



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

PLANNING DIVISION

***ZONING BOARD OF APPEALS MEMBERS***

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T. F. SCOTT DARLING, III, ESQ.  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2011-19**  
**Site: 25 Webster Avenue**  
**Date of Decision: May 4, 2011**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: May 13, 2011**

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**ZBA DECISION**

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<b>Applicant Name:</b>	New Cingular Wireless, PCS, LLC by its manager, AT&T Mobility, Inc.
<b>Applicant Address:</b>	550 Cochituate Road, Framingham, MA 01701
<b>Property Owner Name:</b>	IPC Louisville Properties, LLC
<b>Property Owner Address:</b>	303 North Hurstbourne Parkway, Louisville, KY 40222
<b>Agent Name:</b>	Peter Fales, Centerline Communications, LLC
<b>Agent Address:</b>	960 Turnpike Street, Suite 28, Canton, MA 02021

<u>Legal Notice:</u>	Applicant New Cingular Wireless, PCS, LLC d/b/a AT&T Mobility, Inc. & Owner IPC Louisville Properties, LLC seek a Special Permit under SZO §7.11.15.3 and SZO §14 for the installation of wireless communications equipment consisting of the replacement of two existing antennas, the installation of one new antenna, and related equipment and cables.
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<u>Zoning District/Ward:</u>	RC zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	February 17, 2011
<u>Date(s) of Public Hearing:</u>	4/20 & 5/4/11
<u>Date of Decision:</u>	May 4, 2011
<u>Vote:</u>	5-0

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Appeal #ZBA 2011-19 was opened before the Zoning Board of Appeals at Somerville City Hall on April 20, 2011. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



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c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

### **DESCRIPTION:**

The Applicant is proposing to remove and replace two existing antennas with two new antennas, add one entirely new antenna, and install the associated equipment and cables for these antennas on the rooftop. The two antennas that are being replaced will be mounted onto the existing antenna frames on the rooftop where the existing antennas are located. The third, entirely new antenna, will be mounted onto the façade of the existing stairwell penthouse on the west side of the building. The proposed replacement and new antennas will not be situated higher than any existing antennas or penthouses on the rooftop. These antennas can all be painted any color desired to match and blend with the antenna frames and/or the building. It should also be noted that the Applicant is proposing to install a small, new purcell cabinet and a new, larger emerson cabinet as part of the additional equipment associated for this installation. The emerson cabinet can be seen in the Photo Location A, Proposed Conditions photo simulation. Additionally, as part of this proposed installation, the Applicant will be removing a substantial portion of the existing antenna array on the western portion of the rooftop. This is identified on drawing A02. All cabling will run along the surface of the roof and will not be visible. The electronic equipment associated with the proposed antennas will be located in the newly proposed purcell and emerson cabinets, or within the existing equipment cabinets, all of which are setback from the edge of the roof. Other associated equipment proposed to be installed includes three rrus-11 (typ-2) and surge protectors, and a roof mounted cable tray. Planning Staff expressed to the Applicant their desire to see some type of screening for all of the antennas on the rooftop, existing and proposed. The Applicant explored this option by meeting with the landlord and the landlord's structural engineer. At this meeting, the landlord and his engineer expressed that they were not comfortable with any type of screening being situated on the rooftop and this resulted in only the new proposed antenna being mounted to the façade of the existing stairwell penthouse.

### **FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §14):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
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."

The Applicant seeks a special permit 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. New Cingular Wireless PCS, LLC d/b/a AT&T Mobility is a FCC licensed company that is required to comply with all state and federal regulations.

#### *Review Criteria for Telecommunications Facilities:*

- a) *Height of proposed facility:* The base of the building to the top roof beam is 80 feet and the height to the top of the proposed antennas is approximately 90 feet. The proposed replacement and new antennas will not be situated higher than any existing antennas or penthouses on the rooftop. This building is one of the tallest in the surrounding area and sits on an area of high elevation as well.



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- b) *Proximity of facility to residential structures and residential zoning districts:* The building at 25 Webster Avenue is a residential structure in RC district. Other residential structures are nearby including the property immediate to the south, directly across the street to the east, and on the opposite side of the commuter rail tracks to the south and west. Additional equipment would have a limited impact on the surrounding residential structures, as only one new antenna (net) will be added to the site. This project would have much greater impact if installed at a location without existing equipment already.
- c) *Nature of uses on adjacent and nearby properties:* The site is located in a RC district. The surrounding neighborhood is a mix of residential, commercial, and civic/institutional uses, though the area is primarily residential. The proposed installation will not generate any objectionable odor, fumes, glare, smoke, or dust nor require additional lighting or signage. Noise from the equipment will be minimal and should not be heard beyond the confines of the property where it will be placed. No increased traffic or hindrance to pedestrian movements will result from the proposed installation either. Furthermore, in connection with its FCC license, AT&T is prohibited from interfering with radio or television transmissions.
- d) *Surrounding topography and prominence of proposed facility:* The building is one of the tallest in the area and it sits on area of high elevation. This is why it is appealing to cellular companies. The proposed rooftop antennas are visible from several vantage points, but no more so than the existing arrays already on the building.
- 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 Board finds the project and the way the equipment is designed to be compatible with the surrounding area and land uses. The two antennas that are being replaced will be mounted onto the existing antenna frames on the rooftop where the other antennas are located. The third, entirely new antenna, will be mounted onto the façade of the existing stairwell penthouse on the west side of the building. The proposed replacement and new antennas will not be situated higher than any existing antennas or penthouses on the rooftop. These antennas can all be painted any color desired to match and blend with the antenna frames and/or the building. It should also be noted that the Applicant is proposing to install a small, new purcell cabinet and a new, larger emerson cabinet as part of the additional equipment associated for this installation. The emerson cabinet can be seen in the Photo Location A, Proposed Conditions photo simulation. Additionally, as part of this proposed installation, the Applicant will be removing a substantial portion of the existing antenna array on the western portion of the rooftop. This is identified on drawing A02. All cabling will run along the surface of the roof and will not be visible. The electronic equipment associated with the proposed antennas will be located in the newly proposed purcell and emerson cabinets, or within the existing equipment cabinets, all of which are setback from the edge of the roof.
- 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. The elevation and height of the building at this site make it an attractive location for wireless installations. The antennas can be painted any color desired for camouflage and they will not be higher than the existing antennas situated on the mounting frame or than the existing stairwell penthouse, therefore not impacting the viewshed of the area.
- h) *Proposed ingress and egress:* There is existing access to the roof and equipment on the roof via one penthouse stairwell on the building.



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- i) *Distance from existing facilities:* The accompanying map shows the locations of other existing AT&T antennas in Somerville.
- 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:* The site where the Applicant is proposing to install one new antenna and replace two existing antennas is currently operating as a wireless telecommunications facility.

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 Board also finds that the proposal, as conditioned, **is consistent** with the purposes established for the RC district in which the property is located, namely, "To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." The Board finds the replacement of the two antennas and the addition of one antenna and associated equipment, as conditioned, will not negatively impact the local neighborhood 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.*



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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 that the project and the way the equipment is designed to be compatible with the surrounding area and land uses. The two antennas that are being replaced will be mounted onto the existing antenna frames on the rooftop where the existing antennas are located. The third, entirely new antenna, will be mounted onto the façade of the existing stairwell penthouse on the west side of the building. The proposed replacement and new antennas will not be situated higher than any existing antennas or penthouses on the rooftop. These antennas can all be painted any color desired to match and blend with the antenna frames and/or the building. It should also be noted that the Applicant is proposing to install a small, new purcell cabinet and a new, larger emerson cabinet as part of the additional equipment associated for this installation. The emerson cabinet can be seen in the Photo Location A, Proposed Conditions photo simulation. Additionally, as part of this proposed installation, the Applicant will be removing a substantial portion of the existing antenna array on the western portion of the rooftop. This is identified on drawing A02. All cabling will run along the surface of the roof and will not be visible. The electronic equipment associated with the proposed antennas will be located in the newly proposed purcell and emerson cabinets, or within the existing equipment cabinets, all of which are setback from the edge of the roof. Other associated equipment proposed to be installed includes three rrus-11 (typ-2) and surge protectors, and a roof mounted cable tray. The photo simulations were 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, AT&T is prohibited from interfering with radio or television transmissions and furthermore, these transmissions function at different frequencies than those licensed to AT&T for the proposed telecommunications equipment.



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# **DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino. Upon making the above findings, Richard Rossetti made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals 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 a wireless communications equipment under SZO §7.11.15.3 and SZO §14 consisting of the replacement of two existing antennas, the installation of one new antenna, and related equipment and cables. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(February 17, 2011)</td><td>Initial application, submitted to the City Clerk's Office</td></tr><tr><td>April 26, 2011 (April 27, 2011)</td><td>Revised plans and elevations submitted to OSPCD (Sheets T01 and A01 – A04)</td></tr><tr><td>April 26, 2011 (April 27, 2011)</td><td>Photo Simulations</td></tr></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 17, 2011)	Initial application, submitted to the City Clerk's Office	April 26, 2011 (April 27, 2011)	Revised plans and elevations submitted to OSPCD (Sheets T01 and A01 – A04)	April 26, 2011 (April 27, 2011)	Photo Simulations	BP	Png.	
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April 26, 2011 (April 27, 2011)	Photo Simulations											
2	All Cingular antennas shall be painted to match the color of the antennae frame, penthouse, or equipment shelters to which they are attached.	CO	Png.									
3	<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.	Continued	ISD									



4	<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 the 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. 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.	Continued	BOH	
5	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.	Continued	ISD	
6	The Applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.	BP	Plng.	
7	The Applicant shall at his 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	
8	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	
9	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	Plng.	



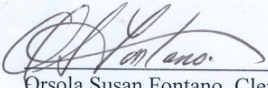
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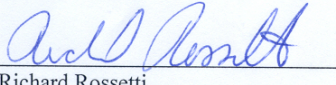


Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans  
Elaine Severino (Alt.)



Orsola Susan Fontano, Clerk



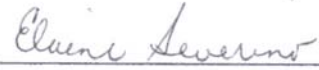
Richard Rossetti



T.F. Scott Darling, III, Esq.



Danielle Evans



Elaine Severino, (Alt.)

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



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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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