



IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 8, 2008

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 08-1001858C

Application of:
MetroPCS Massachusetts, LLC

Locus:
75 Donald Lynch Blvd.
Map 13, Parcel 2

DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of MetroPCS Massachusetts, LLC. as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

Decision filed: September 23, 2008

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 23rd day of September, 2008

APPEALS

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.

Given at Marlborough this 14th day of October, 2008.

Given under Chapter 40A sec. 11 of the General Laws.

A TRUE COPY

ATTEST:

City Clerk



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ORDERED:

METROPCS MASSACHUSETTS, LLC

**SPECIAL PERMIT
FINDINGS OF FACT AND CONDITIONS**

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 08-1001858**

Re: 75 Donald Lynch Blvd.

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd, Chelmsford, MA as provided in the Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is METROPCS MASSACHUSETTS, LLC, having a usual place of business at 285 Billerica Rd., Chelmsford, MA 01824 (hereinafter "Applicant").
2. Through its Application for a Special Permit, the Applicant seeks permission to allow co-location of six (6) wireless communications antennas and one (1) GPS antenna on an existing telecommunications tower and supporting equipment on the ground within an existing compound (hereinafter "Proposed WCD Project"), substantially as depicted on a set of plans entitled "AT&T MARLBOROUGH" Chappell Engineering Associates, LLC, dated 1/30/08, revised 2/13/08 and 2/19/08, as submitted with the Special Permit Application, and as further revised 6/18/08 (hereinafter "Plans").
3. The location of the Proposed WCD Project is 75 Donald J. Lynch Boulevard. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Parcel No. 2 of Plate 13. The owner of record for the site is Albert D. Bombard.
4. The Applicant is a sub-lessee of New Cingular Wireless, which owns the existing telecommunications tower at the site and leases the underlying compound area.
5. The Site is zoned LI. Wireless communication devices are allowed by grant of Special Permit in LI Zoning Districts.



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6. The Special Permit is being sought pursuant to Article VI, Section 200-25 and Article VIII, Section 200-59 of the Zoning Code of the City of Marlborough.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the City Planner certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCD Project on June 9th, 2008, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law. Pursuant to MGL c. 40A, § 9, the ninety-day time limit for the City Council to make a decision on the Applicant's Special Permit was extended, by written agreement, until 5:00 p.m. on September 30, 2008, and a copy of that agreement was timely filed in the office of the City Clerk for the City of Marlborough.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCD Project meets all the applicable Special Permit criteria of Article VI, Section 200-25 and Article VIII, Section 200-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCD Project's compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Applicant's Special Permit application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, applicable to the proposed Wireless Communications Device.

**BASED UPON THE ABOVE, THE MARLBOROUGH CITY
COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT
AND TAKES THE FOLLOWING ACTIONS**

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Application for a Special Permit.



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- B) The Site is an appropriate location for the Proposed WCD Project and the Proposed WCD Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this Approval.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Devices, enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its proposed WCD Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the City of Marlborough Zoning Ordinances, **GRANTS** the Applicant its Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 10:**
 - 1) The Proposed WCD Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended during the application/hearing process, and in compliance with the Conditions of the Grant of Special Permit as well as with the conditions set forth in Chapter 200-25F of the Marlborough Zoning Ordinance.
 - 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCD Project.
 - 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.



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- 5) Applicant shall minimize the visual impacts of the Proposed WCD Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application for Special Permit.
- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCD referenced in this Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
- 7) Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCD Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCD Project only in cases of power outages to the Proposed WCD Project and for purposes of routine testing and maintenance. The noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 134 of the City Code.
- 8) No operation of this WCD shall commence until the Applicant has received written approval from the Building Inspector that all the above conditions have been satisfied.
- 9) Applicant shall be subject to site plan review if applicable.
- 10) In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.



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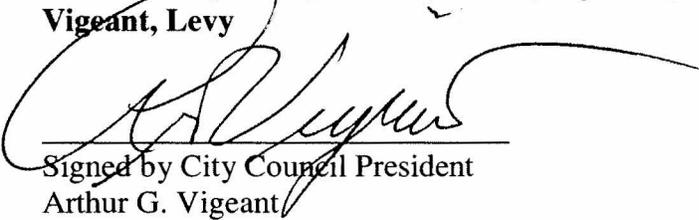
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- 11) Applicant shall securely attach cables to the outside of the tower in such a manner as to prevent noise and/or other disturbance that would be obtrusive to the neighborhood.

Yea: 11 – Nay: 0

**Yea: Delano, Ferro, Schafer, Juairé, Seymour, Clancy, Landers, Ossing, Pope,
Vigeant, Levy**


Signed by City Council President
Arthur G. Vigeant

ADOPTED
In City Council
Order No. 08-1001858C