



IN CITY COUNCIL

NOVEMBER 7, 2011

Marlborough, Mass., _____

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

Special Permit Application of:
AT & T Mobility Corporation
New Cingular Wireless PCS, LLC
550 Cochituate Rd., Suite 13 & 14
Framingham, MA 01701
Order No. 11-1002956F

Locus:
860 Boston Post Rd.
Assessors Map 6, Parcel 16

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 11-1002956F (X08/09-1002083B)

The City Council of the City of Marlborough hereby **GRANTS** the application of AT & T Wireless, as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: **November 22, 2011**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **22nd** day of **November, 2011**.

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 13th day of December 2011.

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

A TRUE COPY
ATTEST

A handwritten signature in black ink, appearing to read "Lisa M. [unclear]".

City Clerk



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ORDERED:

**DECISION ON AN APPLICATION TO MODIFY
SPECIAL PERMIT NO. 08/09-1002083B**

**NEW CINGULAR WIRELESS PCS, LLC,
BY AT&T MOBILITY CORPORATION, ITS MANAGER**

CITY COUNCIL ORDER NO. 11-1002956F

Re: 860 Boston Post Road East

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 08/09-1002083B to New Cingular Wireless PCS, LLC, by AT&T Mobility Corporation, Its Manager, having a usual place of business at 550 Cochituate Road, Suite 13 and 14, Framingham, MA 01701, as provided in the Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is New Cingular Wireless PCS, LLC, by AT&T Mobility Corporation, Its Manager, which has a business address of 550 Cochituate Road, Suite 13 and 14, Framingham, MA 01701 (hereinafter "Applicant").
2. On April 6, 2009, the City Council granted to New Cingular Wireless PCS, LLC a Special Permit to allow co-location of six (6) wireless communications panel antennas on an existing 140' high wireless communications monopole, and one (1) GPS antenna mounted on a proposed ice bridge, and a 12' X 20' equipment shelter on the ground within an existing compound and associated cables, utilities and equipment at 860 Boston Post Road East, Marlborough, MA (hereinafter, "the Original Special Permit"). The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 61, Lot 16 (hereinafter "Site"). The owner of record for the Site is the City of Marlborough.



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3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), the Applicant seeks permission to modify the Original Special Permit referenced in ¶ 2 above, so as to allow at the Site co-location of three (3) LTE panel antennas onto an existing wireless communication facility tower; (6) remote radio heads onto an existing wireless communication facility tower; one (1) LTE GPS antenna on the existing ice bridge; one (1) 23" LTE rack in the existing equipment shelter; as well as the placement of one (1) 3" flex conduit connecting the antennae to the existing equipment shelter (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Marlborough Water Treatment Plant (MA-3528)" by Pro Terra Design Group, LLC and dated 3/11/11, a copy of which were provided as Exhibit 11 to the Special Permit Application (hereinafter "Plans").
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The Site is zoned Rural Residential (RR) and Business (B). The proposed WCF is located in the Rural Residential (RR) portion of the Site. Wireless communication devices are allowed by grant of a special permit in Rural Residential 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 August 1, 2011, for which proper notice had been published and for which proper notice had been given to all parties entitled to notice under the law. Said hearing was continued to and closed on August 29, 2011.
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.



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ORDERED:

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.
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 3:**

- 1) Except as modified below, all conditions set forth in the Original Special Permit shall apply to the Modified Special Permit.



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ORDERED:

- 2) 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.

- 3) 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, Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Vigeant, Pope & Levy

A handwritten signature in black ink, appearing to read "A. Vigeant", written over a horizontal line.

Signed by City Council President

Arthur G. Vigeant

ADOPTED
In City Council
Order No. 11-1002956F