



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

**Lisa M. Thomas  
140 Main St.**

**Marlborough, MA 01752  
(508) 460-3775 FAX (508) 460-3723  
NOVEMBER 7, 2011**

Regular meeting of the City Council held on Monday, NOVEMBER 7, 2011 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Ossing, Vigeant, Pope, Levy, Delano, Ferro, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 9:45 PM.

ORDERED: That the City Council president recognized Boy Scout Troop 2, sponsored by the American Legion, for the Citizenship and Community Merit Badges, **FILE**; adopted.

ORDERED: That the minutes of the City Council Meeting OCTOBER 17, 2011, **TABLED UNTIL NOVEMBER 21, 2011**; adopted.

ORDERED: That the request for Executive Session for November 7, 2011 re: Litigation Strategy in an Employee Matter to be heard when City Council convenes for the meeting, **FILE**; adopted.

ORDERED: That the Certification of Free Cash in the amount of \$7,766,863.00, **FILE**; adopted.

ORDERED: That the Capital transfer request in the amount of \$1,182,000.00 which moves funds from Free Cash to various capital equipment accounts which will enable the City to purchase a portion of the FY12 capital equipment outright, therefore reducing the tax burden, refer to the **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$1,182,000.00

TO:

Acct. # 19300006-58462 \$299,000.00

Water

Acct. # 19300006-58731 \$358,000.00

DPW Equip.

Acct. # 19300006-58618 \$375,000.00

IT Equipment

Acct. # 19300006-58467 \$ 150,000.00

Public Facilities

ORDERED: That the Other Post Employment Benefits (OPEB) transfer request in the amount of \$1,000,000.00 which moves funds from Undesignated to OPEB Stabilization, refer back to the **MAYOR FOR CORRECTION**; adopted.

FROM:

Acct. #10000-35900 \$1,000,000.00

Undesignated Funds

TO:

Acct. # 836000-32726 \$1,000,000.00

OPEB Stabilization

ORDERED: That the Capital Outlay transfer request in the amount of \$618,720.00 which moves funds from Free Cash to various accounts as detailed in the attached spreadsheets, refer to **FINANCE COMMITTEE**; adopted.

TRANSFER REQUEST									
FROM ACCOUNT				TO ACCOUNT					
AVAILABLE BALANCE	AMOUNT	ORG C	OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE	OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
				<b>Undesignated Fund</b>				<b>Capital Outlay</b>	
\$ 7,766,863.00	\$ 618,720.00	10000	35900	Undesignated Fund	\$ 99,000.00	19300006	58420	Guardrail	\$ -
					\$ 30,000.00		58461	Sewer	
					\$ 31,000.00		58462	Water	
					\$ 50,000.00		58514	DPW Projects	
					\$ 28,750.00		58731	DPW Equip	
					\$ 56,000.00		58508	Police Vehicles	
					\$ 53,143.00		58593	Police Equip	
					\$ 212,327.00		58512	Fire Equipment	
					\$ 28,500.00		58513	Fire Protection	
					\$ 30,000.00		58618	is Equipment	
					\$ 618,720.00				
Reason To Fund Capital Outlay Reduced From The FY 12 Budget. Please see attached request from Mayor									
<b>Capital</b>									
<b>DPW</b>									
Streets	5/8 Floor Standing Drill				\$ 400.00				
	Jumping Jack Compactor				\$ 2,500.00				
	Guardrail Fencing				\$ 99,000.00				
	Traffic Line Painting Downtown				\$ 50,000.00				
					\$ 151,900.00				
Repair	Wheel Grabber Tool Hub Remover				\$ 1,600.00				
	13 Ton Puller Set				\$ 1,000.00				
	Pressure Washer				\$ 6,900.00				
					\$ 9,500.00				
For, Parks	Winch for 254xpx Chipper				\$ 5,000.00				
Cemet	48 inch walk behind mower				\$ 4,850.00				
	Set of Flotation Tracks for Skidsteer				\$ 4,500.00				
	Plate Compactor				\$ 2,000.00				
					\$ 16,350.00				
Sewer	1 inch Steel Plate 8'x20'				\$ 5,000.00				
	Composite Sampler (EWTP)				\$ 4,000.00				
	Composite Sampler (WWTP)				\$ 4,000.00				
	Sewer Lateral Camera				\$ 5,000.00				
	Sewer Gas Meter Detector				\$ 1,500.00				
	Mudsucker Pump				\$ 2,000.00				
	Trench Safety-Shoring Modular				\$ 8,500.00				
					\$ 30,000.00				
Water	1 inch Steel Plate 8'x20'				\$ 5,000.00				
	Jumping Jack Compactor				\$ 2,500.00				
	Portable Generator				\$ 1,000.00				
	Modular Trench Shoring				\$ 8,500.00				
	Fencing Water Tanks				\$ 14,000.00				
					\$ 31,000.00				
	<b>DPW TOTAL</b>				\$ 238,750.00				
Police	2 Patrol Vehicles				\$ 56,000.00				
	Automatic License Plate Reader Sys.				\$ 20,000.00				
	Update/Replace gym Equipment				\$ 22,403.00				
	Replace shotguns 15 @716				\$ 10,740.00				
					\$ 109,143.00				
FIRE	Radios				\$ 183,927.00				
	SCBA				\$ 12,500.00				
	Fit Tester				\$ 15,900.00				
	Turnout Gear				\$ 28,500.00				
					\$ 240,827.00				
IS	Security Set Up				\$ 30,000.00				
	<b>Total</b>				\$ 618,720.00				

ORDERED: That the DPW Snow Equipment transfer request in the amount of \$298,000.00 which moves funds from Undesignated to DPW Equipment as two of the City's sidewalk plows have been decommissioned, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900 \$ 298,000.00  
Undesignated Funds

TO:

Acct. # 19300006-58731 \$ 298,000.00  
DPW Equipment

ORDERED: That the October Nor'easter transfer requests in the amount of \$125,000.00 from Undesignated and \$25,000.00 from Hurricane Irene which moves funds to Halloween Snow Storm, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900 \$125,000.00  
Undesignated Funds

Acct. # 11990006-53021 \$ 25,000.00  
Hurricane Irene

TO:

Acct. # 11990006-53019 \$ 150,000.00  
Halloween Snow Storm

ORDERED: That the intra-departmental DPW transfer request in the amount of \$39,000.00 which moves funds from Assistant Commissioner Utilities to Maintenance-Trenches as a result of a major water main break, **APPROVED**; adopted.

FROM:

Acct. # 60080001-50630 \$39,000.00  
Assistant Commissioner Utilities

TO:

Acct. # 61090006-54620 \$39,000.00  
Maintenance-Trenches

ORDERED: That the intra-departmental Fire Department transfer request in the amount of \$30,000.00 and \$27,267.04 which moves funds from Firefighter to OT., refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS									
DEPT: FIRE					FISCAL YEAR: 2012				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$2,033,075.70	\$30,000.00	12200001	50450	FIREFIGHTER	\$30,000.00	12200003	51300	OVERTIME	\$74,753.38
	Reason:	Transfer is available due to a resignation							
\$2,033,075.70	\$27,267.04	12200001	50450	FIREFIGHTER	\$27,267.04	12200003	51300	OVERTIME	\$74,753.38
	Reason:	Transfer is available due to 111F payments being made to Firefighters							

ORDERED: Under authority of MGL, Chapter 44, Section 53A, the City Council hereby refers to **FINANCE COMMITTEE** the Cultural Council Allocation, which provides grant support for cultural programming in our community in the amount of \$7,490.00; adopted.

ORDERED: That the City Council response to Massachusetts Historical Commission regarding proposed demolition of Commonwealth Armory, **APPROVED AND REQUEST THAT THE ASSISTANT CITY SOLICITOR SUBMIT THE FOLLOWING LETTER TO MS. BRONA SIMON OF THE MASSACHUSETTS HISTORICAL COMMISSION**; adopted.

Pursuant to the extension granted by the Massachusetts Historical Commission (“MHC”) until November 14, 2011 for a response from the City Council and the Marlborough Historic Commission to MHC’s letter of September 27, 2011 concerning a request for demolition by the owner of the Armory, the City Council provides the following information and response:

- The City Council strongly opposes demolition of the Armory;
- The Marlborough Economic Corporation (MEDC), a quasi-governmental organization, is not an official entity of the City and any communications with MEDC does not constitute an effort to discuss any proposal with the City.
- The attached report entitled “Analysis of the Old Armory Building” provided by Stephen Reid, Building Commissioner for the City of Marlborough, includes the various allowable uses of the property – both those as a matter of right and those allowed by special permit - under the City’s zoning ordinance;
- The owner has not submitted to the City Council a request for a special permit based on the original plan or a revised plan for the property since the initial denial of a special permit in October 2008;
- The sale price of the Armory and the adjacent property at 364 Lincoln Street (also owned by the owner of the Armory) when previously marketed was excessively high based on fair market value;
- The owner of the Armory has shown no initiative, intent or interest in moving ahead with any project, besides demolition, since the City Council denied a special permit;
- The owners have failed to maintain the property and have created blight in the City. They have declined offers by Armory neighbors to mow the lawn of the Armory and the adjacent property, and in May 2011 the owner placed objects on the lawns of his properties in order to kill the vegetation (*see attached photos*); and
- Demotion of the Armory would be detrimental to the owner’s interests with respect Historic Preservation tax credits and with respect to the zoning ordinance because the owner would lose any advantage of a pre-existing non-conforming use would be required to obtain a special permit for a residential use comprised of more than three units while the demolition of the Armory eliminates any flexibility afforded to the City Council is it relates to allowances for non-conforming use of the building.

In closing, the City Council states that it opposes demolition of the Armory, that there are alternatives to demolition which are allowable as of right, as well as the opportunity for the owner to submit a request for a special permit, including revisions to the alternative plans which address the concerns voiced by City officials during the special permit process, that the owner can attempt to sell the property based on fair market value, that City officials are willing to work with the owner regarding these alternatives, but that the owner has shown no cooperation, initiative, intent or interest in any project besides demolition since the City Council denied a special permit.

**ORDERED:** WHEREAS municipal property at Pleasant Street Fire Station site located at 98 Pleasant Street in Marlborough as shown on Assessors' Map 68, Parcel 174 (collectively, "the Property") is currently under the care, custody, management and control of the City Council, and

WHEREAS the City Council of the City of Marlborough was notified in a previous City-wide study that a portion of the building (namely, the bell tower) located on Parcel 174 had been identified as a possible ideal location for one to two carrier stealth antenna installations, and

WHEREAS the Fire Chief will be providing the City Council with further notification that a portion of the building, (namely, the bell tower) is no longer needed for the specific purpose of a fire station,

NOW THEREFORE, the City Council by a two-thirds majority vote pursuant to the requirements of § 15A of MGL c.40, hereby transfer to the Fire Department, with the approval of the Mayor, the care, custody, management and control of a portion of such Property, to be defined by the Fire Chief, for the purpose of leasing a portion of the building inside the bell tower located on the Property for installation and operation of a Wireless Communications Facility (WFC) and associated ground equipment, subject to a Special Permit as may be granted by the City Council, and subject also to a lease as may be subsequently negotiated and executed by the Mayor for the installation of wireless telecommunications facilities, **APPROVED;** adopted.

**AND FURTHER ORDERED:** That, pursuant to this City Council Order, a portion of the Property, to be defined by the Fire Chief, at the Pleasant Street Fire Station site located at 98 Pleasant Street in Marlborough, is hereby declared available for disposition by lease for the installation, operation and maintenance of wireless telecommunications equipment, pursuant to the provisions of § 16(a) of MGL c.30B; provided that said declaration is hereby made subject to the following non-exclusive restrictions, including but not limited to (1) an applicant's engineering report for structural suitability, (2) an applicant's compliance with all federal and state regulations pertaining to the site's use as a fire station, and (3) subject to any restrictions as may be set forth by the Historical Commission; **APPROVED;** adopted.

**ORDERED:** That items #14-21, Communications from the City Solicitor for Special Permits, in proper form, Orders No. 11-1002954E, 3004B, 3018B, 2956E, 2973D, 2974C, 2975C, 2976C, **MOVED TO ITEM #31;** adopted.

ORDERED: That there being no objection thereto set **MONDAY, DECEMBER 5, 2011**, as date for a **PUBLIC HEARING** for the Application for Special Permit Application for Special Permit from Sprint for modification of a wireless facility located at 450-460 Boston Post Rd., refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, DECEMBER 5, 2011**, as date for a **PUBLIC HEARING** for the Application for Special Permit Application for Special Permit from Sprint for modification of a wireless facility located at 57 Union St, refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

**Councilor Seymour Abstained**

ORDERED: That the Communication from Attorney Bergeron on behalf of US Wireless, LLC, to withdraw without prejudice application for Special Permit to construct a Wireless Communications Facility consisting of 180' tall monopole tower with ancillary antennas and ground based telecommunications equipment at 402 Bolton St (formerly known as 402 Hudson St.), Order No.11-1002902B, be **WITHDRAWN WITHOUT PREJUDICE, APPROVED**; adopted.

ORDERED: That the Communication from Kristin Regan re: Permission to Park on City Property at the top of Emmett St., refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Minutes, Marlborough Community Development Authority, July 14, August 25, September 8, and October 13, 2011, **FILE**; adopted.

ORDERED: That the Minutes, Planning Board, September 12 and October 3, 2011, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- A. Kenneth Giardina, 650 Berlin Rd., other property damage
- B. David Elkinson, 10 Schipper Farm Ln., Southborough, pothole or other road defect
- C. Francis Jones, 8 Midland St., other property damage

ORDERED: That the City of Marlborough invite National Grid before the City Council along with various department heads to discuss recent power outages, response time, and what we as a city can do to better prepare ourselves in the event we are facing more outages, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

**Councilor Ossing abstained**

ORDERED: WHEREAS, the School Committee of the City of Marlborough has endorsed acceptance of the driveway layout, which includes the sidewalks, at the Jaworek School by the City Council as a public way pursuant to the requirements for approval by the Massachusetts Department of Transportation and the Federal Highway Administration for a program of safety improvements along said driveway layout under the Safe Routes To School Infrastructure Program, and

WHEREAS, in the opinion of the City Council, the common convenience and necessity require that the LAYOUT OF THE ENTRANCE DRIVEWAY AT THE JAWOREK SCHOOL be accepted as a public way

From HOSMER STREET to terminus at the entrance to the Jaworek School building  
Title to said layout of the entrance driveway shall remain in the City of Marlborough and control of said layout of the entrance driveway shall remain with the School Committee.

IT IS THEREFORE ORDERED THAT:

The ENTRANCE DRIVEWAY LAYOUT AT THE JAWOREK SCHOOL be accepted as a public way in the City of Marlborough.

**APPROVED;** adopted.

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 03-100112B**

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

**CITY COUNCIL ORDER NO. 11-1002954F**

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

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit 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 September 22, 2003, the City Council granted to AT&T Wireless PCS, LLC a Special Permit to install and operate a wireless communications device 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, AT&T Wireless PCS, LLC changed its name, as registered in Massachusetts, to New Cingular Wireless PCS, LLC. 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.
3. Through its Application for Modification of a Special Permit for an Existing Wireless Communications Facility (hereinafter "Application"), the Applicant seeks permission to modify the Original Special Permit referenced in ¶ 2 above, so as to allow co-location of three (3) LTE panel antennas onto an existing wireless communication facility tower; (6) remote radio units onto existing wireless communications 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) 2½" 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 Crane Meadow Road, MA-3118, 40 Crane Meadow Road, Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 3/08/11, 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 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 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.



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 6:**
  - 1) Except as modified below, all conditions set forth in the Original Special Permit shall apply to the Modified Special Permit.
  - 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.

- 3) 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.
- 4) 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.
- 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, 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.

- 6) 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 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.
- 7) 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**

ORDERED: At President Vigeant's request to recess at 9:00 PM and returned to open meeting at 9:02 PM, **APPROVED**; adopted.

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 99-8311B**

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

**CITY COUNCIL ORDER NO. 11-1003004C**

Re: 175 Maple Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 99-8311B 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 December 20, 1999, the City Council granted to AT&T Wireless PCS, d/b/a AT&T Wireless Services, a Special Permit to locate a wireless communications facility at the existing water tank located at 175 Maple Street, 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 82, Lot 132 (hereinafter "Site"). The owner of record for the Site is the L-A 175 Maple Street Land Owner, LLC.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), the Applicant seeks permission to allow co-location of three (3) LTE panel antennas inside an existing stealth flagpole wireless communication facility; (6) remote radio heads mounted to existing water tank wireless communication facility; one (1) LTE GPS antenna mounted to the existing water tank; one (1) 23" LTE rack in the existing equipment room; as well as the placement of one (1) 3" flex conduit connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Marlborough Maple Street (MA-3461), 175 Maple Street, Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 7/22/11, a copy of which were provided as Exhibit 10 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 proposed WCF is located in the Industrial (I) Zoning District. Wireless communication devices are allowed by grant of 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 of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on September 26, 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.
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.
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 9:**

- 1) Except as modified below, all conditions in the Original Special Permit shall apply to the Modified Special Permit.
- 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.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) Any problems arising out of the operation of the Proposed WCF Project that interfere with reception, at the Marlborough Fire Department's headquarters at 215 Maple Street, of the City of Marlborough's public safety radio system shall be rectified by Applicant as soon as possible.
- 7) The Applicant shall ensure that the American flag flown appropriately, in the opinion of the Veteran's agent, on the stealth flagpole is proportionately sized to that flagpole and is maintained in proper condition on an as-needed basis. The flag must be illuminated if flown at night.

- 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 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 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: 10- Nay: 0**

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

**Absent: Seymour**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 04-100527B**

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

**CITY COUNCIL ORDER NO. 11-1003018C**

Re: 53 Brigham Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 04-100527B 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 December 20, 2004, the City Council granted to Southwestern Bell Mobile Systems, LLC, d/b/a Cingular Wireless, a Special Permit to attach a set of antennas, behind camouflaged screening, to, and to install related equipment consisting of a prefabricated equipment shelter and emergency generator, and coaxial cables, at, the existing building located at 53 Brigham Street, 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 104, Lot 2 (hereinafter "Site"). The owner of record for the Site is Mountaintop Corporation.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), the Applicant seeks permission to replace four (4) existing panel antennas and their stealth wall, and to replace the antennas with four (4) new UMTS/GSM panel antennas, three (3) LTE panel antennas; (6) remote radio heads mounted on the proposed cable trays along the rooftop; one (1) LTE GPS antenna mounted to the existing equipment shelter; one (1) 23" LTE rack inside of the existing equipment shelter (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "MARLBOROUGH SOUTH RT 85 (MA-3239), 53 Brigham Street, Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 6/27/11, a copy of which were provided as Exhibit 10 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 proposed WCF is located in the Business B Zoning District. Wireless communication devices are allowed by grant of Special Permit in Business B 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 held a public hearing on the Proposed WCF Project on October 3, 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.
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.
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 8:**

- 1) Except as modified below, all conditions in the Original Special Permit shall apply to the Modified Special Permit.
- 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.
- 3) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.
- 4) 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.
- 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, 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.
- 6) 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.

- 7) 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 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.
- 8) 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**

**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.
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.
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.
- 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**

ORDERED: At President Vigeant's request to recess at 9:20 PM and returned to open meeting at 9:22 PM, **APPROVED**; adopted.

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 99-8280C**

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

**CITY COUNCIL ORDER NO. 11-1002973D**

Re: 450-460 Boston Post Road East

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 99-8280C 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 December 20, 1999, the City Council granted to AT&T Wireless PCS, d/b/a AT&T Wireless Services, a Special Permit to locate its wireless communications facility at the existing building located at 450-460 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 73, Lot 31 (hereinafter "Site"). The owner of record for the Site is Trinity Countryside Limited Partnership.
3. Through its Application for Modification of Special Permit for a Wireless Communication Facility (hereinafter "Application"), the Applicant seeks permission to allow co-location of three (3) LTE panel antennas onto an existing wireless communication facility rooftop; (6) remote radio heads onto an existing wireless communication facility rooftop; one (1) LTE GPS mounted to the rooftop; two (2) LTE equipment cabinets on the existing elevated frame on the rooftop; as well as the placement of one (1) 3" flex conduit connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Marlborough Boston Post RD (MA-3373), 450 Boston Post Road East, Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 6/22/11, 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 proposed WCF is located in the Business B Zoning District. Wireless communication devices are allowed by grant of Special Permit in Business B 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.
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 7:**

- 1) Except as modified below, all conditions in the Original Special Permit shall apply to the Modified Special Permit.
- 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.
- 3) 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.
- 4) 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.
- 5) 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.

- 6) 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 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.

- 7) 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**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 96-6861**

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

**CITY COUNCIL ORDER NO. 11-1002974D**

Re: 97 Arnold Street Extension

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit 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. Through its Application for a Special Permit (hereinafter "Application"), the Applicant seeks permission to allow co-location of three (3) LTE panel antennas onto an existing wireless communication facility water tank; (6) remote radio heads onto an existing wireless communication facility water tank; 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 "Marlboro (MA-3039), 97 Arnold Street Ext., Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 6/22/11, a copy of which were provided as Exhibit 11 to the Special Permit Application (hereinafter "Plans").

3. The location of the Proposed WCF Project is 97 Arnold Street Extension, Marlborough, MA. The site is more particularly identified on the Assessor's Map of the City of Marlborough as Map 68, Lot 80 (hereinafter "Site"). The owner of record for the Site is the City of Marlborough.
4. The Applicant is a lessee of the Site's owner for purposes of the Application.
5. The proposed WCF is located in the Residential A-3 Zoning District. Wireless communication devices are allowed by grant of Special Permit in Residential A-3 Zoning Districts.
6. The 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 held a public hearing on the Proposed WCF Project on August 29, 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.
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.
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 Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 11:**

- 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 Special Permit as well as with the conditions set forth in Chapter 650-25F of the Marlborough Zoning Ordinance.
- 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of the Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
- 3) The 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 the Proposed WCF Project.
- 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.
- 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.

- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Special Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCF referenced in this Special Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the 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.
- 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 operation of the facility shall be disposed of off-site at the expense of the Applicant.
- 8) No construction or installation at the Proposed WCF Project shall commence until the Applicant has received written approval from the Department of Public Works Commissioner that he is satisfied as to the Plans. No operation of the Proposed WCF Project shall commence until the Applicant has received written approval from the Building Inspector that all the conditions herein have been satisfied.
- 9) Applicant's Proposed WCF Project shall be subject to site plan review, if applicable.

- 10) 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 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.
- 11) In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District 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, and before the Applicant has applied to the Building Commissioner Inspector for a building permit concerning the Proposed WCF Project. Applicant shall provide a copy of the recorded 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**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 97-6059B**

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

**CITY COUNCIL ORDER NO. 11-1002975D**

Re: 4 Mount Royal Avenue

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 97-6059B 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 July 14, 1997, the City Council granted to AT&T Wireless Services a Special Permit to attach a set of antennas to the existing building located at 4 Mount Royal Avenue, 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 79, Lot 94 (hereinafter "Site"). The owner of record for the Site is Mount Royal Associates, a Massachusetts limited partnership, c/o Haynes Management Inc.
3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), the Applicant seeks permission to allow co-location of three (3) LTE panel antennas onto an existing wireless communication facility rooftop; (6) remote radio heads onto an existing wireless communication facility rooftop; one (1) LTE GPS pipe mounted; two (2) 23" LTE equipment cabinets on the existing elevated frame on the rooftop; as well as the placement of one (1) 3" flex conduit connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Mount Royal Avenue (MA-3297), 4 Mount Royal Avenue, Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 6/27/11, 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 proposed WCF is located in the Business B Zoning District. Wireless communication devices are allowed by grant of Special Permit in Business B 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 held a public hearing on the Proposed WCF Project on August 29, 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.
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.
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 10:**

- 1) Except as modified below, all conditions in the Original Special Permit shall apply to the Modified Special Permit.
- 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.
- 3) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of the Application 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.
- 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Modified Special Permit.
- 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.
- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Modified Special Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of the Modified Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCF referenced in this Modified Special Permit is still in operation. Failure to make the payment in a timely manner 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.

- 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 operation of the facility shall be disposed of off-site at the expense of the Applicant.
- 8) No operation of the Proposed WCF Project shall commence until the Applicant has received written approval from the Building Inspector that all the conditions herein have been satisfied.
- 9) 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 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.

- 10) 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**

**DECISION ON AN APPLICATION TO MODIFY  
SPECIAL PERMIT NO. 99-8204B**

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

**CITY COUNCIL ORDER NO. 11-1002976D**

Re: 157 Union Street

The City Council of the City of Marlborough hereby GRANTS the application to modify Special Permit No. 99-8204 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 November 8, 1999, the City Council granted to AT&T Wireless PCS, d/b/a AT&T Wireless Services, a Special Permit to locate and operate a wireless communications facility at the existing building located at 157 Union Street, 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 43, Lot 56 (hereinafter "Site"). The owner of record for the Site is Marlborough Hospital.

3. Through its Application for a Special Permit to Modify an Existing Wireless Communication Facility (hereinafter "Application"), the Applicant seeks permission to allow co-location of three (3) LTE panel antennas onto an existing wireless communication facility smokestack; (6) remote radio heads onto an existing wireless communication facility smokestack; one (1) LTE GPS located on the existing ice bridge; one (1) 23" LTE equipment cabinet in the existing equipment area; as well as the placement of one (1) 3" flex conduit connecting the antennae to the existing equipment (hereinafter "Proposed WCF Project"), all substantially as depicted on a set of plans entitled "Marlborough Hospital (MA-3307), 157 Union Street, Marlborough, MA 01752" by Pro Terra Design Group, LLC and dated 6/21/11, 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 proposed WCF is located in the Residential (A-3) Zoning District. Wireless communication devices are allowed by grant of Special Permit in Residential (A-3) 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 29, 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.

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 7:**
  - 1) Except as modified below, all conditions in the Original Special Permit shall apply to the Modified Special Permit.
  - 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.
  - 3) 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.

- 4) 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.
- 5) 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.
- 6) 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 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.

- 7) 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: 10- Nay: 0**

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

**Abstain: Seymour**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:45 p.m.