



# IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 14, 2016

ORDERED:

## DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

### NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:  
New Cingular Wireless Pcs, LLC  
AT & T Mobility  
10 Memorial Drive  
Providence, RI 02903  
Order No. 16-1006637C

Locus:  
175 Maple St.  
Assessors Map 82, Parcel 132

### DECISION

The City Council of the City of Marlborough hereby GRANTS the Application of New Cingular Wireless Pcs, LLC, AT & T Mobility, having a mailing address of 10 Memorial Dr, Providence, RI 02903 as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: November 14, 2016.

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 21<sup>ST</sup> day of November, 2016.

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 December, 2016.

Given under Chapter 40A Section 17 of the General Laws.

A TRUE COPY  
ATTEST

  
City Clerk



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**ORDERED:**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT 11-1003004C (99-8311B)**

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

**CITY COUNCIL ORDER NO. 16-1006637C**

Re: 175 Maple Street

The City Council of the City of Marlborough hereby **GRANTS** the application to modify Special Permit No. 11-1003004C (which modified Special Permit No. 99-8311B) to New Cingular Wireless PCS, LLC ("AT&T"), having a usual place of business at 550 Cochituate Road, Suites 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 which has a business address of 550 Cochituate Road, Suite 13 and 14, Framingham, MA 01701 (hereinafter "Applicant").
2. On November 22, 2011, the City Council granted to Applicant, Special Permit No. 11-1003004C to modify Special Permit No. 99-8311B (collectively, the "Original Special Permit") which allowed an upgrade to the wireless communications facility ("WCF") attached to the existing water tank located at 175 Maple Street, Marlborough, MA. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 82, Lot 132 (hereinafter "Site"). The owner of record for the Site is the PMC/Maple Landowner LLC.
3. By letter dated July 18, 2016, the Applicant submitted to the City Council an application to modify the Original Special Permit (hereinafter "Application"). The Applicant is a lessee of the Site's owner for purposes of the Application.
4. The WCF is located in the Business (B) Zoning District. Wireless communication devices are allowed by grant of a special permit in Business (B) Zoning District.
5. The modification of the Original Special Permit is sought pursuant to Article VI, Section 650-25 and Article VIII, Section 650-59 of the Zoning Code of the City of Marlborough.



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## ORDERED:

6. Due to the continuing and ongoing modifications of the WCF, Applicant requests that the City Council delete Condition 7 of the Special Permit which requires that an American flag be flown at the WCF and that a more appropriate condition be imposed to honor the American flag. In particular, the Applicant proposes to remove the flag and associated mechanical lanyard device, as well as the gold ball finial at the top of the antenna canister.
7. Pursuant to the Rules and Regulations of Application for Special Permit ("Rules and Regulations"), the Building Commissioner, 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 held a public hearing on Applicant's request to modify the Original Special Permit on August 29, 2016, 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 modification to the Original Special Permit meets all the applicable Special Permit criteria of Article VI, Section 650-25 and Article VIII, Section 650-59.
11. 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 WCF.

**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 to modify the Original Special Permit.



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## ORDERED:

- B) The Site remains an appropriate location for the WCF and the modification to remove the flag from the WCF at the Site 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. Flying the American flag is no longer appropriate due to the ongoing changes to the WCF located at the Site.
- 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 continuing to screen its WCF 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 4:**
- 1) Except as modified below, all conditions in the Original Special Permit shall apply to the Modified Special Permit.
  - 2) Any problems arising out of the operation of the WCF that interfere with reception at the Marlborough Fire Department's headquarters at 215 Maple Street or the City of Marlborough's public safety radio system shall be rectified by Applicant as soon as possible.
  - 3) Condition numbered 7 of the Original Special Permit is hereby deleted and replaced with the following: "Applicant shall make, within thirty (30) days 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, a one-time contribution of \$5,000 to the City of Marlborough's Flag Account (#29024001 55851) as an appropriate means to honor the American flag in lieu of flying the American flag at the WCF located at the Site."



## IN CITY COUNCIL

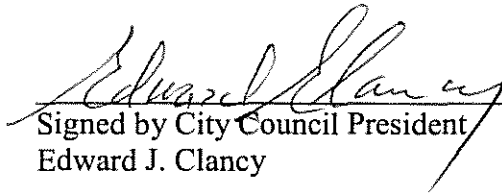
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**ORDERED:**

- 4) 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 Commissioner for a building permit, if necessary, concerning the removal of the American flag and associated mechanical lanyard device, as well as the gold ball finial at the top of the antenna canister. Prior to applying for any necessary building permit, the Applicant shall provide a copy of the recorded Modified Special Permit to the Building Department, the City Council's office and the City Solicitor's office; if no building permit is deemed necessary by the Building Commissioner, the Applicant shall provide such copy to those offices forthwith after recording.

**Yea: 11 – Nay: 0**

**Yea: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juairé, Oram, Ossing & Robey**

  
Signed by City Council President  
Edward J. Clancy

ADOPTED  
In City Council  
16-1006637C