TO: Cape Elizabeth Planning Board  
FROM: Maureen O'Meara, Town Planner  
DATE: December 19, 2017  
SUBJECT: 19 Wells Rd Telecommunications Tower

### Introduction

Global Acquisitions IV LLC is requesting Site Plan Review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be located at 19 Wells Rd. The application will be reviewed for compliance with Sec. 19-9, Site Plan Regulations, Sec. 19-8-3, Resource Protection Permit Regulations and Sec. 19-8-2, Shoreland Zoning Performance Standards.

### Procedure

- The Board should begin by having the applicant summarize changes made to the plans since the last meeting.
- The Board should open the public hearing scheduled for this evening.
- At the close of the public hearing, the Board may begin discussion.
- When discussion ends, the Board has the option to approve, approve with conditions, table or deny the application.

### Site Plan Review Standards

The comments of the Town Engineer and the Fire Chief are attached. Below is a summary of application compliance with the Site Plan standards, Sec. 19-9-5.

#### 1. Utilization of the Site

The proposed tower and support facilities are located at a high point on an open field, minimizing the need for tree removal to accommodate the tower and support structures. An existing farm road will be upgraded to provide access.

#### 2. Traffic Access and Parking

- a. Adequacy of Road System- The applicant has provided a traffic study that estimates 10 trips per month will be created, based on 5 carriers locating on the tower. This small level of traffic will not

lower the level of service on Spurwink Ave, which has capacity to safely handle additional traffic.

- b. Access into the Site- Access into the site will be on existing roads from Spurwink Ave to Deer Run Rd to Hockey Pond Rd.
- c. Internal Vehicular Circulation- The existing farm road located north of Hockey Pond Rd will provide access to the tower site, where a new access road and turnaround will be constructed. Delivery vehicles will have access to the site during construction of the tower.

The Fire Chief is recommending that the access road have a minimum width of 14'. The access road should be adequately constructed to support emergency vehicles and a road maintenance agreement should be recorded that guarantees full emergency vehicle access and maintenance.

- d. Parking Layout and Design- The turnaround has also been designated a parking area.

### 3. Pedestrian Circulation

No pedestrian circulation facilities are provided, due to the nature of the site. Fencing is provided at the base of the site to restrict pedestrian access to the tower and support equipment.

### 4. Stormwater Management

An additional .34 acres (14,810 sq. ft.) of impervious surface will be created as part of the project. This amount of impervious surface increase does require stormwater calculations, which were submitted by the applicant December 11th. The stormwater management plan has been reviewed by the Town Engineer. His comments are attached.

The Planning Board may want to request that the applicant confirm what, if any, state or local permits will be needed as part of the road improvements adjacent to the pond.

### 5. Erosion Control

The proposal includes an erosion control plan (sheet C-4). The Town Engineer has noted areas where the stormwater management design may need to be adjusted to avoid erosion.

6. Utilities

The proposed use does not require a water supply or wastewater facilities and none is proposed. The applicant has provided a letter from Central Maine Power that it has the ability to meet the power needs of the site.

7. Shoreland Relationship

The pond and associated wetland located at 19 Wells Rd is one of a handful of wetlands in town that are protected by Shoreland Zoning regulations, as well as local Resource Protection Regulations. The portion of the project within the 250' RP buffer is also located in the Shoreland Overlay Performance District. The following is a summary of standards from Sec. 19-8-2 Shoreland Performance Standards.

- A. Piers - not applicable
- B. Individual private campsites - not applicable
- C. Parking areas - not applicable
- D. Roads and Driveways
  - 1. New roads setback: Activities proposed within the Shoreland Zone are associated with an *existing* road.
  - 2. Existing public road: The farm road is an existing *private* road.

The Planning Board may want to consider review of the access road improvements under this criteria as there is no separate criterion for existing driveways. In Sec. 19-6-9 Table of Uses Permitted, Allowed with a Resource Protection Permit, and Prohibited in the Resource Protection Districts, #22 Existing road reconstruction, the Town has interpreted this category to include driveways.

- 3. New roads exception: Activities within the Shoreland Zone are associated with an *existing* road.

The Planning Board has the option to consider the road improvements under this subsection instead of subsection 2 above. The standard provides "New driveways may be approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, or upland edge of a wetland and shall have a maximum width of sixteen (16) feet." The proposed width of the improved road is 14'.

4. Banking steepness: The proposed road improvements should not result in a banking steepness exceeding 2:1 and the plans should clearly demonstrate this. The Town Engineer has requested additional information on stabilization of slopes, such as use of riprap.
  5. Grades: No changes to the roadway grade are proposed.
  6. Scarified buffer strip. The road is existing and immediately adjacent to the pond, so no opportunity for a buffer strip is available. The existing unscarified vegetated area adjacent to the pond where the road is not located will be maintained.
  7. Ditch: No changes to the existing stormwater runoff patterns is proposed. The Town Engineer has requested additional information about how the existing culverts in the farm road adjacent to the pond will be incorporated into the road width expansion.
  8. Maintenance: A road maintenance agreement for the access road is recommended, which would include stormwater infrastructure maintenance.
- E. Stormwater - The only construction in the shoreland zone is improvement of the existing road, and stormwater related to the road included in Sec. D above.
- F. Sewage Disposal Standards - not applicable.

- G. Essential services - The road improvements are necessitated by the installation of telecommunication infrastructure, which is considered an essential service.
- H. Mineral Exploration and Extraction - not applicable
- I. Agriculture - not applicable
- J. Timber Harvesting - not applicable
- K. Clearing - not applicable.
- L. Erosion and Sedimentation Control - Filling and grading activities within the Shoreland Zone are only proposed as part of the road, which has been reviewed under subsection D above. The Town Engineer has noted stormwater management design features that might result in erosion.
- M. Soils - Soil related standards have been included in the review under subsection D above.
- N. Water Quality Protection - Water quality related standards have been included in the review under subsection D above.
- O. Archeological Sites - The proposed road improvements are not located on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places.

8. Landscaping and Buffering

The perimeter of the site is wooded and the plans depict a wooded buffer remaining after the installation of the new tower. The plans include a note "Remove trees in disturbed area only." The Planning Board may want to consider requiring that "disturbed area" be defined. The applicant has also stated that evergreen trees will be planted along the fence as shown on plan Z-1, but no new plantings are shown on that plan. The reference should be deleted or the plan updated.

9. Exterior Lighting

The applicant has stated, "No light poles are proposed for this site. The only lighting will be within each carrier's equipment enclosure and will be

mounted on the inside of the enclosure roof. (Sheet Z-1) Light levels will not exceed 0.0 footcandles outside the 100' x 100' lease area.

10. Signs

The applicant has indicated that no signs will be used, although signs required by FCC rules are expected to be posted.

11. Noise

The applicant has submitted an Environmental Sound Assessment which estimates that, during an emergency when 3 generators are operating, the sound level at the property line will not exceed 41 dBA.

12. Storage of Materials

The applicant has indicated that there will be no outside storage of materials.

13. Technical and Financial Capacity

The Town Manager is recommending that Crown Castle has sufficient financial capacity to complete the project. The applicant has provided information regarding the applicant's technical capacity.

Resource Protection Permit Standards (Sec.19-8-3(B))

The Resource Protection Permit includes 1,240 sq. ft. of impact to the RP1 wetland, in order to make improvements to the road. An additional 3,500 sq. ft. of impact to the overall wetland buffer will occur for road improvements. Below is a summary of the Resource Protection Permit standards of review and how they may be met.

1. Flow of surface/subsurface waters

The road improvements will not change existing flow patterns.

2. Impound surface waters

The proposed road improvements will not change the road alignment, and therefore preserve existing flow patterns.

3. Increase surface waters

The road improvements will slightly increase stormwater flows. The stormwater management report indicates that no negative downstream impacts or flooding will occur due to the road improvements.

4. Damage to spawning grounds

The road improvements follow the existing road alignment and are limited to the area immediately adjacent to the existing road, an area with limited spawning ground habitat value because of its proximity to the road.

5. Support of structures

The road improvements will match existing grades and are not located adjacent to buildings.

6. Aquifer recharge/groundwater

The road improvements will maintain existing drainage patterns and potential for groundwater recharge.

7. Coastal dunes

No work in coastal dunes or back dune areas is proposed.

8. Ecological/aesthetic values

The road improvements are along the existing road alignment and will not substantially change the existing character of the area.

9. Wetland Buffer

No buffer is proposed as the only wetland impacts are due to the road improvements, and the road is located in the wetland and wetland buffer.

10. Erosion Control

The applicant has submitted an Erosion Control plan that includes protection during construction and revegetation of disturbed areas upon completion of construction. The Town Engineer has noted stormwater design features that may need to be revised to avoid potential erosion.

11. Wastewater discharge

No discharge of wastewater is proposed as part of the project scope.

12. Floodplain Management

No floodplains are located in the project area.

Tower and Antenna Performance Standards, Sec. 19-8-12

Below is a summary of the project's compliance with the Tower and Antenna Performance Standards.

- a. Colocation. The applicant has committed to allowing all providers on the proposed tower, subject to capacity.

The applicant has also demonstrated the need for the new tower as a replacement for the existing tower currently located on the 14 Strout Rd property.

- b. Color. The proposed monopole "shall be colored to replicate the existing lattice tower."

- c. Buffers. Existing vegetation on the property shields the base of the proposed tower facility from view by abutters. The Planning Board may want the applicant to show the existing tree line on the plans, such as plan C-1 or C-1a.

- d. Lighting. No lighting is proposed to be added to the tower. Lighting will be provided on support equipment as described above.

- e. Structural. The applicant has provided a structural analysis.

- f. Security. An 8' high fence will enclose the 75' x 75' lease area.

- g. Advertising. No advertising or signage (except as required by FCC rules) is proposed.

- h. Non-interference. The applicant will provide a certified statement that it will adhere to FCC rules regulating interference.

- i. Abandonment. The applicant has committed to removing the tower and related facilities if operations cease.



- j. Performance Guarantee. A performance guarantee is required under Site Plan review and recommended as a condition of approval.

Motions for the Board to Consider

**A. Motion to Table**

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Global Acquisitions IV LLC for Site Plan Review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be located at 19 Wells Rd be tabled to the regular January 16, 2018 meeting of the Planning Board.

**B. Motion for Approval**

Findings of Fact

1. Global Acquisitions IV LLC is requesting Site Plan Review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be located at 19 Wells Rd, which requires review for compliance with Sec. 19-9, Site Plan Regulations, Sec. 19-8-3, Resource Protection Permit Regulations and Sec. 19-8-2, Shoreland Zoning Performance Standards.
2. The Planning Board held a site walk at 19 Wells Rd on Sunday, December 3rd, at 9:30 am, which was also attended by the applicant and members of the public.
3. The plan for the development (reflects/does not reflect) the natural capabilities of the site to support development.
4. Access to the development (will/will not) be on roads with adequate capacity to support the traffic generated by the development. Access into and within the site (will/will not) be safe. Parking (will/will not) be provided in accordance with Sec. 19-7-8, Off-Street Parking.
5. The telecommunication infrastructure and operations on the site are incompatible with pedestrian access, therefore, no facilities for pedestrians are provided.
6. The plan (does/does not) provide for adequate collection and discharge of stormwater.

7. The development (will/will not) cause soil erosion, based on the erosion plan submitted.
8. The telecommunications infrastructure and operations on the site do not require access to potable water.
9. The telecommunications infrastructure and operations on the site do not require sewage disposal.
10. The development (will/will not) be provided with access to utilities.
11. The development (will/will not) locate, store or discharge materials harmful to surface or ground waters.
12. The development (will/will not) provide for adequate disposal of solid wastes.
13. The development (will/will not) adversely affect the water quality or shoreline of any adjacent water body. In accordance with Sec. 19-8-2, Shoreland Performance Standards, the Planning Board finds that the Shoreland Performance Standards, Sec. 19-8-2 (have/have not) been met. Under subsection D. Roads and Driveways, the Board finds that: (choose 1)

Improvements to the existing farm road shall be considered under subsection 2 which regulates existing public roads. Absent a specific standard for existing *private* roads, the Planning Board applied the standards of subsection 2 to the existing farm road and finds that the performance standards (are/are not) met.

OR

Improvements to the existing farm road shall be considered under subsection 3 which regulates new roads where an exception may be granted by the Planning Board. The Planning Board finds that (a/no) reasonable alternative route or location is available outside the shoreland overlay district for the access road; that the access road (is/is not) set back as far as is practicable from the normal high water line of the adjacent pond and associated wetland given that there is an existing farm road suitable to provide access and the existing farm road is in close proximity to the property line limiting the practicality of moving the existing road

further from the pond; and that the proposed road improvements will widen the road to a total of 14' wide.

14. The applicant (has/has not) demonstrated adequate technical and financial capability to complete the project.
15. The development (will/will not) provide for adequate exterior lighting without excessive illumination.
16. The development (will/will not) provide a vegetative buffer throughout and around the site and screening as needed.
17. The development (will/will not) substantially increase noise levels and cause human discomfort.
18. Storage of exterior materials on the site that may be visible to the public (will/will not) be screened by fencing or landscaping.
19. The road improvements (will/will not) materially obstruct the flow of surface or subsurface waters across or from the alteration area;
20. The road improvements (will/will not) impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
21. The road improvements (will/will not) increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
22. The road improvements (will/ will not) result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
23. The road improvements (will/will not) pose problems related to the support of structures;
24. The road improvements (will/will not) be detrimental to aquifer recharge or the quantity or quality of groundwater;
25. The road improvements (will/ will not) disturb coastal dunes or contiguous back dune areas;

26. The road improvements (will/will not) maintain or improve ecological and aesthetic values;
27. The road improvements (will/will not) maintain an adequate buffer area, when practical, between the wetland and adjacent land uses;
28. The road improvements (will/ will not) be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
29. The road improvements (will/will not) be accomplished without discharging wastewater from buildings or from other construction into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance;
30. The Planning Board finds that (sufficient/insufficient) information has been provided to demonstrate the need for a new tower. The applicant is removing an existing tower located at 14 Strout Rd that currently supports carriers and public safety telecommunication equipment serving town residents and proposing to erect a new tower on an adjacent property located at 19 Wells Rd to continue current telecommunication services.
31. The Planning Board finds that sufficient information was provided to demonstrate the need for a new tower when the Planning Board approved, on September 19, 2017, a new 180' tall tower to be constructed at 14 Strout Rd. The applicant proposed to consolidate/remove 5 towers that currently support carriers and public safety telecommunication equipment serving town residents on that property.
32. The applicant (has/has not) committed to allowing colocation of telecommunication providers on the tower subject to functionally compatible technology and capacity on the tower.
33. The proposed color (will/will not) blend into the surrounding environment.
34. The existing vegetation (will/will not) provide an adequate vegetative buffer along all property lines.
35. Lighting (shall/shall not) be provided unless required by FCC regulations.

36. The owner (has/has not) demonstrated the tower will have structural integrity.
37. An eight foot high security fence and locked gate (will/will not) be installed to secure the tower facility.
38. Advertising (is/is not) proposed, except as required by FCC regulations.
39. The applicant (has/has not) provided information that the tower telecommunications will comply with FCC regulations regarding non-interference.
40. The applicant (has/has not) agreed to remove the tower facility after cessation of operations.
41. The applicant (will/will not) provide a performance guarantee for the project improvements.
42. The application substantially complies with Sec. 19-9, Site Plan Regulations, Sec. 19-8-3, Resource Protection Permit Regulations and Sec. 19-8-2, Shoreland Zoning Performance Standards.

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Global Acquisitions IV LLC for Site Plan Review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be located at 19 Wells Rd be approved, subject to the following conditions:

1. That the plans be revised to address the comments of the Town Engineer in his letter dated December 13, 2017;
2. That a road maintenance agreement be submitted in a form acceptable to the Town Attorney for the access road, signed by the applicant and recorded in the Cumberland County Registry of Deeds;
3. That the Planning Board approval shall include carrier enclosures to be installed within the fenced 75' x 75' enclosure, subject to issuance of a building permit when applicable;
4. That any solid waste generated at the site will be immediately carried out for disposal;

5. That a note be added to the plans that "disturbed area" be defined as the area within the 100' x 100' leased area, the access road and areas immediately adjacent to the access road where improvements are shown on the plan, and related stormwater infrastructure.
6. That the plans and materials either consistently show proposed evergreen plantings or remove reference to them.
7. That the existing tree line be added to sheet C-1 or C-1a.
8. That the applicant provide confirmation on the need for any state or local permits related to the road improvements adjacent to the pond, and if permits are required, evidence that the permit has been issued.
9. That there be no issuance of a building permit or alteration of the site until the plans and materials have been revised to satisfy the above conditions and submitted to the town planner for review; and
10. That there be no issuance of a building permit or alteration of the site until a performance guarantee has been submitted in an amount acceptable to the Town Engineer and a form acceptable to the Town Attorney and Town Manager.