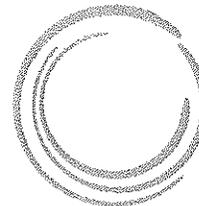


3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD  
COMMISSION

---

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

**Minor Modification Type #1**

DATE: October 3, 2012

TO: Michael Johnsen  
36 Prospect Street  
Reading, MA 01867

FROM: Cape Cod Commission

RE: Modification of a Development of Regional Impact

PROJECT APPLICANTS: Industrial Communications and Electronics Inc.  
40 Lone Street  
Marshfield, MA 02050-2102  
and  
METRO PCS Massachusetts, LLC by Michael Johnsen

PROPERTY OWNER: Michael J. Umamo, Trustee, New England Nominee Trust  
40 Lone Street  
Marshfield, MA 02050-2102

PROJECT # TR20069

PROJECT: Industrial Communications and Electronics Inc. (ICE)  
Telecommunications Tower, Barnstable

LOCATION: 215 Old Falmouth Road, Marston's Mills (Barnstable), MA

BOOK/PAGE: Book: 13638 Page: 55

---

**Background**

In a decision dated May 16, 2002, the Cape Cod Commission (Commission) issued a Development of Regional Impact (DRI) decision, with conditions, to Industrial Communications and Electronics, Inc. which approved the construction and operation of a 180 foot high monopole wireless communications facility hosting ICE, Sprint and up to four other wireless carriers, each of which will place an array of antennas on the tower.

The Commission issued the project a Preliminary Certificate of Compliance on 5/23/03 and a Final Certificate of Compliance on 12/23/03.

To date, the 2002 DRI decision has been modified once, by a Minor Modification Type #1 decision dated October 2, 2012, which allowed equipment upgrades to Sprint's installation at the site.

### **Modification Request**

On September 13, 2012, Commission staff received a request from Michael Johnsen representing METRO PCS, Massachusetts, LLC (METRO PCS) seeking to make physical modifications to the telecommunications equipment installed by METRO PCS at the project site at 215 Old Falmouth Road, Marston's Mills/Barnstable MA.

The proposed modifications include installing two (2) dish antennas approximately two (2) feet in diameter at 175 feet above ground level. Each of the dish antenna will be connected by a cable to the existing equipment cabinet located in the existing equipment shelter at the base of the tower.

The 2002 DRI decision states in part in the *Project Description* that the "monopole will be located on private property leased from the owners, Roderick and Marilyn Komar, along a private road off Old Falmouth Road, in Marstons Mills. ICE will lease a 10,000 square foot section of the parcel and has an easement for the fall zone around the tower." The lease arrangement with the Komars is again noted in Finding #7.

On 9/13/12, Michael Johnsen provided the Commission with evidence that METRO PCS has permission from ICE to equipment on the monopole and within the equipment shelter.

On 9/26/12, Commission received evidence that the cell facility site is located at 215 Old Falmouth Road, and is owned by New England Nominee Trust, and that the representative of this Trust is Michael J. Umano, Trustee.

On 9/18/12, Commission staff conducted a site visit connected to a separate request by another carrier, Sprint PCS, to modify its equipment at the site. This site visit indicated that the top of the tower was being used by Osprey. A nest and one (1) bird were observed.

On 9/25/12, Commission staff received a letter from Thomas Lennon, ICE Vice President, that ICE will not perform any tower work while protected birds are nesting.

On 9/25/12, Commission staff also received a letter from Kate Rugman, Zoning Manager, METRO PCS – New England Market that METRO PCS, its authorized contractors, sub-contractors or agents will not commence any work at the site until the Ospreys have left their nest for the season.

### **Commission Jurisdiction and Modification Types**

Section 13(c) of the Commission's *Enabling Regulations*, as amended May 2011, sets out the types of DRI modifications. A Minor Modification Type #1 is defined as "revisions that are the result of more restrictive conditions imposed by a local board or technical corrections or

changes that the Executive Director or his/her designee determine are *de minimus* changes to the project.” The Enabling Regulations also state that Minor Modifications Type #1 “shall be approved by that the Executive Director or his/her designee and reported to the Regulatory Committee and do not require further review by the Commission.”

### **Determination on Modification Request**

After consideration of the request by METRO PCS to make changes to its telecommunications equipment at the site located at 215 Old Falmouth Road, Marstons Mills/Barnstable, MA the Commission’s Executive Director has determined the requested changes constitute *de minimus* changes, and are approved as Minor Modifications Type #1.

### **Changes to 2002 DRI Decision**

The following change is thereby made to the Industrial Communications and Electronics Inc. Telecommunications Tower, Inc. DRI decision as shown below to accommodate the proposed antenna and equipment changes proposed by METRO PCS.

All findings and conditions attached to the original decision, as amended, continue to apply except as modified herein.

The following conditions shall be modified to read as follows (**bold** type indicates added text, deleted text is struck-out):

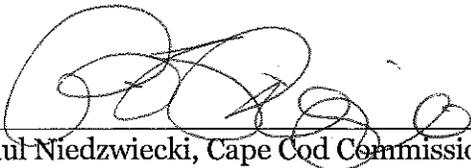
Condition 6. The proposed structure shall be constructed as a monopole at a height limited to 180 feet and mounted with standard antenna arrays for ICE, Sprint, Cingular Wireless and additional wireless carriers, with accessory equipment shelters and landscaping, as shown on the site plans dated November 7, 2001 prepared by Land Planning, Inc. **and as amended for the METRO PCS installation based on the plans entitled *Compound Plan Sheet 1 of 3, Elevation, Sheet 2 of 3, 2-foot Dish Antenna Detail Sheet 3 of 3, for Site HYN0017A/ICE Barnstable by Advanced Engineering Group, dated 7/24/12, received by the Commission on 9/13/12.*** The monopole shall be steel gray in color, with gray antenna arrays, as shown on the color board submitted December 13, 2001. The equipment shelter(s) shall be constructed with a peaked roof and traditional materials, as shown on elevations drawings prepared April 2, 2002.

**New Condition 20. The proposed work to amend METRO PCS installation shall be done in accordance with the following plans received by the Commission on September 13, 2012 from Michael Johnsen, by Advanced Engineering Group, dated 8/15/12 for site HYN0017A/ICE Barnstable/215 Falmouth Road, Barnstable, MA:**

- ***Title Sheet, Sheet T-1***
- ***General Notes, Sheet GN1***
- ***Site Plan and Notes, Sheet A-1***
- ***Equipment Plan, Elevation and RF Schedule, Sheet A-2***
- ***Construction Details, Sheet A-3***

**New Condition 21. Due to evidence of use of the monopole structure by Ospreys, no site work by ICE, METRO PCS or any sub-contractors to implement METRO PCS proposed equipment changes as described in this modification decision shall commence prior to October 1, 2012. In addition, all site work associated with this decision shall be completed no later than April 1, 2013.**

**Signatures**

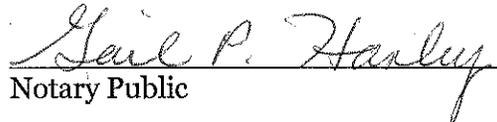
  
\_\_\_\_\_  
Paul Niedzwiecki, Cape Cod Commission Executive Director  
10/3/12  
Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss

Oct 3, 2012

Before me, the undersigned notary public, personally appeared Paul Niedzwiecki in his/her capacity as the Cape Cod Commission's Executive Director, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 9-28-18

