



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

PLANNING BOARD MEMBERS

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ELIZABETH MORONEY
JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
ELIZABETH MORONEY

Case #: PB 2012-10
Site: 844 McGrath Highway
Date of Decision: August 23, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 28, 2012

PLANNING BOARD DECISION

Applicant Name:	Sprint Spectrum
Applicant Address:	9 Crosby Drive, Bedford, MA 01730
Property Owner Name:	Talp II, LLC c/o Tage Inn
Property Owner Address:	P.O. Box 386, Weston, MA 02493
Agent Name:	Scott Lacy, Prince Lobel
Agent Address:	100 Cambridge Street, Boston, MA 02114

Legal Notice: Applicant Sprint Spectrum and Owner Talp II, LLC, seek Special Permit with Site Plan Review – A approval under SZO §7.11.15.3 and SZO §14 for the installation of wireless communications equipment consisting of the replacement of six (6) CDMA antennas with three (3) panel antennas along with the installation of related equipment and cables including one GPS antenna and two equipment cabinets.

<u>Zoning District/Ward:</u>	ASMD zone/Ward 1
<u>Zoning Approval Sought:</u>	§7.11.15.3
<u>Date of Application:</u>	February 6, 2012
<u>Date(s) of Public Hearing:</u>	(ZBA 4/4, 4/18, 5/2, 5/16, 6/6, 6/20, 7/11/12) (PB 8/2, 8/16 & 8/23/12)
<u>Date of Decision:</u>	August 23, 2012
<u>Vote:</u>	5-0

Appeal #PB 2012-10 was opened before the Planning Board at Somerville City Hall on August 2, 2012. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by



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M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Planning Board took a vote.

DESCRIPTION:

The Applicant, Sprint Spectrum L.P., is proposing to make the following changes to the existing wireless facility. Six (6) existing CDMA antennas (two (2) in each sector) currently mounted on the penthouses situated on the rooftop of the structure will be removed and replaced with three (3) panel antennas (one (1) in each sector). The proposed new antennas are all similar in size and appearance as the existing antennas. The three new antennas measure 7 inches in depth by 11.8 inches in width by 72 inches in height. The antennas will be side-mounted to the existing penthouses, just as the existing antennas are currently mounted. All of the proposed new antennas will be below the height of the penthouse rooflines.

Two new equipment cabinets, an MMBTS cabinet and a backup battery cabinet, will be installed on the existing Sprint equipment platform which is inside a larger existing equipment cabinet. The MMBTS cabinet will be 32 inches in depth, 35.5 inches in width, and 72 inches in height and the backup battery cabinet will be 30 inches in depth, 31 inches in width, and 60 inches in height.

The Applicant will also be installing six (6) new remote radio heads (RRHs), two per sector, behind the antennas. One model of RRH will be 19.4 inches high by 13 inches wide by 10.7 inches deep. The other model will be 25.2 inches high by 11.8 inches wide by 11.5 inches deep. One type of each model will be installed in each sector. The existing GPS antenna will also be placed with a new model that is 3.2 inches in diameter by 5 inches in height.

The antennas and the RRHs will be mounted to the existing penthouse walls on the rooftop of the building as the existing antennas are currently. The new equipment cabinets will be mounted onto the existing Sprint equipment platform inside the existing Sprint equipment room.

FINDINGS FOR SPECIAL PERMIT (SZO §5.2, §6.4.9 & §14):

In order to grant a Special Permit with Site Plan Review, the SPGA must make certain findings and determinations as outlined in §5.2.5 of the SZO. This section of the report goes through §5.2.5 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.2.3 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permit with Site Plan Review – A.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit with site plan review."

The Applicant seeks a Special Permit with Site Plan Review – A under §7.11.15.3 of the SZO which requires the Applicant to follow guidelines and procedures set forth in Article 14 for the, "regulation of wireless telecommunications facilities so as to allow and encourage such uses in the City with minimal harm to the public health, safety, and general welfare."

The Board finds that minimal harm would be imposed upon the health, safety, and welfare of the surrounding neighborhood. Sprint Spectrum, L.P. is a FCC licensed company that is required to comply with all state and federal regulations.

Guidelines in Article 14 of the SZO state that antennas should not be located more than 10 feet above the roofline, should be located at a minimum of 10 feet from the roof edge and below a forty-five degree plane beginning at the cornice of the building. While these guidelines have not been strictly adhered to for the three proposed antennas, the Board finds that the unusual height of the penthouses, the existence of other antennas in the areas



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where these new antennas are proposed, the placement of the antennas on existing penthouse structures, and conditions placed on the proposal in this report would limit the visual impact of the proposal that the guidelines are meant to preserve. Conditions imposed by this report include painting the antennas and associated equipment to match the façade or surface to which they are affixed.

Review Criteria for Telecommunications Facilities:

- a) *Height of proposed facility:* The base of the building to the top roof beam is 70 feet and the height to the top of the existing penthouses is 92 feet. This building is one of the tallest in the surrounding area. The proposed new antennas would not extend above the rooflines of the penthouses.
- b) *Proximity of facility to residential structures and residential zoning districts:* The subject property is in the Assembly Square Mixed-Use District next to the Assembly Square Mall Shopping Center and the Somerville District Court. RA and RB districts run along Fellsway West and Interstate 93, however, these roadways separate the subject property from the residential properties on the other side. As a result, there would be approximately 120 yards between the antennas and the residential properties. In the residential district the change from the existing conditions would be minimal.
- c) *Nature of uses on adjacent and nearby properties:* Properties to the northwest across Fellsway West and Interstate 93 are residential in nature and the properties in all other directions are commercial and retail oriented. The existing antennas on the rooftop of this structure do not have an adverse affect on nearby properties.
- d) *Surrounding topography and prominence of proposed facility:* The building is the tallest in the surrounding area. The existing structure is approximately 70 feet high to the rooftop and the rooftops of the penthouses are 92 feet above grade. The surrounding area is relatively flat and there are no other buildings of comparable height or prominence in the surrounding area. Though the proposed rooftop antennas are visible from several vantage points, the Board's condition to match them to the color of the building to which they are affixed would reduce their prominence from any public way. Additionally, the proposal will actually reduce the total number of antennas affixed to the penthouses from nine (9) to six (6).
- e) *Surrounding tree cover and foliage:* The building upon which the proposed antennas will sit is taller than all trees in the surrounding area and therefore no interference is anticipated with regard to the projection required for the antennas.
- f) *Design of tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, as specified in Section 14.3:* The proposed new antennas will be installed onto the sides of the existing penthouses on the roof of the building and will be no higher than the existing antennas which do not protrude above the roofline of the penthouses. The Board has also included a condition that the antennas and associated equipment be painted to match the color of the penthouse walls to camouflage them. Additionally, the new RRHs that are being installed are proposed to be located directly on the façades of each of the penthouses, only a few feet above the top roof beam of the building, which will reduce their visibility from ground level.
- g) *Location of tower, with particular reference to the existence of more suitable locations, as specified in Section 14.3:* The application is in compliance with this review criterion. The Applicant is proposing to locate the antennas on an existing wireless telecommunications facility within the Assembly Square Mixed-Use District which contains uses that are predominately commercially oriented. The Board included a condition that the antennas and associated equipment be painted the color of the penthouse walls to which they will be affixed for camouflage and they will not protrude over the roofline of the shelters. These two particular items will virtually eliminate proposed equipment's



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impact on the viewshed of the area. Furthermore, the total number of antennas in this location will actually be reduced from nine (9) to six (6) which will also lessen the visual impact of this wireless installation.

- h) *Proposed ingress and egress:* There is existing access to the roof and equipment on the roof via a hatch on the east side of the roof.
- i) *Distance from existing facilities:* The site is currently operating as a Sprint wireless facility and the proposed changes will allow for an update in equipment. Sprint has several existing wireless communication sites within the City already.
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* Section 14.5.2 states that no new sites for telecommunications facilities shall be permitted unless the Applicant demonstrates that existing sites cannot meet the Applicant's need: This site where the Applicant is proposing to install the three (3) new antennas, two new cabinets, and other associated equipment is currently operating as a wireless telecommunications facility for Sprint and Clearwire. Clearwire and Sprint have a relationship where Clearwire is able to use Sprint's existing arrays and penthouses. This relationship minimizes the impact that each company's equipment has on the appearance of the building.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The Board finds that the proposal, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to protect health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal, as conditioned, is also consistent with the purpose established for the district (6.4. Assembly Square Mixed-Use District (ASMD)), which is "to encourage the best use of Assembly Square physically, economically, environmentally and socially while promoting the best interests of residents of the City. The ASMD is intended to fulfill the goals and objectives contained in the Assembly Square District Plan (the ASD Plan, as hereinafter defined). The ASMD zoning is designed to allow the district to reach these goals. The major objectives of the ASD Plan are the following:

- A. Facilitate development of a mix of uses including residential, office, research and development, retail, hotels, cinemas, performing arts and institutional uses;
- B. Increase real estate investment and maximize development;
- C. Create new jobs at a variety of income and skill levels;
- D. Promote accessibility to and within the district by improving existing and creating new roadways, pedestrian walkways and bicycle paths;
- E. Replace vacant or underutilized land, low-density development, and incompatible uses with high-density mixed-use development;
- F. Improve utilities and infrastructure;



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- G. Clean environmentally contaminated sites to a level suitable for a mix of uses including residential;
- H. Improve the Mystic River waterfront and create new public open space;
- I. Encourage transit-oriented development; and
- J. Increase the supply of affordable housing units within the City of Somerville.”

Allowing the Applicant to perform these equipment upgrades to the wireless communication facility is a convenience for residents of the district who use Sprint Spectrum as a wireless network carrier. The Board finds that the replacement of the antennas and associated equipment, as conditioned, will not negatively impact the surrounding uses in the area.

Furthermore, the Board finds that the proposal, as conditioned, is consistent with the purposes set forth in Article 14 of the Zoning Ordinance as conditioned in this report, to:

- a) *Protect residential areas and land uses from potential adverse impacts of towers and antennas;*
- b) *Encourage the location of telecommunications facilities in non-residential areas;*
- c) *Minimize the total number of towers and antennas throughout the community;*
- d) *Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;*
- e) *Encourage users of towers and antennas to locate them in areas where the adverse impact on the community is minimal;*
- f) *Encourage users of towers and antennas to configure them in ways that minimize the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;*
- g) *Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;*
- h) *Consider the public health and safety of communications facilities; and*
- i) *Avoid potential damage to adjacent properties from tower and antenna failure through sound engineering and careful siting of structures.*

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.”

The Board finds the project and the way the equipment is designed to be compatible with the surrounding area and land uses. The proposed location of the antennas on the penthouse façades as conditioned would not have a negative effect on the surrounding neighborhood or detract from the appearance of the building due to the height of the building, the setback of the central penthouse, and the existing equipment cabinet. The antennas proposed are comparable to the existing antennas at the site and would be placed on the penthouses that are approximately 90 feet above street level. The Board has included a condition that the antennas and associated equipment be camouflaged to help reduce any visual impacts from the site on the surrounding area. The antennas will be mounted



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on the existing penthouse walls on the rooftop and will not extend higher than the roofline of the façade to which they are affixed. Photo simulations were also taken from a variety of locations in the neighborhood and they indicate there will be limited impact of the installation on the surrounding neighborhood.

5. Adverse Environmental Impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

The proposed installation will not generate any glare, light, smoke, dust, or vibrations nor will it emit any noxious or hazardous materials or substances. Noise from the equipment will be minimal and should not be heard beyond the confines of the property where it will be placed. The proposed installation will be located on an existing building and therefore no pollution of waterways or ground water will occur. Additionally, the proposed installation will not be tied into any public sewer or private wastewater disposal system. In connection with its FCC license, Sprint is prohibited from interfering with radio or television transmissions and furthermore, these transmissions function at different frequencies than those licensed to Sprint for the proposed telecommunications equipment. Standard conditions listed below direct compliance with the Noise Control Ordinance and FCC Guidelines for Human Exposure to Electromagnetic Fields, and require regular reporting.



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DECISION:

Present and sitting were Members Kevin Prior, Elizabeth Moroney, Joseph Favaloro, James Kirylo and Michael Capuano. Upon making the above findings, Kevin Prior made a motion to approve the request for a Special Permit. Elizabeth Moroney seconded the motion. Wherefore the Planning Board voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the installation of wireless communications equipment under SZO §7.11.15.3 and SZO §14 consisting of the replacement of six (6) CDMA antennas with three (3) panel antennas along with the installation of related equipment and cables including one GPS antenna and two equipment cabinets. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(February 6, 2012)</td> <td>Initial application, submitted to the City Clerk's Office</td> </tr> <tr> <td>(June 27, 2012)</td> <td>Photo Simulations</td> </tr> <tr> <td>August 25, 2011 (June 27, 2012)</td> <td>Title Sheet, General Notes, Plot Plan, Rooftop Plan & Elevation, Elevations, Antenna Scenario, Equipment Details, Construction Details, Structural Details, Site Photos, Rooftop Plan & Equipment Room Layout, Details, Electrical Sheets (T-1, GN-1, GN-2, C-1, A-1 – A-5, S-1, AAV-1 – AAV-3, and E-1 – E-3)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan, photograph simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(February 6, 2012)	Initial application, submitted to the City Clerk's Office	(June 27, 2012)	Photo Simulations	August 25, 2011 (June 27, 2012)	Title Sheet, General Notes, Plot Plan, Rooftop Plan & Elevation, Elevations, Antenna Scenario, Equipment Details, Construction Details, Structural Details, Site Photos, Rooftop Plan & Equipment Room Layout, Details, Electrical Sheets (T-1, GN-1, GN-2, C-1, A-1 – A-5, S-1, AAV-1 – AAV-3, and E-1 – E-3)	BP / Final Sign Off	ISD / Plng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP									



3	<p><i>Compliance with Noise Control Ordinance.</i> Prior to the issuance of a Certificate of Use and Occupancy Permit for the installation of the wireless telecommunications facility, the Applicant shall submit to the Inspectional Services Department, with a copy to the Zoning Board of Appeals, a sound level measurement certified as accurate by a professional acoustician and shall perform such sound level measurements six months after issuance of the certificate of occupancy, with subsequent sound level measurements annually on or before the anniversary date of the original six month measurement to document that all of the Applicant's installed equipment complies and continues to comply with the decibel level standards established by the City of Somerville, Noise Control Ordinance.</p>	Continuous	ISD	
4	<p><i>Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields.</i> To ensure compliance with the standards established by the Federal Communications Commission Office of Engineering and Technology ("FCC") in OET Bulletin 65 as adopted by Massachusetts Department of Public Health under 105 CMR 122.021, the Applicant shall perform measurements, within two (2) months of the date that the Applicant's wireless telecommunications facility commences operation and at intervals of twelve (12) months thereafter, to establish that the Applicant's wireless telecommunications facility complies and continues to comply with the FCC guidelines and applicable state regulations for human exposure to radio frequency electromagnetic fields for human exposure to radio frequency electromagnetic fields. The Applicant shall provide the results of such measurements with certification of compliance to the City of Somerville, Health Department, with a copy to the Zoning Board of Appeals.</p>	Continuous	BOH	
5	<p>Any antenna that is not operated continuously for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna shall remove the same within ninety (90) days of notice from the City of Somerville informing the owner of such abandonment.</p>	Continuous	ISD	
6	<p>The Applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.</p>	BP	Plng.	
7	<p>The Applicant shall identify and inform Planning Staff of any non-operating wireless equipment from any carrier prior to installation.</p>	BP	Plng.	



8	The Applicant shall at his/her expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	Final Inspection	DPW	
9	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
10	The Applicant shall camouflage the antennas, RRHs, equipment cabinets, mounting hardware, and other related equipment and fixtures by painting these items to match color of the façade to which they are affixed.	Final Sign Off	PIng.	
11	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final Sign Off	PIng.	
12	The Applicant shall provide a listing of all existing sites within the City and an inventory of their equipment to Planning Staff prior to the issuance of a Building Permit.	BP	PIng.	



Attest, by the Planning Board:



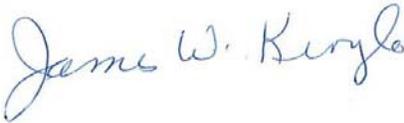
Kevin Prior, Chairman



Elizabeth Moroney



Joseph Favaloro



James Kirylo



Michael A. Capuano, Esq.

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.



CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____



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