



IN CITY COUNCIL

APRIL 9, 2012

Marlborough, Mass., _____

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

Special Permit Application of:
Sprint
1 International Blvd., Suite 800
Mahwah, NJ
Order No. 11/12-1003096C

Locus:
445 Simarano Dr.
Assessors Map 116, Parcel 1

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 11/12-1003096C

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: **APRIL 19, 2012**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **19th** day of **APRIL 2012**.

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 10th day of May, 2012.

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

A TRUE COPY

ATTEST:

City Clerk



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ORDERED:

DECISION ON AN APPLICATION TO MODIFY SPECIAL PERMIT

SPRINT

CITY COUNCIL ORDER NO. 11/12-1003096C

Re: 445 Simarano Drive (a/k/a 40 Crane Meadow Road)

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 00-8772B, submitted by Sprint, LLC, having a usual place of business at 1 International Blvd., Suite 800, Mahwah, NJ, as provided in this Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is Sprint, LLC (hereinafter, "Applicant").
2. On July 19, 2000 the City Council granted to Crown Castle International/Nextel Communications a Special Permit to install and operate a wireless communications facility at 445 Simarano Drive, which is also known as, and is referred to in that Special Permit as, 40 Crane Meadow Road, Marlborough, MA (hereinafter, "the Original Special Permit"). In 2005, Nextel Communications was acquired by Sprint PCS. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 116, Lot 1 (hereinafter "Site"). The owner of record for the Site is 445 Simarano Drive Marlborough LLC.



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3. Through its Application for Modification of a Special Permit for an Existing Wireless Communications Facility (hereinafter "Application"), as amended by the Applicant at the Wireless Communications Committee's February 28, 2012 meeting so as to eliminate all 4G LTE aspects of the Application, the Applicant seeks permission to modify the Original Special Permit referenced above to allow the consolidation of three (3) Iden antennae to two (2) dual pole antenna, remove three (3) CDMA antenna and replace with three (3) Sprint Vision antenna. The new antennae are substantially the same size and weight as the current antenna. Additionally, Sprint is proposing to install six (6) RRH behind or below the antennas, replace one (1) CDMA cabinet with two (2) new BBU cabinets and one (1) MM cabinet within the existing lease area, replace the GPS antenna, and remove all existing CDMA coax cable and replace with three (3) hyperflex cables (hereinafter "WCF Project"), all substantially as depicted on a set of plans entitled "Sprint Vision, BS73XC031, Cedar Hill, 40 Crane Meadow Road, Marlborough, MA 01752" by Salient Architects, LLC, dated 8/16/11 and last revised 3/12/12, a copy of which were provided in the Application and later revised (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The Site is zoned Industrial (I). Wireless communication devices are allowed by grant of a special permit in Industrial (I) Zoning Districts.
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.
8. The Applicant has complied with all of the applicable Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 23, 2012, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law.



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10. The Applicant presented oral testimony and demonstrative evidence at the public hearing, demonstrating that the Proposed WCF Project meets all the applicable special permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project compliance with the applicable Special Permit criteria.
12. The Council, in reviewing the Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

**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.
- B) The Site is an appropriate location for the Proposed WCF Project and 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 650-25 and Article VIII, Section 650-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF 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 a modification of the Original Special Permit (hereinafter, "Modified Special Permit"), **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 9:**



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1. The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Application, as amended during the application/hearing process, and in compliance with the conditions of the grant of this Modified Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
2. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of this Modified Special Permit are herein incorporated into and become a part of this Modified Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
3. 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 Applicant's Proposed WCF Project.
4. The issuance of this Modified Special Permit is further subject to Site Plan Review, in accordance with the City of Marlborough's ordinance, prior to the issuance of the actual building permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to this Modified Special Permit and no occupancy permit shall be issued until all conditions are complied with by Applicant.
5. Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application, and as may be required by Site Plan Review.
6. Failure to pay in a timely manner the annual sum of One Thousand Five Hundred (\$1,500.00) dollars to the City of Marlborough Open Space Account #100-2410-44515, as conditioned in the Original Special Permit, shall constitute a violation of the Modified 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.



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7. Applicant shall not utilize a permanent electrical generator, of any type, in connection with the operation of the Proposed WCF Project. Applicant shall be permitted to use a temporary electrical generator in connection with the operation of the Proposed WCF Project only in cases of power outages to the Proposed WCF Project and for purposes of routine testing and maintenance. The temporary generator shall be operated in a safe manner and the noise produced by the temporary generator shall conform to the City's noise ordinance set forth in Chapter 431 of the City Code. Batteries used in the operation of the facility shall be disposed of off-site at the expense of the Applicant. If any liquid or hazardous material is used by Applicant in conjunction with the temporary generator, Applicant must employ a secondary containment system.

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 Modification; 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



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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.

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 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. 12-1003096C