



CITY OF SOMERVILLE, MASSACHUSETTS

PLANNING BOARD

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Case #: PB 2001-80-R0408

Site: 844 McGrath Highway

Date of Decision: June 5, 2008

Decision: *Petition Approved with Conditions*

Date Filed with City Clerk: June 12, 2008

PLANNING BOARD DECISION

Applicant Name:	Sprint Wireless Broadband Company, LLC
Applicant Address:	9 Crosby Drive, Bedford, MA 01730
Property Owner Name:	TAIP III, LLC
Property Owner Address:	844 McGrath Highway, Somerville, MA 02143
Agent Name:	Ricardo M. Sousa, Esq.
Agent Address:	Prince, Lobel, Glovsky & Tye, LLP 100 Cambridge Street, Suite 2200, Boston, MA 02114

<u>Legal Notice:</u>	Applicant Sprint Wireless Broadband Company, LLC, and Owner TAIP III LLC are requesting a revision to the Special Permit # PB 2001-80 to modify an existing wireless facility. ASMD, PUD-A zone. Ward 1.
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<u>Zoning District/Ward:</u>	PUD-A zone/Ward 1
<u>Zoning Approval Sought:</u>	Revision to Special Permit #PB 2001-80-R0408
<u>Date of Application:</u>	April 11, 2008
<u>Date(s) of Public Hearing:</u>	June 5, 2008
<u>Date of Decision:</u>	June 5, 2008
<u>Vote:</u>	5-0

Appeal #PB 2001-80-R0408 was opened before the Planning Board at Somerville City Hall on May 5, 2008. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one (1) hearing(s) of deliberation, the Planning Board took a vote.

DESCRIPTION:

The special permit 2001-80, granted on February 25, 2002 allowed the applicant to place a wireless communications facility on the roof of the subject property. The approval was for ten façade mounted panel antennas, all of which would be mounted on the exterior of existing rooftop penthouses. The associated equipment cabinet would be located in an existing penthouse.

The proposed revisions are shown on the renderings and plans submitted to OSPCD on May 1, 2008. Notices have been mailed to abutters and the case was advertised in the newspaper.

The applicant is proposing the following revisions to the original proposal:

1. Add three, one-foot wireless backhaul dish antennas painted to match the building
2. Add two supporting equipment cabinets to be located in the existing equipment room within the rooftop penthouse

The Applicant explained the need for the equipment. "Sprint PCS is proposing to add WiMAX technology to its existing network facilities on a nationwide basis. WiMAX technology will allow Sprint-Nextel subscribers wireless data delivery and reception capabilities at speeds currently seen with DSL and T-1 connectivity. This installation will benefit the City of Somerville residents by offering a wireless option and increased competition to high speed data consumers."

The three additional antennas would be located next to existing antennas. They would be visible looking west from Middlesex Avenue and looking northwest from McGrath Highway. The size, location and color of the three additional antennas are not expected to have any significant visual impact. The equipment cabinets would not be visible.

FINDINGS FOR REVISION TO SPECIAL PERMIT:

The Board finds that the proposed antennas would not create a negative visual impact on the surrounding neighborhood. The backhaul dishes would be camouflaged with paint that matches the building and the equipment cabinets would not be visible.

DECISION:

Present and sitting were Members Kevin Prior, Linda Bohan, Joseph Favaloro, and Elizabeth Moroney. Upon making the above findings, Elizabeth Moroney made a motion to approve the request for a revision to the special permit. Joseph Favaloro seconded the motion. Wherefore the Planning Board voted (4-0) to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes				
1	<p>Approval is for the revision to Special Permit 2001-80 to add three wireless backhaul dish antennas and two equipment cabinets in an existing equipment room. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:</p> <table><tr><th>Date</th><th>Submission</th></tr><tr><td>May 1, 2008</td><td>Initial application submitted to the City Clerk’s Office</td></tr></table> <p>Any changes to the approved plans must receive ZBA approval.</p>	Date	Submission	May 1, 2008	Initial application submitted to the City Clerk’s Office	BP/CO	ISD/ PLNG	
Date	Submission							
May 1, 2008	Initial application submitted to the City Clerk’s Office							
2	All antennas must be painted to match, as closely as possible, the surrounding colors and materials of the building.	BP/CO	ISD/ PLNG					
3	Prior to a request for final sign-off on a building permit, the Applicant must obtain an updated Certificate of Compliance from the Fire Prevention Bureau.	CO	FP					
4	<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 Planning Board, 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.	CO	Police Dept.					

5	<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 Planning Board.	CO	Health Dept.	
6	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.	CONT.	ISD	
7	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit 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	

Attest, by the Planning Board:



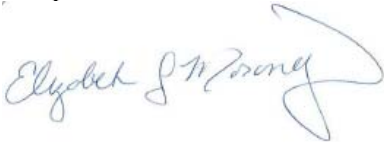
Kevin Prior, *Chairperson*



Linda Bohan, Clerk



Joseph Favaloro



Elizabeth Moroney

<p>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.</p>

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 _____