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CAPE COD
COMMISSION

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Minor Modification Type #1

DATE: March 28, 2013

TO: Jeff Simpson
Tower Resource Management
16 Chestnut Street
Suite 220
Foxborough, MA 02035

FROM: Cape Cod Commission

RE: Modification of a Development of Regional Impact

PROJECT APPLICANTS: NEXTEL/Sprint PCS by Jeff Simpson, Tower Resource Management

PROPERTY OWNER: Joseph L. Simonelli
Wireless Communications Project Manger
NSTAR Electric/Gas Company
Real Estate Group
One NSTAR Way
SUMESE210
Westwood, MA 02090

PROJECT # TR98047

PROJECT: NEXTEL Monopole, Gross Hill Road, Wellfleet, MA

LOCATION: 2381 Old Kings Highway
Wellfleet, MA 02667

LOT and PLAN: Map A Parcel 6

LAND COURT: Lot #6 Land Court Plan # 31260A Certificate # 28887

Background

In a decision dated August 26, 1999, the Cape Cod Commission (Commission) issued a Development of Regional Impact (DRI) decision, with conditions, to NEXTEL Communications of the Mid-Atlantic, Inc. which approved the construction and operation of a 140-foot high, five carrier cellular monopole at the site of the now NSTAR Electric Company substation, with a

200-square foot equipment shelter, a 250-square foot equipment shelter, and a 7.5 x 12.5 foot concrete equipment pad for several equipment cabinets. The project also included a 2,040 square foot leased area enclosed by a wooden stockade fence and landscaping.

The Commission's Regulatory Committee granted a Minor Modification Type #2 on January 22, 2002 which allowed Sprint Spectrum to locate at 90 feet. The Commission's Executive Director granted Minor Modifications Type #1 dated March 1, 2007 that allowed Verizon Wireless to install a propane-fueled generator at the site and dated November 1, 2012 which allowed antenna and other equipment upgrades. The Commission issued the project a Partial Certificate of Compliance on September 10, 2001 and a Final Certificate of Compliance on December 18, 2003.

As of 2012, the site was being used by Osprey. This is based on the presence in 2012 of a nest on the tower.

Commission Jurisdiction and Modification Types

Section 13(c) of the Commission's *Enabling Regulations*, (amended May 2011/New Fee Schedule Effective 7/1/12), 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 Requests

After consideration of the request by Sprint/NEXTEL to change the timeframe to within which Sprint/NEXTEL can make changes to its equipment at the site located 2381 Old Kings Highway/Gross Hill Road, Wellfleet, MA, the Commission's Executive Director has determined the requested change constitutes a *de minimus* change, and is approved as Minor Modifications Type #1.

Changes to 1999 DRI Decision

The following change is thereby made to the NEXTEL/Gross Hill Road cellular facility DRI decision, as amended, as shown below. All findings and conditions attached to the original decision, as amended, continue to apply except as modified herein. The following condition shall be modified to read as follows (**bold** type indicates added text, deleted text is struck-out):

17. Due to evidence of use of the structure by Ospreys, ~~no site-work~~ by ICE, Sprint/NEXTEL or any sub-contractors to implement Sprint's proposed equipment changes as described in **the November 1, 2012 Commission modification decision shall only be undertaken between October 1st and April 1st** ~~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 SIGNATURES ON THE NEXT PAGE

Signatures

Executed this 28 day of March 2013.

Kristy Senatori
Signature

Kristy Senatori, Deputy Director
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

March 28, 2013

Before me, the undersigned notary public, personally appeared Kristy Senatori, in his/her capacity as Deputy 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

