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CAPE COD
COMMISSION

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Minor Modification Type #1

DATE: January 30, 2013

TO: Edward D. Pare, Esq.
Brown Rudnick
10 Memorial Boulevard
Providence, RI 02903

RE: Modification of a Development of Regional Impact

PROJECT APPLICANTS: Industrial Communications and Electronics Inc. (ICE)
40 Lone Street
Marshfield, MA 02050-2102
and
AT&T care of Edward D. Pare, Esq.

PROPERTY OWNER: Centerville-Osterville Marstons Mills Fire District, Water
Department

PROJECT # TR05019

PROJECT: Industrial Communications and Electronics Inc. (ICE)
Telecommunications Tower/COMM

LOCATION: 1138 Main Street, Osterville, (Barnstable), MA

BOOK/PAGE: Book: 119 Page: 191

Background

In a decision dated December 15, 2005, 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 150 foot high monopole wireless communications facility on a parcel of land leased from the Centerville-Osterville-Marstons Mills Fire District, Water Department with space for up to five (5) co-locating carriers to place a standard array of antennas on the tower. To date, the 2005 DRI decision has been modified once, by a decision dated May 11, 2006, to allow changes to the equipment compound, including the installation of concrete pads and outdoor equipment cabinets. The Commission issued the project a Preliminary Certificate

of Compliance on May 16, 2006 and a Final Certificate of Compliance on November 29, 2007.

Modification Request

On November 19, 2012, Commission staff received a request from Attorney Edward D. Pare representing the carrier AT&T, seeking to make physical modifications to the telecommunications equipment installed by AT&T at the project site at 1138 Main Street, Osterville, (Barnstable), MA. The proposed modifications include replacing three (3) LTE antennas and a GPS antenna on the ice bridge, together with associated cabling to be installed in AT&T's equipment room in the single equipment shelter at the site.

The 2005 DRI decision states in part in the *Project Description* that “ICE proposes to build a 150 foot monopole on a parcel of land to be leased from the Centerville-Osterville-Marstons Mills Fire District, Water Department.”

On November 29, 2012, Attorney Pare provided the Commission with evidence that AT&T has permission from ICE to install antennas and associated equipment on the monopole and within the equipment shelter.

On January 25, 2013, Attorney Pare provided the Commission with evidence that AT&T has permission from the Centerville-Osterville-Marston's Mills Fire District, Water Department to access the site and to install antennas and associated equipment on the monopole and within the equipment shelter.

On December 19, 2012, Commission staff conducted a site visit, with Gerry Squires of JLee Consulting, the Applicant's telecommunications consultant. This site visit indicated that the top of the tower was being used by Osprey for nesting. Nest material was observed on the top of the last antenna array on the tower.

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 AT&T to make changes to AT&T's equipment at the site located at 1138 Main Street, Osterville, (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 2005 DRI Decision

The DRI decision is hereby modified follows to accommodate the proposed antenna and equipment changes proposed by AT&T.

All findings and conditions attached to the original decision, as amended, continue to apply except as modified herein. The following conditions shall be added read as follows:

New Condition 16. The proposed structure shall be constructed as a monopole at a height limited to 150 feet and mounted with antenna arrays for wireless carriers, with accessory equipment shelters and landscaping, and with an antenna array for AT&T as shown on the site plans listed herein, received by the Commission on November 19, 2012 from EAG/Advanced Engineering Group, dated 8/24/12; latest revision date 9/6/12 showing AT&T Site Number MA1082/Osterville Main Street:

- *Title Sheet, Sheet T-1*
- *General Notes, Sheet GN1*
- *Plan Views, Sheet A-1*
- *Elevation and Antenna Layout, Sheet A-2*
- *Details, Sheet A-3*
- *Grounding, On-Line Diagram, and Details, Sheet G-1*

New Condition 17: Due to evidence of use of the monopole structure by Ospreys for nesting, all site work by ICE, AT&T or any sub-contractors to implement AT&T's proposed equipment changes as described in this modification decision shall be complete no later than April 1, 2013. After April 1, 2013, any and all site work site work by ICE, AT&T or any sub-contractors to implement AT&T's proposed equipment changes as described in this modification decision shall cease until no earlier than October 1, 2013.

See Next Page For Signatures

Executed this 30th day of January 2013.

[Handwritten Signature]
Signature

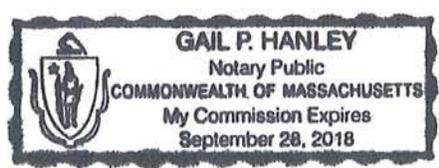
PNiedzwiecki ED
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss Jan 30, 2013

Before me, the undersigned notary public, personally appeared Paul Niedzwiecki

in his/her capacity as Executive Director of the Cape Cod Commission, 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.



Gail P. Hanley
Notary Public
My Commission Expires: 9-28-18