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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: 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

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**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 a standard array of antennas on the tower. To date, the 2002 DRI decision has been modified once, by a decision dated October 2, 2012, to allow Sprint PCS to make equipment modifications to its installation

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.

### **Modification Request**

On November 19, 2012, Commission staff received a request from Attorney Edward D. Pare representing AT&T, seeking to make physical modifications to the telecommunications equipment installed by AT&T at the project site at 215 Old Falmouth Road, Marston's Mills/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 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 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 17, 2013, Attorney Pare provided the Commission with evidence that Michael J. Umamo, Trustee of the New England Nominee Trust, which owns the site located at 215 Old Falmouth Road, has authorized AT&T 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 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 DRI decision is hereby modified as shown below 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 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 Sprint installation based on the plans entitled *Sprint/IC&E: BS23XC753 – 215 Old Falmouth Road, Marstons Mills MA, 02648*, by EBI Consulting, 14 Sheets, dated 3/13/12, received by the Cape Cod Commission on 8/30/12, **and as further amended by the plans received by the Commission on November 19, 2012 from Advanced Engineering Group, dated 8/25/12, latest revision date of 10/5/12 for site AT&T Site Number MA1083, Marston Mills.** 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 22. The proposed work to amend the AT&T installation shall be done in accordance with the following plans received by the Commission on November 19, 2012 from Advanced Engineering Group, dated 8/25/12, latest revision date of 10/5/12 for site AT&T Site Number MA1083, Marston Mills:**

- *Title Sheet, Sheet T-1*
- *General Notes, Sheet GN1*
- *Plan View, 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 23: Due to evidence of use of the monopole structure by Ospreys for nesting, no 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 commence prior to October 1, 2012. In addition, all site work associated with this decision shall be completed no later than April 1, 2013.**

*See Next Page for Signatures*

Executed this 30th day of January 2013.

[Signature]  
Signature

Paul Niedzwiecki Ex. Dir.  
Print Name and Title

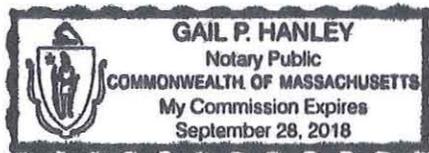
COMMONWEALTH OF MASSACHUSETTS

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