



# CAPE COD COMMISSION

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Date: December 9, 2003

To: Truro Planning Board

From: Cape Cod Commission

Re: Development of Regional Impact Jurisdictional Determination  
Cape Cod Commission Act, Section 12 (j)

Applicant: Truro Planning Board  
Town of Truro  
P.O. Box 2030  
Truro, MA 02666

Project #: #JD03020

Project: PCS Wireless Communications Facility/Truro  
Truro, MA

Book/Page:

Lot/Plan:

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY:

Pursuant to Section 12 (j) of the Cape Cod Commission Act (Act), the Cape Cod Commission (Commission) hereby determines that the proposed PCS Wireless Communications Facility located in Truro, MA, is a project that qualifies for review as a Development of Regional Impact (DRI) under Section 3(i) of the DRI Enabling Regulations Barnstable County Ordinance 90-12 as amended, and is not exempt under Section 22 of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989 as amended. This decision is rendered pursuant to a vote of the Commission on December 9, 2003.



## **PROJECT DESCRIPTION**

The project consists of replacement of an existing 42' above-ground level NSTAR utility pole with a 55' above-ground level NSTAR pole on which three AT&T antennas will be mounted at the 53' height, as well as construction of two equipment cabinets at the base of the pole on a 7' x 11' pre-cast concrete pad. The cabinets and pole will be located within a 10' x 20' lease area. The site is located in an existing Commonwealth Electric (NSTAR) easement within the boundary of the Cape Cod National Seashore.

## **PROCEDURAL HISTORY**

The Truro Town Planner/Asst. Town Administrator, acting for the Truro Planning Board, referred the proposed project to the Cape Cod Commission on November 18, 2003. The Cape Cod Commission received the referral on November 19, 2003. The application was deemed complete on November 24, 2003. The Commission voted to delegate the authority to render a final decision to the Subcommittee at the Cape Cod Commission meeting on November 20, 2003.

Pursuant to Section 5 of the Act, a duly noticed public hearing was conducted by an authorized Subcommittee of the Commission in the Town of Truro on December 9, 2003. The public hearing was immediately followed by a public meeting at which the subcommittee deliberated on the project.

At the December 9, 2003 public meeting, the subcommittee unanimously voted that the project qualifies as a DRI.

## **MATERIALS SUBMITTED FOR THE RECORD**

### **From the Town of Truro:**

- Referral letter and AT&T project submittals dated November 18, 2003
- Referral application, received November 24, 2003
- Letter from John Sanguinet, Asst. Town Admin., to Cape Cod Commission received December 9, 2003
- Packet of correspondence, definitions and ATC Associates, Inc. brochure received December 9, 2003

### **From AT&T Wireless:**

- Letter from John J. Keene, Jr., Anderson & Kreiger, LLP to Tana Watt, Cape Cod Commission dated December 2, 2003

### **From Cape Cod Commission staff:**

- Letter from Tana Watt to John Keene dated November 21, 2003
- Staff Report dated December 3, 2003
- Letter from Tana Watt to John Keene dated December 5, 2003

**From others:**

- letter from Joseph L. Simonelli, NSTAR, to Tana Watt, Cape Cod Commission dated December 1, 2003
- Fax from Harrison, Cape Cod National Seashore, to Susan Kadar/Tana Watt, received December 3, 2003
- Fax from Cape Cod National Seashore to Tana Watt/Susan Kadar received December 3, 2003

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

**TESTIMONY**

The Commission heard oral testimony at the December 9 hearing from Ted Franklin, who expressed concern about the visual impact of the proposed project and the subsequent proliferation of such facilities.

**FINDINGS**

The Commission has considered the Truro Planning Board's request for a Jurisdictional Determination for the proposed PCS Wireless Communications Facility/Truro, and based on consideration of such application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

G1. Section 22(b) of the Cape Cod Commission Act exempts from Commission review any development which prior to July 1, 1989 has received certain local permits. The project did not receive any local permits prior to July 1, 1989. Therefore, the project is not exempt under Section 22(b) of the Act.

G2. The project proposes to replace an existing NSTAR 42' above-ground level utility pole with a new 55' above-ground level pole designed to carry wireless communication equipment at the 53' height.

G3. The DRI Enabling Regulations, Barnstable County Ordinance 90-12, Section 1(c) as amended, defines *Wireless Communication Tower* as "any guyed, monopole, or self-support tower, constructed as a free-standing structure proposed to contain or containing one or more antennas intended for transmitting, or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication". The existing standard utility pole does not qualify as a wireless communication tower because it does not currently carry telecommunication equipment. The proposed replacement pole qualifies as a wireless communication tower because it meets the criteria in the definition.

G4. The DRI Enabling Regulations, Barnstable County Ordinance 90-12, Section 3(i), as amended, requires DRI review of "any wireless communication tower exceeding thirty-five (35) feet in height from the natural grade of the site on which it is

located but not including the reconstruction or replacement of an existing wireless communication tower on the same site, provided that the reconstruction or replacement does not exceed the height of the existing wireless communication tower by more than twenty (20) feet". The project proposes to replace a standard utility pole with a wireless communication tower, which meets Section 3(i) of the DRI Enabling Regulations requiring DRI review.

**CONCLUSION**

On December 9, 2003, the Commission found that the proposed PCS Wireless Communications Facility project in Truro, MA qualifies for review under Section 3(i) of the Development of Regional Impact Enabling Regulations and is not exempt under Section 22(b) of the Cape Cod Commission Act.

W. Bradford Crowell  
W. Bradford Crowell, Chair

12-19-2003  
Date

Commonwealth of Massachusetts

Barnstable, ss,

On this 19<sup>th</sup> day of Dec, 2003, before me personally appeared Brad Crowell, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Katharine L. Peters  
Notary Public  
Commonwealth of Massachusetts

My Commission expires:



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Date