



IN CITY COUNCIL

AUGUST 23, 2010

Marlborough, Mass., _____

ORDERED:
Suspension of the Rules requested - granted

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 10-1002624B

Application of:
Verizon Wireless
400 Friberg Parkway
Westborough, MA 01581

Locus:
Marlborough Westerly Wastewater Treatment Plant (WWTP)
303 Boundary St.
Map 76, Parcel 1 & 2

DECISION

The City Council of the City of Marlborough voted to Grant a Special Permit to Verizon Wireless (Bell Atlantic Mobile of Massachusetts Corporation, Ltd. and Celco Partnership) for the installation and operation of a Wireless Communications Facility (WCF) at 303 Boundary Street, located inside a Water Supply Protection District, pursuant to Article VI, Section 650-24, based on the Findings of Facts and Conditions attached hereto.

Decision filed: **September 1, 2010**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on **September 1, 2010**.

APPEALS

Appeals, if any shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, Ma.

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 21st day of September, 2010.

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

A TRUE COPY
ATTEST:


City Clerk



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ORDERED:

**VERIZON WIRELESS
303 BOUNDARY STREET, MARLBOROUGH
SPECIAL PERMIT (WATER SUPPLY PROTECTION DISTRICT)
FINDINGS OF FACT AND CONDITIONS**

The City Council of the City of Marlborough hereby grants the application for a Special Permit to Bell Atlantic Mobile of Massachusetts Corporation, Ltd., and Cellco Partnership, d/b/a Verizon Wireless, to construct a Wireless Communications Facility ("WCF") in Zone A of the Water Supply Protection District, as provided in this Decision and subject to the following Findings of Facts and Conditions.

- 1) Bell Atlantic Mobile of Massachusetts Corporation, Ltd., and Cellco Partnership, d/b/a Verizon Wireless, having a business address of 400 Friberg Parkway, Westborough, Massachusetts, 01581, and is hereinafter referred to as the "Applicant".
- 2) The Applicant responded to a request for proposals (RFP) issued by the City of Marlborough's Procurement Office for the lease of city-owned land at the Westerly Waste-Water Treatment Plant ("WWTP") for the installation of a WCF. The Applicant was later issued a notice of award by the City's Procurement Office and a notice to proceed with the applicable permitting process, including this Special Permit process. Applicant is a prospective lessee to the City of Marlborough.
- 3) The WWTP is a large tract of wooded land, consisting of 11 acres (Map 76, Lot 1) and 152 acres (Map 76, Lot 2), located at 303 Boundary Street, adjacent to Millham Reservoir. The existing municipal use at the City's WWTP is located in an RR Zone (Rural Residential), and the table of uses lists WCFs as allowed by wireless special permit in the RR Zone.
- 4) The Applicant on or about June 24, 2010, filed with the City Clerk of the City of Marlborough an application for a Special Permit under the provisions of Article VI, Section 650-24 and pursuant to the procedures specified in Article VIII, Section 650-59, of the Marlborough Zoning Ordinance.
- 5) In connection with the special permit application, Applicant filed a Summary Impact Statement, certified list of abutters, filing fee and twenty (20) copies of the site plan.
- 6) The Site Plan was certified by the City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m) of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.



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- 7) Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing for the permit application and the City Clerk caused to be advertised said date in the Metrowest Daily News and sent notice of said hearing to abutters entitled to notice under law.
- 8) The Marlborough City Council, pursuant to MGL C.40A, held a public hearing on July 26, 2010, concerning the said application. The hearing was opened and closed at that meeting.
- 9) Applicant's attorney presented testimony at the public hearing detailing the application, described the WCF development and its location and described the equipment to be stored inside the Applicant's locked and secured shelter and the long distance from Millham Reservoir (350 feet).
- 10) Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding the location, installation and operation of the proposed project, including the proposed locked/secured equipment shelter building and related site modifications.
- 11) Applicant provided the Urban Affairs Committee with the final site plans previously approved by the City Council in connection with the special permit for the WCF pursuant to Section 650-25, entitled Engineering Plans and Drawings prepared by SFC Engineering Partnership, Manchester, New Hampshire, entitled "Marlborough West" and dated September 29, 2009, with a most recent revision date of February 23, 2010, (the "Plans"). The application and support documentation and engineering plans show that the Applicant's WCF is to consist of a 150-foot monopole-type tower, The WCF will also include an approximately 50 x 50 foot fenced compound area (approximately 2,500 square feet) enclosing the Applicant's 12 x 30 foot equipment/generator shelter, propane tank and accessory equipment, along with future equipment areas for the other wireless carriers. An area for parking vehicles and for electric and telephone utility equipment is shown on the outside of the fenced compound. The Applicant's WCF is to be located at the rear of the City's WWTP and the Applicant shall install and maintain a twenty-foot wide (20-foot) gravel-covered roadway leading from Boundary Street to the fenced compound, with electric and telephone utilities to be run underground from Boundary Street to the Applicant's WCF. The Engineering Drawings show the elements of this project that are in Zone A of the Water Supply Overlay District.



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12) Applicant stated that all equipment associated with the WCF, except for the tower structure and an above-ground 500 gallon propane tank and HVAC units attached to the equipment shelter, shall be operated and maintained and monitored inside the Applicant's locked 12 x 30 equipment shelter which shall be monitored by monthly inspections and by Applicant's 24-hour Network Operations Center for security and temperature conditions.

13) Applicant stated that there are no water or sewer connections to the WCF and the electric and telephone utilities shall be routed underground pursuant to the Applicant's WCF Special Permit. The WCF is unmanned with infrequent vehicle trips to the site during daytime hours. Access to the WCF shall be restricted by a locked gate off of Boundary Street.

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

A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.

B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will be in harmony with the general purposes and intent of the zoning ordinance, in that it is a WCF on city-owned land on a large and remote tract of land a long distance from residential properties (1,000 feet) and long distance from Millham Reservoir (350 feet), and that there are no significant negative impacts upon abutters. The proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. The City Council further finds that, subject to the permit conditions enumerated herein, the proposed use will not have an adverse impact on the Marlborough water supply.

C) The City Council has reviewed the uses in this proposal that will be located in Zone A of the Water Supply Protection District and finds that the use, though located in Zone A, is not prohibited by the Water Supply District regulations and will not have an adverse impact on the water supply district, provided that the permit conditions imposed below are complied with.



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ORDERED:

D) The City Council, pursuant to its authority under MGL C.40A §9 and under Chapter 650 of the Marlborough City Code, GRANTS the Applicant a Special Permit to allow a WCF on the premises, (the "Project"), SUBJECT TO THE FOLLOWING CONDITIONS:

1) Compliance With Building Regulations. Construction of all structures on the site is to be in accordance with all applicable building codes in effect in the City of Marlborough and Commonwealth of Massachusetts. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's Special Permit Application and Engineering Plans and Drawings prepared by SFC Engineering Partnership, Manchester, New Hampshire, entitled "Marlborough West" and dated September 29, 2009, with a most recent revision date of February 23, 2010, (the "Plans") filed with the Urban Affairs Committee during the application/hearing process. All other terms, conditions, requirements, approvals, drawings and renderings required hereunder are made a part of and incorporated herein as a condition of the issuance of this Special Permit.

2) Compliance With Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Ordinance, prior to the issuance of the actual Building Permit; provided, however, that the Building Commissioner may issue a building permit prior to the completion of site plan review regarding work which, in his opinion, will not be affected by said site plan review. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall be further conditions attached to the Special Permit and no Occupancy Permit shall be issued until all conditions are complied with by the Applicant. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns within the site, require the removal of landscaping, reduce the overall green space of the Project, or add any new element in Zone A other than the landscaping, will require subsequent approval by the City Council.

3) Application and Documents. All plans, drawings, site evaluations and 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.



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4) Compliance with Local, State and Federal Laws. The Applicant agrees to comply with all rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of Applicant's facility, except pursuant to the terms of this Special Permit.

5) Incorporation of Plans and Drawings. All terms, conditions, requirements, approvals, plans, and drawings provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council. The Site Plan referred to in this condition is part of the Plans referred to in Condition #1 above.

6) Improvements Installed Prior to Certificate of Occupancy. All site improvements, except those specified on the plans approved on site plan review, that have been shown in renderings and/or are conditions of this Special Permit will be installed prior to the issuance of any temporary or permanent occupancy certificate. If all other work is completed between Oct. 1 and June 1, any landscaping plants will be required to be installed by June 1. Applicant agrees that the permanent maintenance of the landscaping and the other site improvements is an ongoing condition of this Special Permit.

7) Equipment Shelter Secured and Monitored: All equipment associated with the WCF, except for the tower structure and an above-ground 500 gallon propane tank and HVAC units attached to the equipment shelter, shall be operated and maintained and monitored inside the Applicant's locked 12 x 30 equipment shelter which shall be monitored by monthly inspections and by Applicant's 24-hour Network Operations Center for security and temperature conditions.

8) Unmanned and Secured Facility: There shall be no water or sewer connections to the WCF and the electric and telephone utilities shall be routed underground pursuant to the Applicant's WCF Special Permit. The WCF shall be unmanned with infrequent vehicle trips to the site during daytime hours. Access to the WCF shall be restricted by a locked gate off of Boundary Street.

9) Operation and Maintenance of Battery Racks. The back-up batteries used by the Applicant for uninterrupted power supply shall be Northstar type NSB170FT batteries or similar battery, designed as non-spill, sealed, valve-regulated and fiberglass-mat. The batteries shall be stored in rack systems inside the locked shelter with regular maintenance checks. Any unused or malfunctioning batteries shall be immediately removed and properly disposed.



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ORDERED:


10) Auxiliary generator propane tank. The Applicant's propane tank shall be fastened to a concrete base with appropriate inspection permitting by the Fire Department.

11) Compliance With Related Permit. Applicant has also applied-for and obtained a special permit, pursuant to Section 650-25, to construct a WCF in a Rural Residence District. Any conditions attached to the approval of that special permit are also incorporated herein and made a part hereof. The Applicant's WCF shall be installed, operated and maintained in conformance with the City Council Special Permit for the WCF (09/10-1002161F) dated March 22, 2010, and recorded at Middlesex South Registry, Book 54647, page 262.

12) Recordation. In accordance with the provisions of MGL 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, before a Building Permit is issued.

Yea: 11- Nay: 0

Yea: Delano, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Vigeant, Levy


Signed by City Council President
Arthur G. Vigeant

ADOPTED
In City Council
Order No. 10-1002624B