

# brownrudnick

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September 16, 2019

## VIA FEDERAL EXPRESS

Jessica Fosbrook  
Director of Engineering  
Somerville Engineering Department  
City of Somerville  
Department of Public Works  
1 Franey Rd.  
Somerville, MA 02145

**Re: Request for Approval of Sixteen (16) Eligible Facilities Requests to Modify Transmission Equipment at Existing Base Stations within the Public Rights-of-Way Located Near the Following Addresses in Somerville, MA**

**65 Main Street - Site 01  
509 Broadway - Site 03  
257 Cedar Street - Site 05  
99 Brastow Avenue - Site 06  
66 Belmont Street - Site 07  
231 Lowell Street - Site 09  
Webster Street - Site 15  
4 Central Street - Site 17  
79 Derby Street - Site 22  
1 MacArthur Street - Site 23  
1 Benedict Street - Site 24  
41 Inner Belt Road - Site 26  
1 Flint Street - Site 37  
11 Hathorn Street - Site 38  
Beacon Street, Near Sacramento Street - Site 70  
Beacon Street, Near Park Street - Site 71**

Dear Ms. Fosbrook Council:

On behalf of Crown Castle NG East LLC ("Crown Castle") and while reserving all rights, we submit this Eligible Facilities Request application to add, remove, modify, or replace Transmission Equipment<sup>1</sup> at existing Base Stations located near the above referenced addresses in Somerville, MA. We seek approval of the site modifications as depicted on the attached plans (the "Plans") as Eligible

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<sup>1</sup> The FCC has defined "Transmission Equipment" as "any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and back-up power supply. This definition includes equipment used in any technological configuration associated with any Commission-authorized wireless transmission, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband." In the matter of Acceleration of Broadband Deployment By Improving Wireless Facilities Siting Policies, Report and Order, FCC 14-153, WT Docket No. 13-238, ¶ 160 (FCC Oct. 21, 2014) ("Wireless Infrastructure Order"); 47 C.F.R. § 1.140001(b)(8)



Facilities Requests pursuant to the Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, commonly known as the "Spectrum Act" (codified at 47 U.S.C. § 1455, copy attached), the associated regulations promulgated by the Federal Communications Commission ("FCC"), (47 C.F.R. 1.40001, the "Regulations", copy attached) interpreting the Spectrum Act and Section 4 of the City of Somerville's Standards for Small Cell Wireless Facility Placement in Public Right-of-Way (the "Standards", copy attached). Please note that capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Spectrum Act and the Regulations.

Crown Castle's request is governed by Section 6409 of the Spectrum Act which provides that local governments **"may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station [emphasis added]"**. Under Section 6409(a)(2)(A)-(C), an Eligible Facilities Request is any request to modify a Tower or Base Station that involves "collocation of new", or "removal," or "replacement" of existing Transmission Equipment.

Additionally, Section 4 of the Standards provides: "Collocation, modification or replacement of a wireless facility shall be approved by the Somerville Engineering Department if it does not substantially change the physical dimensions of the tower or base station within the meaning of 47 U.S.C. § 1455(a). Notwithstanding any other provision of these standards, the City may not deny, and shall approve, applications for eligible facilities requests pursuant to 47 U.S.C. § 1455(a), within sixty (60) days according to the procedures established under 47 CFR 1.40001(c)."

These Eligible Facilities Requests involve an effort to collocate, remove, modify, or replace Transmission Equipment at Existing Base Stations within public rights of way. The Existing Base Stations in this application are utility poles which presently contains Transmission Equipment installed by Crown Castle. Pursuant to these Eligible Facilities Requests, Crown Castle proposes to replace the existing 51" high by 14" wide equipment shrouds with new 70" high by 23.6" wide equipment shrouds; and, (b) the existing 48" high by 8"Ø antennas with new 48" high by 14.6" Ø antennas. We note the antenna on Site 05 located near 257 Cedar Street is a side mounted 24" high by 8" Ø antenna being replaced by a 24" high 14.6" Ø antenna.

Pursuant to the Spectrum Act and the Regulations, federal law preempts many of the permit application requirements that state and local authorities have required from an applicant and provides for a limited, administrative review of Eligible Facilities Requests. These Eligible Facilities Requests involve an effort to collocate Transmission Equipment on an Existing Structure used by an FCC licensed wireless carrier. Crown Castle seeks administrative approval of its Eligible Facilities Requests for the proposed modifications which do not Substantially Change the physical dimensions of the Base Station pursuant to Section 6409 of the Spectrum Act and the Standards.

As you may know, the FCC promulgated the Regulations interpreting and implementing the provisions of the Spectrum Act. The Regulations define "Substantial Change" as modifications to a Tower or Base Station that meet any of the following six criteria. Crown Castle has provided its response to each of the criteria below in bold:



1. The modifications to the Transmission Equipment do not increase the height of the Base Station by more than 10 percent (10%) or ten (10) feet, whichever is greater.

**The modifications to the Base Station will not increase the height of the Base Station by more than an inch or two, thus, less than ten (10) feet higher than the existing Base Station.**

2. The modifications to the shroud do not protrude from the edge of the Base Station by more than six (6) feet.

**After the modifications, the shroud, with the 7" mounting bracket, will protrude from the edge of the Base Station by approximately 28", thus, less than six (6) feet. As noted above, Site 05 located near 257 Cedar Street is side mounted and the arm holding the antenna will not extend more than 36" from the pole.**

3. The modifications to the Transmission Equipment do not involve the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four.

**The modifications do not involve the installation of any new equipment cabinets, thus, fewer than four.**

4. The modifications to the Transmission Equipment do not entail any excavation or equipment placement outside the Base Station Site.

**The modifications do not entail any excavation or equipment placed outside the Base Station Site.**

5. The modifications to the Transmission Equipment do not defeat any existing concealed or stealth-design.

**The modifications do not defeat any existing concealment elements. The equipment and antennas are located within stealth enclosures.**

6. The modifications to the Transmission Equipment comply with prior conditions of approval of the Base Station, unless the non-compliance is due to an increase in height, increase in width, addition of equipment cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds in numbers 1-4.

**The modifications do not violate any prior conditions of approval that are not due to the increase in height, width, addition of equipment cabinets or new excavation outside the Base Station Site.**



Somerville Engineering Department  
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Additionally, pursuant to Section 1.40001(c)(1) of the Regulations, "when an applicant asserts in writing that a request for a modification is covered by this section, a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section." The Regulations provide that applicants are not required to justify a need for the facility. Further, the Regulations and Standards also require that approvals must be granted for eligible facilities requests within 60 days of the date that the application is submitted. As with the Existing Base Stations, the modifications will comply with all applicable laws and regulations, including the FCC's radio frequency emissions standards.

Under the Regulations and Standards, the City of Somerville must act upon these Eligible Facilities Requests within sixty (60) days from its submission or they will be deemed granted. If the City of Somerville contends that this Eligible Facilities Request is not complete, it must notify Crown Castle in writing within thirty days from its submission. In the written notification, the City of Somerville must "clearly and specifically delineate the missing information" as provided in the Regulations.

Crown Castle respectfully asserts, and we are confident that you will agree, that the modifications to the Existing Base Stations do not Substantially Change the dimensions of the Base Stations.

Please do not hesitate to contact me with any questions or if further information is necessary.

Respectfully,

**BROWN RUDNICK LLP**

A handwritten signature in black ink, appearing to read 'E. Pare, Jr.', is written over a horizontal line. Below the line, the name 'Edward D. Pare, Jr., Esq.' is printed in a black serif font.

Edward D. Pare, Jr., Esq.

Attachments: Plans  
Section 6409 of the Spectrum Act  
FCC Regulations  
Somerville Standards  
Prior Approvals

cc: Frank Wright, Esq., City Solicitor (via email only, w/o attachments)  
David Shapiro, Esq., Assistant City Solicitor (via email only, w/o attachments)  
Joseph Shannon, Crown Castle (via email only, w/o attachments)

NOTE: RIGHT OF WAY AND CENTERLINE  
INFORMATION TAKEN FROM CITY OF  
CAMBRIDGE GIS DATA



FOR PERMITTING ONLY

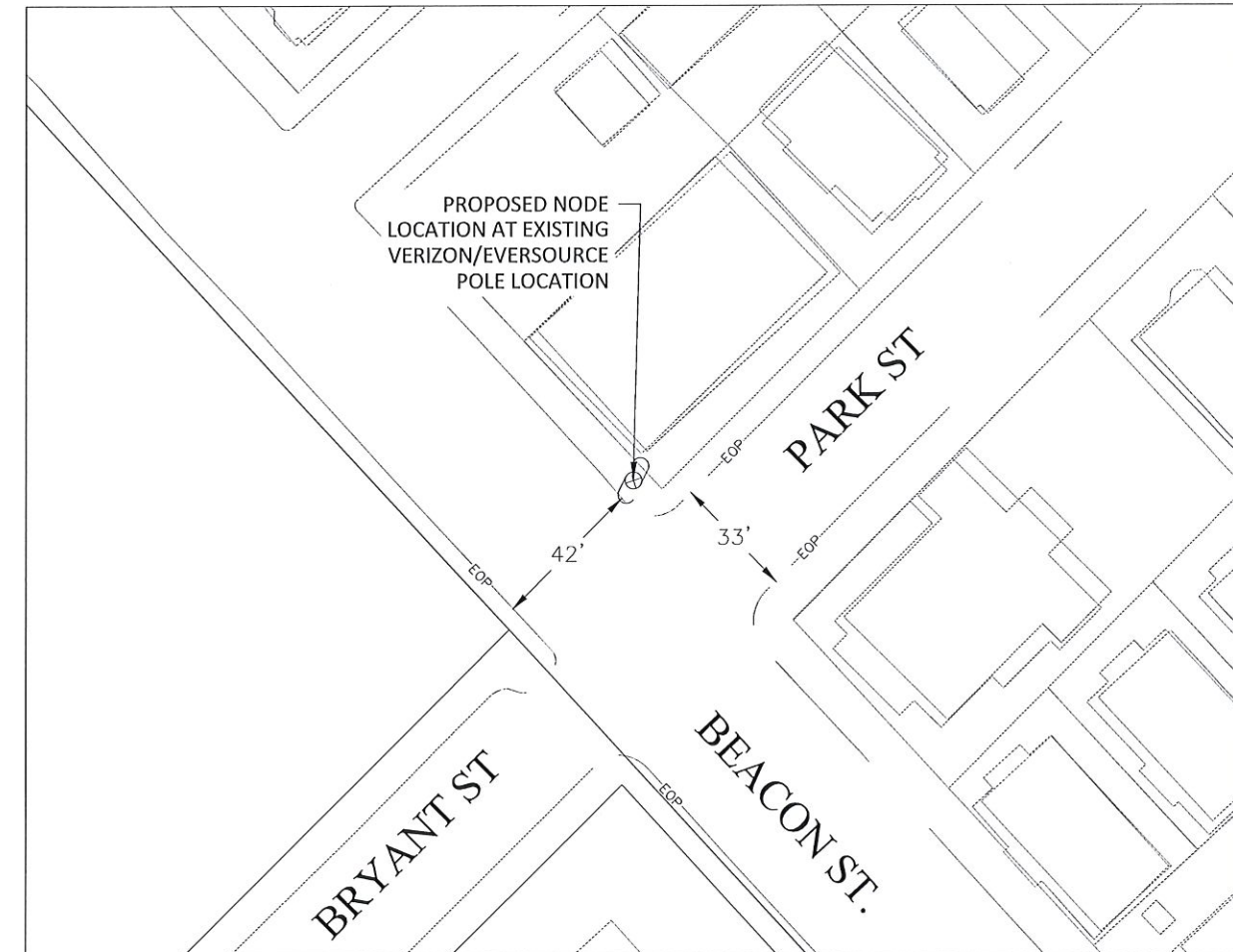
CROWN CASTLE - SOMERVILLE, MA - 02143  
 NODE POLE PROFILE - BS90XSG72 / ODAS\_N071 / SCU# 411609  
 CITY OF SOMERVILLE, MIDDLESEX COUNTY, MASSACHUSETTS



LOCATION MAP

LATITUDE: 42.380290° LONGITUDE: -71.108721°

SCALE: 1" = 200'



PROPOSED NODE PLACEMENT

PROJECT LOCATION - SITE# BS90XG72 / ODAS\_N071

SCALE: 1" = 50'



*[Handwritten Signature]*

SIGNATURE

9/5/19

DATE

PROFESSIONAL ENGINEER SEAL

PREPARED BY:  
**UC/SYNERGETIC**  
 Innovative Thinking. Engineered Solutions.  
 21 OXFORD RD  
 MANSFIELD, MA 02048  
 www.ucseng.com 1-508-337-7600

PREPARED FOR:  
**CROWN CASTLE**

TITLE: **BS90XSG72 / ODAS\_N071**  
 WOOD UTILITY POLE  
 SOMERVILLE, MA

POLE INFO: 40'-2" WOOD UTILITY POLE #269/13/1, 2006

SURVEYED BY: UCS PRINT NO: 1 OF 3

DRAWN BY: AJC SCALE: AS NOTED

ISSUE DATE: 08/07/18 AS BUILT:

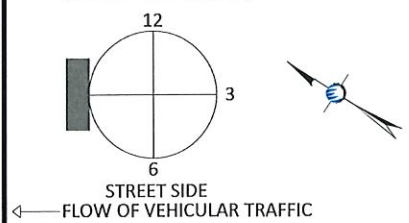
REVISIONS

REV	DESCRIPTION	DRAFTER	DATE
0	ORIGINAL	AJC	08/07/18

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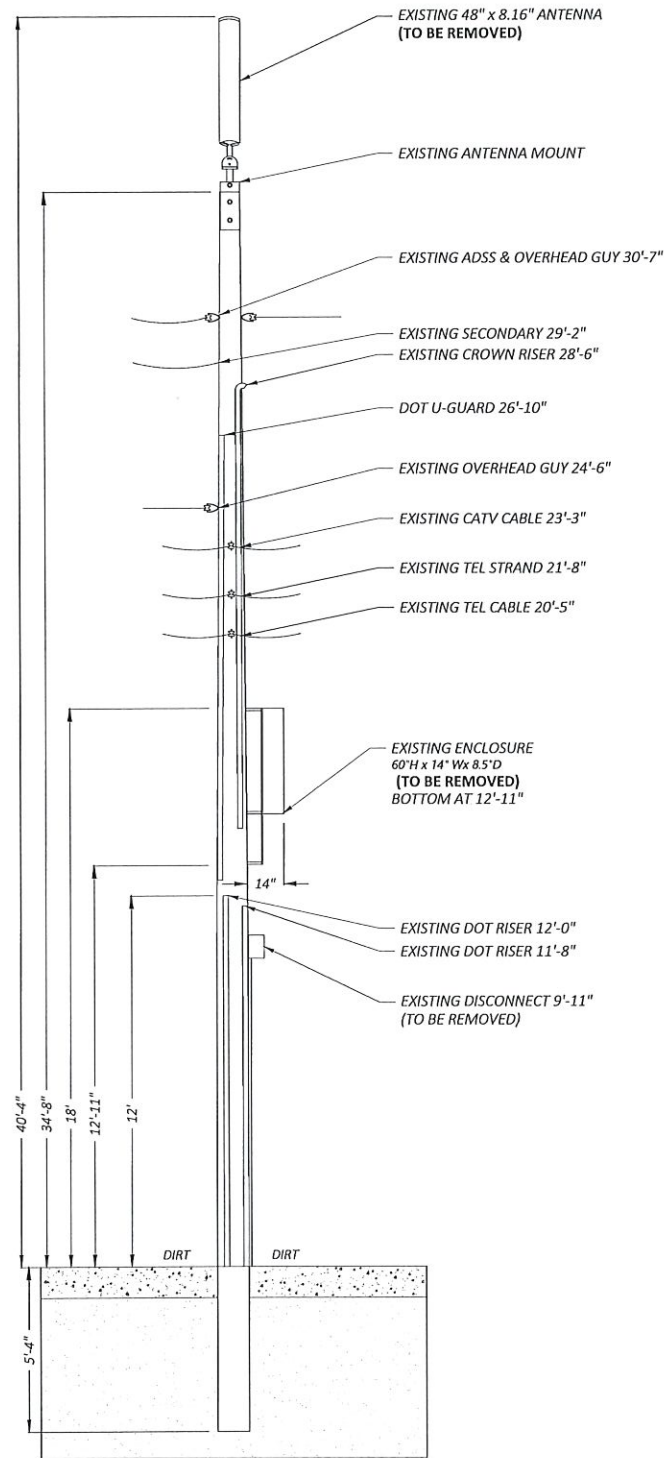
1. OVERVIEW
2. EXISTING
3. PROPOSED

TOP VIEW OF PROFILE

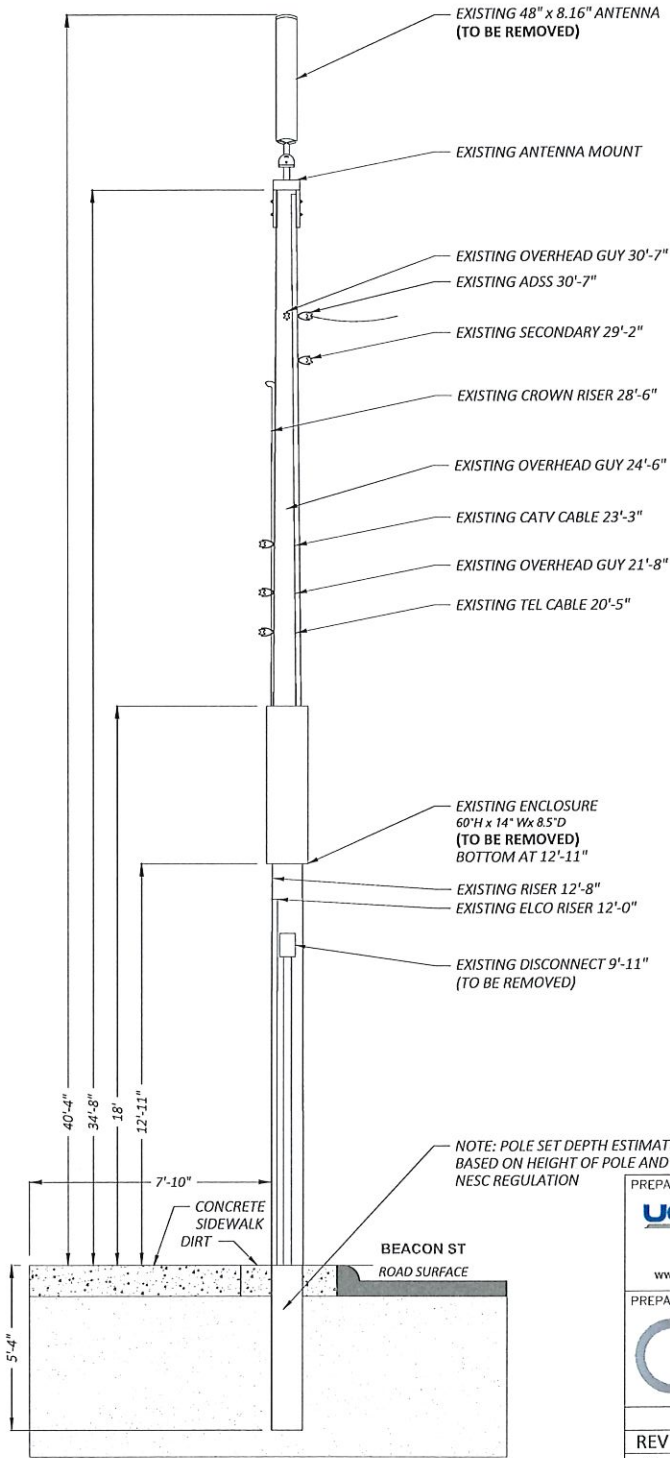


**NOTE:**  
 EXISTING 40'-2 2006 SPP WOOD UTILITY  
 POLE #269/33/1  
  
 REMOVE AND REPLACE EXISTING CROWN  
 CASTLE EQUIPMENT

**FOR PERMITTING ONLY**



PROPOSED PROFILE  
 FACING SOUTHWEST



PROPOSED PROFILE  
 FACING SOUTHEAST



PREPARED BY:  
**UC SYNERGETIC**  
 Innovative Thinking. Engineered Solutions.  
 21 OXFORD RD  
 MANSFIELD, MA 02048  
 www.ucsceng.com 1-508-337-7600

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**CROWN CASTLE**

TITLE: **BS90XSG72 / ODAS\_N071**  
 WOOD UTILITY POLE  
 SOMERVILLE, MA  
 POLE INFO: 40'-2 WOOD UTILITY POLE #269/13/1, 2006  
 SURVEYED BY: UCS PRINT NO: 2 OF 3  
 DRAWN BY: AJC SCALE: 1"=6"  
 ISSUE DATE: 08/07/18 AS BUILT:

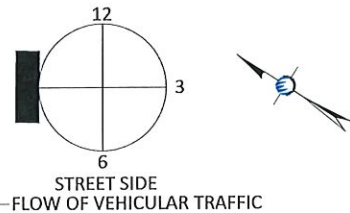
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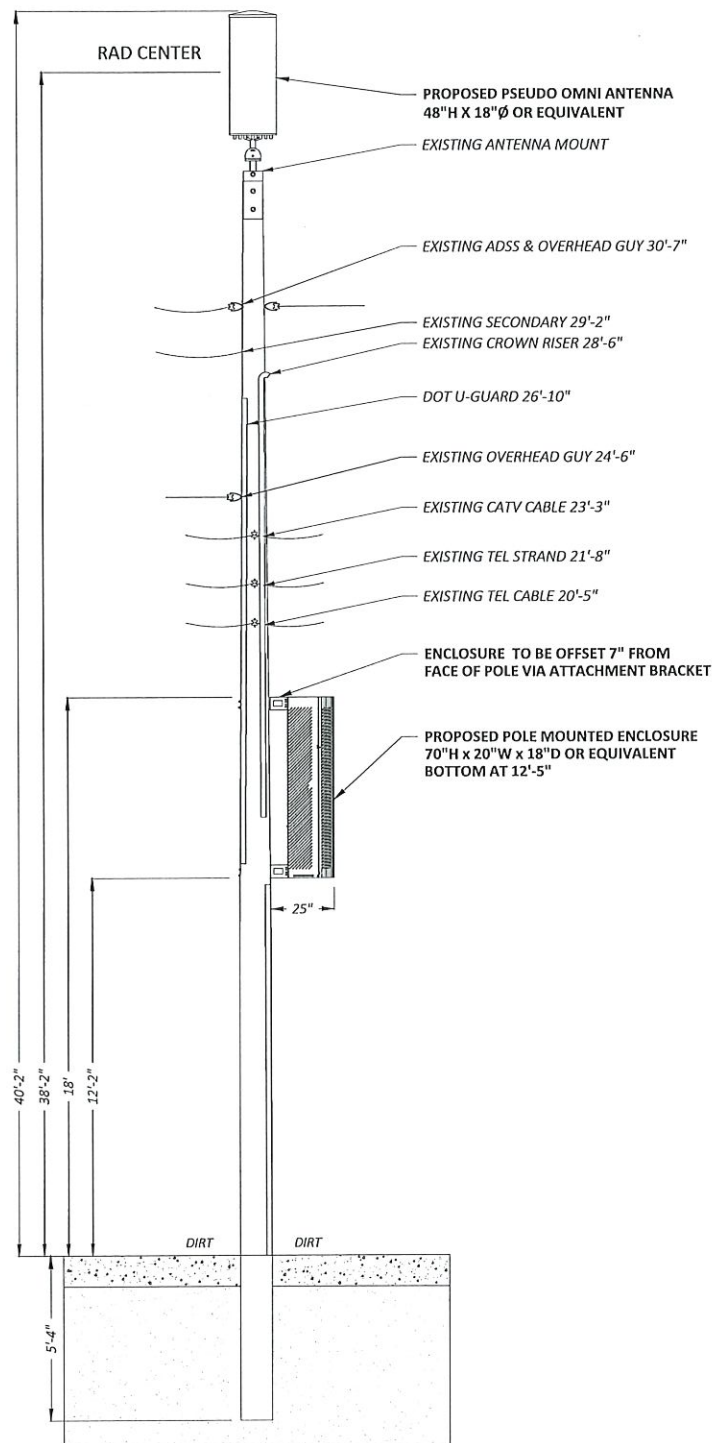
TOP VIEW OF PROFILE



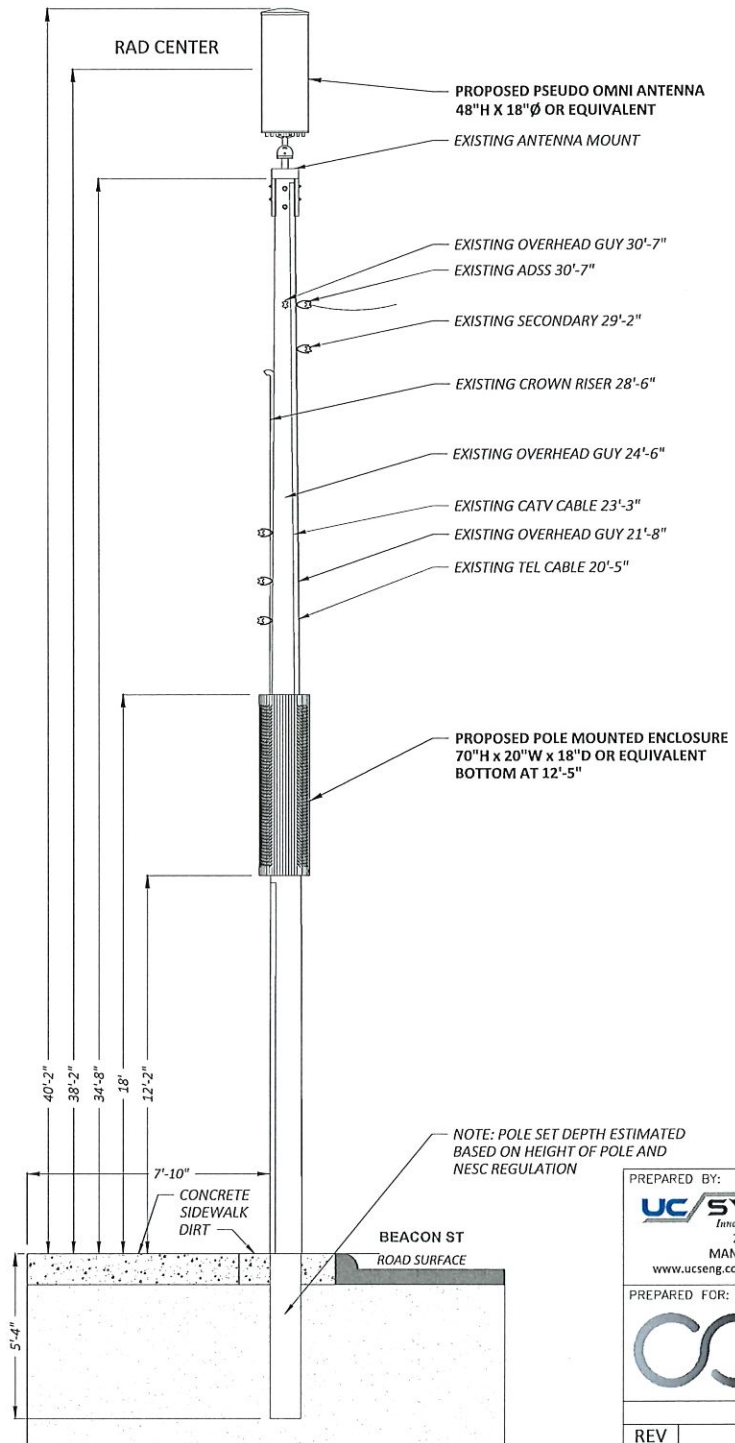
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**NOTE:**  
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 POLE #269/33/1  
  
 REMOVE AND REPLACE EXISTING CROWN  
 CASTLE EQUIPMENT

EXISTING POLES MUST BE INSPECTED BY A RESPONSIBLE  
 TECHNICIAN IN ORDER TO ENSURE THAT THEY ARE NOT  
 DAMAGED OR DECAYED, AND ARE NOT LEANING OR  
 MOVING EXCESSIVELY BEFORE ANY WORK IS STARTED.  
 POLES TO BE FREE OF CRACKING, ROT, OR ANY STATE  
 OTHERWISE COMPROMISING THE STRUCTURAL  
 INTEGRITY OF THE POLE.



PROPOSED PROFILE  
 FACING SOUTHWEST



PROPOSED PROFILE  
 FACING SOUTHEAST



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