



# IN CITY COUNCIL

NOVEMBER 5, 2012

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

**ORDERED:**

## DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

### NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of  
Sprint  
1 International Blvd, Suite 800  
Mahwah, NJ.  
Order No. 12-1005093D

Locus:  
860 Boston Post Rd.  
Map 61, Parcel 16

### DECISION

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

Decision filed: **November 20, 2012**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **20th** day of **November, 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 11<sup>th</sup> day of December 2012

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

A TRUE COPY  
ATTEST

  
City Clerk



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NOVEMBER 5, 2012

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**ORDERED:**

## **DECISION ON AN APPLICATION TO MODIFY SPECIAL PERMIT**

**SPRINT**

**CITY COUNCIL ORDER NO. 12-1005093D**

Re: 860 Boston Post Road

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 05-100942A, submitted by Sprint, 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 (hereinafter, "Applicant").
2. On December 19, 2005, by Order No. 05-100942A, the City Council granted to Sprint Spectrum LP, A Delaware Limited Partnership, a special permit to construct and operate a 15' monopole extension to the then-previously approved 120' wireless tower, and to install on that extension up to twelve (12) panel antennas and associated equipment in a fenced compound area, on the property located at 860 Boston Post Road, Marlborough, MA (hereinafter, "the Original Special Permit"). The Original Special Permit is being recorded herewith at the Middlesex South District Registry of Deeds. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 61, Parcel 16 (hereinafter, "the Site"). The owner of record for the Site is the City of Marlborough.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter, "the Application"), as amended by the Applicant at the Marlborough City Council's September 10, 2012 public hearing, the Applicant seeks permission to replace six (6) of the currently installed CDMA antenna with three (3) Sprint Vision antennas onto an existing wireless communication facility; add six (6) remote radio heads onto an existing wireless communication facility; replace one (1) GPS mounted to the tower; replace one (1) CDMA cabinet with two (2) BBU cabinets, and install one (1) MM-BTS equipment cabinet and install a fiber distribution box within the existing lease area; and remove all existing CDMA coax cables and replace with four (4) hybrid cables connecting the antennae to the existing equipment (hereinafter "Proposed



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## ORDERED:

WCF Project”), all substantially as depicted on a set of plans entitled “Sprint Vision, Site Number: BS54XC929, Site Name: Verizon/Easterly Treatment Plant, Site Address: 860 Boston Post Road, Marlborough, MA 01752” by Salient Architects, LLC, dated 9/22/11, a copy of which was provided in the Special Permit Application (hereinafter, “the Plans”).

4. The Applicant is a lessee of Verizon Wireless for purposes of the Application.
5. The Proposed WCF Project is located in part in the Rural Residential Zoning District, and in part in the Business Zoning District. Wireless communication devices are allowed by grant of special permit in both 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 of the Rules and Regulations.
9. The City of Marlborough City Council opened a public hearing on the Proposed WCF Project on September 10, 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.
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's compliance with the applicable Special Permit criteria.



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## ORDERED:

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 the Proposed WCF 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 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 13:**

1. Applicant agrees to 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.



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## ORDERED:

2. 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. All plans and photo renderings which have been filed by Applicant are hereby incorporated and become part of this Modified Special Permit.
3. 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.
4. All conditions set forth in the Original Special Permit are applicable to this Modified Special Permit.
5. 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 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.
6. No installation work shall be performed by Applicant or its contractors without the supervision of an appropriate individual designated by the Commissioner of the City of Marlborough's Department of Public Works. Additionally, the MDPW will conduct a final inspection of the installation work within fifteen (15) days of completion of the installation.
7. Pursuant to Chapter 650-25F of the Marlborough Zoning Ordinance, Applicant shall indemnify the City of Marlborough regarding the installation, maintenance and operation of Applicant's equipment at the Site, and Applicant shall provide the City's Legal Department with a certificate of liability insurance naming the City as an additional insured.
8. Applicant shall provide landscaping around the equipment cabinets at the Site to adequately shield them from view.



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## ORDERED:

9. Applicant shall not install any asphalt on the Site or the adjacent City-owned premises.
10. Applicant shall maintain and keep the Site in good repair, neat, clean and free from all debris.
11. 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 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.
12. 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



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### ORDERED:

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.

13. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record both the Original Special Permit, as well as 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 both the recorded Original Special Permit as well as the recorded Modified Special Permit to the Building Inspector's office when the Applicant applies for the building permit, as well as a copy of both special permits 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. 12-1005093D