



# IN CITY COUNCIL

FEBRUARY 11, 2013

Marlborough, Mass., \_\_\_\_\_

ORDERED:

## DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

### NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:  
T-Mobile Northeast LLC  
12920 SE 38<sup>th</sup> Street,  
Bellevue, WA 98006  
Order No. 12/13-1005191C

Locus:  
342 Lincoln Street  
Assessors Map 69, Parcel 263

### DECISION

The City Council of the City of Marlborough hereby GRANTS the application of Sprint, as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: **February 20, 2013**

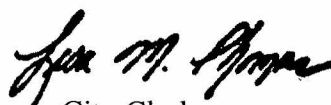
The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **20<sup>th</sup>** day of **February, 2013**.

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 13<sup>th</sup> day of March 2013

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

A TRUE COPY  
ATTEST

  
City Clerk



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ORDERED:

## DECISION ON AN APPLICATION TO MODIFY SPECIAL PERMIT

**T-MOBILE NORTHEAST LLC**

**CITY COUNCIL ORDER NO. 12/13-1005191C**

Re: 342 Lincoln Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 97-7199B, submitted by T-Mobile Northeast LLC, having a usual place of business at 15 Commerce Way, Suite B, Norton, MA 02766 as provided in this Decision and subject to the following Findings of Fact and Conditions.

### EVIDENCE

1. The Applicant is T-Mobile Northeast LLC with its principal office located at 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006 (hereinafter, "the Applicant").
2. On November 10th, 1997, the City Council granted to Omnipoint Communications Inc. a special permit to locate and operate a wireless communications facility at the existing building located at 342 Lincoln Street, Marlborough, MA (hereinafter, "the Original Special Permit"). On June 30, 2009, Omnipoint Communications Inc. assigned its wireless markets in New England, and the assets relating thereto, including without limitation cell site and/or commercial and/or other leases under which it was a then-lessee, to Omnipoint Facilities Network 1, LLC. Later on June 30, 2009, Omnipoint Facilities Network 1, LLC merged with and into T-Mobile Northeast LLC, Applicant herein. The Original Special Permit is recorded at the Middlesex South District Registry of Deeds in Book 27967, Page 267. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 69, Lot 263 (hereinafter, "the Site"). The owner of record for the Site is Lilien Realty, LLC.



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Marlborough, Mass., ~~\_\_\_\_\_~~ FEBRUARY 11, 2013  
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## ORDERED:

3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (WCF) (hereinafter, "the Application"), the Applicant seeks permission to allow Applicant to replace the existing (6) antennas for (6) newer models, add a GPS antenna with ½" feed mounted to an existing support pipe, replace the existing 2106 equipment cabinet with a 6102 equipment cabinet, remove the existing GSM Tower Mounted Amplifiers and lastly consolidate the existing coax cables ("the Proposed WCF Project"). Thus, the modification will actually result in a slight reduction of equipment at the Site/WCF (Wireless Communication Facility). All substantially as depicted on a set of plans entitled "Site Name: BO012/342 LINCOLN, 342 Lincoln Street, Marlboro, MA 01752, Middlesex County, Site Number: 4DE5012A" by Advanced Engineering Group, P.C., 500 North Broadway, East Providence, RI 02914, dated 7/10/12 and last revised 7/31/12, a copy of which was provided in the Special Permit Application (hereinafter, "the Plans").
4. For purposes of the Application, the Applicant is a licensee of SBA Site Management, LLC, a Florida limited liability company, whose lease agreement to use the Site, pursuant to an Antenna Site Lease Agreement executed on August 21, 1997 and amended on September 24, 1997, has been assigned by the Site's owner to T1 Unison Site Management, LLC, a Delaware limited liability company, via a Rooftop Easement and Assignment Agreement recorded at the Middlesex South District Registry of Deeds in Book 57368, Page 261.
5. The Proposed WCF Project is located in the Business Zoning District. Wireless communication devices are allowed by grant of special permit in the Business Zoning District.
6. The modification of the Original Special Permit is being sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 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 Building Inspector, on behalf of 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.









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ORDERED:

- 8) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Inspector for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) shall include a professional opinion by a qualified third party certifying that the Proposed WCF Project fully complies with all applicable health and safety standards; and iii) shall provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 650-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall i) state what the changes or upgrades are; ii) shall provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; iii) shall provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) shall include a professional opinion by a qualified third party certifying that the Applicant's changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable health and safety standards.



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**ORDERED:**

- 9) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Modified Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Modified Special Permit has elapsed with no appeal having been filed, and before the Applicant has applied to the Building Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy to the City Council's office and to the City Solicitor's office.

**Yea: 11- Nay: 0**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey**

  
Signed by City Council President  
Patricia A. Pope

ADOPTED  
In City Council  
Order No. 12/13-1005191C