

ACTON PLANNING BOARD

RECEIVED

APPLICATION for a PERSONAL WIRELESS FACILITY SPECIAL PERMIT

NOV 21 2012

Refer to the "Rules and Regulations for Personal Wireless Facility Special Permits" available from the Planning Department for details on the information and fees required for this application. Contact the Planning Department at 978-929-6631 with any questions concerning the Rules. Incomplete applications may be denied.

0619
2500-
[Signature]

Please type or print your application.

- 1. Applicant's Name Sprint Spectrum LP.
Address 1 International Blvd suite 800, Mahwah, NJ 07495
Telephone 201-684-4000 E-Mail _____
- 2. Record Owner's Name AT&T
Address 400 Blue Hill Drive, suite 100, Westwood MA 02090
Telephone 781-7155537 E-Mail JLawrence@chell.com
- 3. Location and Street Address of Site 533 Main St
- 4. Town Atlas Map & Parcel Number(s) E-4-59
- 5. Zoning District(s) of Parcel(s) Light Industrial 1
- 6. Area of Site 5.31 acres
- 7. Proposed Height of Facility no change feet
- 5. Proposed Carriers
Sprint -

The undersigned hereby apply to the Planning Board for a public hearing and a Personal Wireless Facility Special Permit under Section 3.10 of the Zoning Bylaw.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of his/her knowledge.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with MGL Ch. 268, Section 1-A.

11/21/12
Date

[Signature]
Signature of Applicant

RECORD OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

11/21/12
Date

[Signature] as agent
Signature of Owner



Town of Acton
 472 Main Street
 Acton, MA 01720
 Telephone 978-929-6621
 Fax 978-929-6340

Brian McMullen
 Assistant Assessor

Locus: 533 MAIN ST
 Parcel ID: EA-69

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
10 POST OFFICE SQ	F4-2	LIQUID METRONICS INC		8 POST OFFICE SQ	ACTON	MA	01720
549 MAIN ST	E4-47	CONANT BREWSTER		562 MAIN STREET	ACTON	MA	01720
22 GRASSHOPPER LN	F4-11	GERHART REID W	GERHART LOUISE C	22 GRASSHOPPER LN	ACTON	MA	01720
531 MAIN ST	E4-67	GOSSELS WERNER F ET UX TRUSTEE	LAINE REALTY TRUST	17 BENNETT ROAD	WAYLAND	MA	01778
8 POST OFFICE SQ BEHIND	E4-47-1	ACTON WATER SUPPLY		PO BOX 953	ACTON	MA	01720
528 MAIN ST	E4-46	MIG-ACTON LLC		ONE ACTON PL SUITE 200	ACTON	MA	01720
6 POST OFFICE SQ	E4-69-1	BROOKS MARK TRUSTEE	6 POST OFFICE SQ REALTY TR	200 BAKER AVE SUITE 303	CONCORD	MA	01742
8 POST OFFICE SQ	E4-69-2	LIQUID METRONICS INC		8 POST OFFICE SQ	ACTON	MA	01720
7 POST OFFICE SQ	E4-67-2	FDI POSTAL PROPERTIES II		PO BOX 659	MOUNT AIRY	MA	21771

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list

HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:

Boxborough, MA 01729 Maynard, MA 01754 Concord, MA 01742 Littleton, MA 01460
 Carlisle, MA 01741 Stow, MA 01775 Westford, MA 01886 Stow, MA 01776

Marty Abbott
 Marty Abbott
 Assessor's Clerk

15-Nov-12

RECEIVED

NOV 21 2012

Town of Acton
Planning Department

✓ #0619
\$2,500
19



November 20, 2012

Town of Acton
Planning Board
472 Main Street
Acton, MA 01720

RE: Application for a Special Permit
Property Address: 533 Main Street ("Property")
Applicant: Sprint Spectrum L.P.

Dear Honorable Members of the Planning Board:

Sprint Spectrum L.P. (the "Applicant") respectfully submits this application for a Special Permit from the Town of Acton Planning Board with respect to its proposed modification to the Applicant's existing personal wireless service facility. The Applicant proposes to modify its existing wireless telecommunication facility (sometimes "Facility") on the property located at 533 Main Street, Acton MA. The Applicant's Facility currently consists of three (3) wireless communication antennas mounted at the one hundred thirty seven feet (137') level on the existing stealth pole tower, one (1) GPS antenna, and two (2) equipment cabinets mounted on a concrete pad within the fenced tower compound. The Applicant proposes to modify its current installation on the existing tower by replacing the three (3) existing antennas with three (3) new antennas at the same height on the tower, installing three (3) remote radio heads (RRHs), measuring approximately 19" 13" x 12" w, at the same height as the antennas and replacing the existing GPS antenna with one (1) new GPS antenna. The Applicant proposes to modify its equipment on the ground by replacing one (1) existing equipment cabinet with two new (2) BBU cabinet and replacing one (1) existing BTS Cabinet with one (1) Multimode BTS cabinet and one (1) new fiber distribution box within the **existing** fenced tower compound. The Applicant's proposed modifications to the Facility are more fully described on the plans attached hereto and incorporated herein by reference (the "Plans").

The Property is located in the Light Industrial (LI1) zoning district and, in accordance with section 3.1.1 of the Town of Acton Zoning Bylaw ("Bylaw"), Wireless Communication Facilities are allowed after issuance of Special Permit by the Planning Board (the "Board"). Furthermore §3.10.5.3 states that any new antenna or other equipment may be mounted on an approved tower without a special permit, if the installation does not deviate from the approved appearance of the Tower. Due to the extent of the modifications proposed by the Applicant, the Applicant respectfully submits this application for a Special Permit in accordance with § 3.10, ~~Special Requirements for Personal Wireless Facilities.~~

I. Background

The Applicant is in the process of modernizing and upgrading its existing network to accommodate 3G & 4G advanced wireless services. The network currently operates both 3G CDMA and IDEN technology.

In the case of the 3G CDMA network, the existing legacy equipment is reaching its end of life for service and support. Upgrading and replacing the existing equipment will further enhance voice quality and data speeds for customers within the Town of Acton. The modification will implement multimode technology to enhance service coverage, quality and speed, create network flexibility for the most effective expansion of 4G service, reduce operating costs and improve environmental sustainability. As described above, Sprint uses separate equipment to deploy wireless services on its 800 and 1900 MHz spectrum and through its relationship with Clearwire, 2.5 GHz spectrum. The proposed Network Vision equipment and software will bring the spectrum bands together on a single, multimode base station. As such, the proposed modifications to this site are necessary in order for Sprint to modernize and expand this thriving network's capacity. Moreover, allowing the proposed modification will enhance wireless communication services in the Town of Acton and surrounding communities while vitiating the need for new wireless communication facilities.

II. The Facility

The Applicant's Facility currently consists of three (3) wireless communication antennas mounted at the one hundred thirty seven feet (137') level mounted within the existing tower and two (2) equipment cabinets mounted on a concrete pad within the fenced tower compound. The Applicant proposes to modify its current installation on the existing tower by replacing the three (3) existing antennas with three (3) new antennas at the same height in the tower, installing six (6) remote radio heads (RRHs), measuring approximately 19" l3" x 12" w, within the existing tower at the same height as the antennas and replacing the existing GPS antenna with one (1) new GPS antenna. The Applicant proposes to modify its equipment on the ground by replacing one (1) existing equipment cabinet with two (2) BBU cabinet and replacing one (1) existing BTS Cabinet with one (1) Multimode BTS cabinet and adding one (1) new fiber distribution box within the existing fenced tower compound.

After installation, the Facility will be unmanned and will only require maintenance trips twice per month by a certified technician. The Facility currently complies and will remain in compliance with all applicable local, state and federal safety codes.

III. Legal Argument

The proposed Facility complies, to the extent practicable, with the Town of Acton's Special Requirements for Personal Wireless Facilities as follows:

3.10 Special Requirements for Personal Wireless Facilities

3.10.1 Purposes

3.10.1.1 To allow Personal Wireless Facilities in accordance with and as required by the Federal Telecommunications Act of 1996 and in acknowledgment of M.G.L. Chapter 40A, Section 3.

The Applicant acknowledges the preceding subsection.

3.10.1.2 To minimize their adverse impacts on adjacent properties, local historic districts, residential neighborhoods, and scenic vistas.

The Applicant acknowledges the preceding subsection.

3.10.1.3 To establish requirements for their approval, and standards for their design, placement, safety, monitoring, modification, and removal.

The Applicant acknowledges the preceding subsection.

3.10.1.4 To limit the overall number and height of Personal Wireless Towers to what is essential to serve the public convenience and necessity.

No response required.

3.10.1.5 To promote shared USE of Facilities to reduce the need for new Facilities.

No response required.

3.10.2 Applicability

3.10.2.1 This Section 3.10 shall apply to all reception and transmission Facilities that aid, facilitate, and assist with the provision of Personal Wireless Services.

The Applicant acknowledges the preceding subsection.

3.10.2.2 No such Facility shall be erected or installed except in compliance with the provisions of this Section 3.10.

The Applicant acknowledges the preceding subsection.

3.10.2.3 Nothing in this Bylaw shall be construed to regulate or prohibit customary installations for the reception of radio communication signals at home or business locations.

The preceding subsection is not applicable to this application.

3.10.2.4 Nothing in this Bylaw shall be construed to regulate or prohibit a tower or antenna installed solely for use by a federally licensed amateur radio operator. For regulations on amateur radio towers see Section 3.8.3.6 of this Bylaw.

The preceding subsection is not applicable to this application.

3.10.3 Definitions

3.10.3.1 Antenna – A transducer device designed to transmit and/or receive radio frequency

signals. (The remainder of this zoning provision is deleted for convenience).

No response required.

3.10.4 General Prohibitions and Requirements

3.10.4.1 Lattice style Towers and similar facilities requiring more than one leg or guy wires for support are prohibited. However, additional equipment may be mounted on an existing lattice Tower.

The preceding subsection is not applicable to the Applicant. The proposed modification is related to an existing stealth tower.

3.10.4.2 A Personal Wireless Tower shall not be erected in a Local Historic District or within one thousand feet (1000') of the boundary of a Local Historic District measured from the center point of a Tower at its base.

The preceding subsection is not applicable to the Applicant. The proposed modification is to an existing wireless facility.

3.10.4.3 All STRUCTURES, equipment, utilities and other improvements associated with Personal Wireless Facilities shall be removed within one year after cessation of USE.

The Applicant understands and agrees to comply with the preceding subsection.

3.10.4.4 Night lighting of Personal Wireless Facilities is prohibited except for low intensity lights installed at or near ground level in or on the Equipment Compound and in compliance with the Outdoor Lighting Regulations of this Bylaw, Section 10.6.

The Applicant understands and agrees to comply with the preceding subsection.

3.10.4.5 At least one sign shall be installed in a visible location at the Equipment Compound that provides the telephone number where the operator in charge can be reached at all times.

The Applicant understands and agrees to comply with the preceding subsection.

3.10.4.6 Section 6 (Parking Standards) of the Acton Zoning Bylaw shall not apply to Wireless Communication Facilities.

The Applicant understands and agrees to comply with the preceding subsection.

3.10.4.7 Nothing in this Bylaw shall be construed to regulate or prohibit a Personal Wireless Facility on the basis of the environmental effects of radio frequency emissions, provided the Facility complies with regulations of the Federal Communications Commission concerning such emissions.

No response required.

~~3.10.5 Personal Wireless Facilities Allowed by Right~~

3.10.5.1 In all zoning districts, a Personal Wireless Facility shall be allowed and no special

permit shall be required,

a) if the Antenna(s) and Antenna mounting apparatus or STRUCTURE does not exceed 3 feet in diameter and 12 feet in height and is otherwise in compliance with applicable dimensional requirements of this Bylaw as they relate to the Personal Wireless Facility Site, or

The preceding subsection is not applicable to the Applicant. The Applicant's proposed modifications include a new 48" diameter "bump-out" on the existing pole.

b) if the Facility is located entirely within, or mounted on, a BUILDING or STRUCTURE that is occupied or used primarily for other purposes, provided that the BUILDING or STRUCTURE, including the Facility, meets all dimensional requirements of this Bylaw for the zoning district in which the Site is located. A cupola or other appurtenance, that is consistent with the general characteristics of the zoning district within which the Facility is located, that is otherwise allowed by right, and that fully conceals all Antennas, cables, and other related hardware may be added to a BUILDING when the supporting equipment belonging to the Facility is installed within the BUILDING.

The preceding subsection is not applicable to the Applicant. The Applicant's proposed modifications are on an existing tower and not on a building.

3.10.5.2 In the Office Districts (OP-1, OP-2), the Industrial Districts (LI, GI, LI-1, IP, SM), the Powder Mill District (PM), and the Limited Business District (LB), a Monopole Tower shall be allowed and no special permit shall be required, if its height does not exceed applicable height limitations for STRUCTURES and BUILDINGS in the zoning district in which it is located, and if its setback, measured from its center point at its base to all Site boundary lines, is at least the distance equal to its height, but not less than the otherwise applicable minimum yard requirement for BUILDINGS and STRUCTURES in the zoning district.

The preceding subsection is not applicable to the Applicant. The Applicant is not proposing a new facility.

3.10.5.3 Any new Antennas or other equipment owned by a Personal Wireless Service Provider may be mounted on a previously approved Tower without a special permit, if there is no increase in height above the maximum height specified in the special permit for the Tower and if the installation does not deviate from the approved appearance of the Tower. For example, an approved CAM may not be converted to a Flush Mount Monopole by any subsequent Antenna installations.

The Applicant is seeking a new Special Permit as its proposed modifications do deviate from the approved appearance of the Tower.

3.10.6 Special Permit for Facilities

3.10.6.1 Any Personal Wireless Facility, and any increase in height or size, or reconstruction or replacement of an existing Facility that does not meet the criteria under Section 3.10.5 above, ~~may only be allowed by special permit from the Planning Board in accordance with M.G.L. Ch. 40A, S. 9,~~ subject to the following statements, regulations, requirements, conditions and limitations.

No response required.

3.10.6.2 For the purpose of this Section 3.10, public hearing notices shall be sent to parties in interest and to all LOT owners within one thousand feet of the property line of the Site where the Facility is proposed.

The Applicant understands and agrees to comply with the preceding subsection. An abutters lists is included with this application.

3.10.6.3 A Personal Wireless Tower shall not exceed a height of 175 feet from ground level, or a height that is allowed without illumination at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less. For purposes of determining the height of a Tower, the height shall be the higher of the two vertical distances measured as follows:

- a) The elevation of the top of the Tower STRUCTURE including any Antennas or other appurtenances above the pre-construction mean ground elevation directly at the base of the pole; or
- b) The elevation of the Tower STRUCTURE including any Antennas or other appurtenances above the mean ground elevation within 500 feet of the base of the pole.

The preceding subsection is not applicable to the Applicant. The Applicant is proposing to modify its existing facility on an existing tower that is 150 feet.

3.10.6.4 Personal Wireless Towers shall be CAMs. On a case by case basis, generally when aesthetic considerations are less important, the Planning Board may allow Monopoles with external Flush Mounted Antennas, or external standard Antenna mounting frames that extend laterally from the Monopole.

The existing wireless facility is a CAM. The Applicant is proposing to increase the diameter of the CAM from 36" diameter to 48" diameter.

3.10.6.5 Personal Wireless Towers shall be located, designed, and constructed as Monopoles that are extended to or structurally extendable to the maximum height allowed under Section 3.10.6.3 above, capable of accommodating the maximum number of technically feasible Co-locator Antennas on the portion of the Monopole above the trees as well as an Equipment Compound physically able to, or capable of being enlarged to, fully accommodate the maximum number of Personal Wireless Service Carriers and other equipment necessary for the maximum number of technically feasible Co-locators at the Site.

The preceding subsection is not applicable to the Applicant. The proposed modifications do not contemplate a Monopole.

3.10.6.6 In all Residential Districts, the setback of a Tower, measured from the center point of the Tower at its base to the boundary lines of the Site, shall be at least one hundred and seventy five feet (175').

The preceding subsection is not applicable to the Applicant. The existing facility is not located within a Residential District.

3.10.6.7 The center point of any Personal Wireless Tower at its base shall be separated from any existing residential BUILDING by a horizontal distance that is at least three hundred and fifty feet (350'), unless the residential BUILDING and the Facility are located on the same LOT.

The Applicant requests a waiver from the preceding subsection. The Applicant is proposing to modify and existing wireless facility.

3.10.6.8 An Equipment Compound, if employed, shall be located in the immediate vicinity of the base of a Tower. The Equipment Compound, including fencing, shall not extend more than 100 feet from the center point of the Tower in the direction of any residential BUILDING on a neighboring LOT.

The preceding subsection is not applicable. The existing and proposed facility is unmanned and only requires 2 visits per month for routine maintenance.

3.10.6.9 Any Tower shall be designed to accommodate the maximum feasible number of Carriers.

a) The Planning Board may require the employment of all available technologies and Antenna arrangements to minimize vertical space consumption, and require sufficient room and structural capacity for all necessary cables and Antennas.

b) The Planning Board may require the owner of such Tower to permit other Providers to Co-locate at such Facility upon payment of a reasonable charge, which shall be determined by the Planning Board if the parties cannot agree.

c) The Planning Board may require that the equipment of all users of a Tower shall be subject to rearrangement on the Tower or in the Equipment Compound if so directed by the Planning Board at a later time in its effort to maximize Co-location of Carriers. This may result in different vertical Antenna locations, reduced vertical separation of Antennas, and changes of Antenna arrangements, to the extent feasible without causing technically unacceptable radio frequency signal interference between the Antennas of the Co-locators and without creating new Significant Gap in the existing coverage of incumbent Providers on the Tower.

d) The Planning Board may require that the equipment of all Carriers on a Tower shall be subject to relocation to another nearby Facility if such relocation, when considered individually or in concert with existing or potential new Facilities, does not create a Significant Gap in the Carrier's coverage when so directed by the Planning Board at a later time in its effort to maximize Co-location of Carriers. It may then order the removal of a Tower after the relocation is completed.

e) The Planning Board may require long-term easements, leases, licenses, or other enforceable legal instruments that fully support a Facility at its maximum potential technical capacity, including sufficient space on the Tower and for Facility base equipment to accommodate the maximum number of technically feasible Colocators

at the Site, adequate ACCESS and utility easements to the Facility from a public STREET, and the right for the maximum number of technically feasible Colocators to Co-locate on the Tower and to upgrade the utilities and equipment as needed for maintaining and improving service and capacity.

The Applicant acknowledges the preceding subsections.

3.10.6.10 Unauthorized entry into an Equipment Compound shall be prevented by the installation of security measures such as fencing (for outdoor Equipment Compounds) or locked rooms or buildings. Towers shall be secured against unauthorized climbing. The Planning Board shall require suitable fencing and landscape screening or other mitigation means to shield the installation from the view of nearby residences or ways.

The Applicant acknowledges the preceding subsection. The existing compound area is surrounded by a fence.

3.10.6.11 The Planning Board may require that all ground equipment must be placed inside a BUILDING where the Planning Board finds that a fenced-in compound does not adequately address reasonable and legitimate aesthetic concerns. In such cases, the Planning Board shall have the power under the special permit to regulate the size, shape, and exterior appearance of the BUILDING.

The Applicant requests a waiver from the preceding subsection. The Applicant proposes to use the existing platform that its equipment is currently installed on.

3.10.6.12 A Tower approved hereunder shall be used only for the transmission of signals for Personal Wireless Services, except with the specific authorization of the Planning Board.

a) The Planning Board may approve or require the installation of transmission devices owned, operated, or used by the Town of Acton or any of its agencies, and may allow such devices to extend above the otherwise applicable maximum Tower height. The Planning Board may waive or modify the approved appearance provision of Subsection 3.10.5.3 for such devices.

b) The Planning Board may also approve the installation of communication devices by entities other than Personal Wireless Service Carriers as secondary occupants of a Facility that are subject to Planning Board termination upon six months notice of the Planning Board, provided that they do not interfere with the Personal Wireless Services and that the intent of this Bylaw to maximize Co-location of Personal Wireless Service Providers is not compromised.

The Applicant acknowledges the preceding subsections.

3.10.6.13 The Planning Board shall in its special permit make adequate provisions for the removal of the Tower and Equipment Compound after its USE for Personal Wireless Services has ended. It shall require that the Facility location shall be restored to pre-existing conditions ~~as much as is reasonably possible so that no traces of the Facility, including foundation, gravel pads, and driveways, remain visible above ground, and that the location be otherwise stabilized and naturalized as appropriate for the particular Site.~~

The Applicant acknowledges the preceding subsections, and agrees to reasonable provisions requiring removal of only the Applicant's personal property and equipment.

3.10.6.14 The Planning Board may, as a condition of any special permit, require all Carriers at a Facility, upon the written request of the Planning Board from time to time, to file with the Planning Board and Town Clerk a report, prepared and stamped by a Massachusetts registered Professional Engineer, that certifies that such Carrier's Facility is, and such Co-locator's Facilities are, in compliance with the terms and conditions of the special permit and the Acton Zoning Bylaw. The Planning Board may also require the Carriers to file with the Planning Board certifications from other independent, qualified engineers or other appropriate professionals that the Facility is in compliance with applicable state and federal laws, such as those regarding radio frequency emissions, noise, or aeronautical navigation safety. The Planning Board may make such requests not more frequently than once every two years, unless the Planning Board has reasonable grounds to believe that the Facility is not in compliance in any substantial or material respect with the terms and conditions of the special permit or any applicable FCC or other State or Federal laws.

The Applicant acknowledges the preceding subsections.

3.10.6.15 The Planning Board may limit the number of Towers on a Site to one, or to any other number it deems necessary and appropriate for the Site. Multiple Towers on a single Site shall be separated by such reasonable distance that prevents excessive interference (mechanical or electromagnetic) between Carriers' services and that creates the most harmonious appearance to the general public, but by not less than 40 feet measured between the center points at the Towers' respective bases.

The preceding subsection is not applicable to the Applicant. The Applicant is not proposing a new Tower.

3.10.6.16 The Special Permit application for a Personal Wireless Facility shall be accompanied by a plan showing the Facility location in relation to the boundary lines of the Facility Site and all BUILDINGS within 500 feet, and plans for the installation or construction of the Facility adequate to show compliance with the provisions of this Bylaw, and such supplemental information as may be required by the Planning Board in the Rules and Regulations for a Special Permit for Personal Wireless Facilities. The application shall also include maps showing areas where the proposed Facility will be visible when there is foliage and when there is not.

The Applicant is preparing photo simulations of the proposed modifications. The Applicant will supplement this application with the photo simulations prior to the public hearing.

3.10.6.17 Mandatory Findings – The Planning Board shall not issue a special permit for a Personal Wireless Facility unless it finds that the Facility:

a) is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. Ch. 40A, S. 11;

b) is designed to provide, in the most community-compatible method practicable, Service Coverage to a Significant Gap within the Town. The applicant shall bear the burden of demonstrating, by clear and convincing evidence, the existence of such Significant Gap;

c) is designed in the most community-compatible method practicable and is necessary to satisfy a Significant Gap in service. The applicant shall bear the burden of demonstrating that other methods preferred by the Town are not feasible for providing Service Coverage to satisfy such Significant Gap;

d) cannot for technical or physical reasons be located on an existing Personal Wireless Facility or Tower that would be expected to provide comparable Service Coverage. Such alternative existing location or locations need not provide full service to the entire Significant Gap if, in the determination of the Planning Board, the remaining Gap to have been served by the proposed Facility is not Significant and/or if remaining portions of the Significant Gap can be served by new Facilities preferred by the Planning Board;

e) cannot be located at any other practicably available site that is less objectionable to the general public due to technical requirements, topography, or other unique circumstances. The applicant shall have the burden of showing what alternative sites and technologies it considered and why such sites and technologies are not practicably available;

f) is sited in such a manner that it is suitably screened;

g) is colored so that it will as much as possible blend with or be compatible with its surroundings;

h) is designed to accommodate the maximum number of users technologically feasible;

i) is necessary because there is no other existing Facility or Facilities with available space or capacity available to satisfy the Significant Gap;

j) is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations; and

k) complies with all applicable requirements of this Bylaw, including Section 10.3.

The Applicant acknowledges the preceding subsections and agrees to comply with them to the extent that they are applicable to the Applicants proposed modifications.

3.10.6.18 The Planning Board under its special permit authority may waive one or more requirements of this Section 3.10.6 and its subsections, including dimensional requirements, and it may grant a waiver from the use restrictions contained in Section 3.4.10 of the Table of Principal Uses, where the Board finds that the relief is necessary to avoid an effective prohibition of Personal Wireless Services in the Town or avoid unreasonable discrimination among Providers of functionally equivalent services.

a) Any request for such waivers shall be supported by a study prepared by a qualified radio frequency engineer or other qualified professional consultant demonstrating to the Planning Board's satisfaction that there exists a Significant Gap in coverage ~~within the specific geographic area proposed, and clear and convincing evidence~~ that no alternative locations, technologies, and/or configurations are available that meet the otherwise applicable requirements.

b) In granting such a waiver or waivers, the Planning Board must find that the extent of the granted relief is mitigated by showing that any alternative for serving the Significant Gap that is feasible is no less objectionable in its impact on the community, that all practicable mitigation of the proposed Facility's impact is incorporated in the design and conditions, and that the desired relief may be granted without substantial detriment to the neighborhood and without denigrating from the intent and purpose of this Bylaw.

c) However, the Board shall not grant relief from the maximum height limitation in Subsection 3.10.6.3.

d) The Board shall be empowered hereunder to grant relief from any setback requirements in Subsections 3.10.6.6 or 3.10.6.7 provided that the Facility as proposed with such non-conforming setbacks is demonstrated to be necessary to serve the Significant Gap or that such relief will produce a better result for the community than without such relief, consistent with Section 3.10.1 – Purposes, and its subsections.

e) The applicant shall provide the Board with a written statement describing how the requested relief meets the objectives of the preceding paragraph (d) and is in the best interest of the Town with reference to Section 3.10.1 – Purposes, and its subsections.

The Applicant understands the preceding subsection.

3.10.6.19 At the applicant's expense a full transcription or recording of the oral hearings shall be made.

No response required.

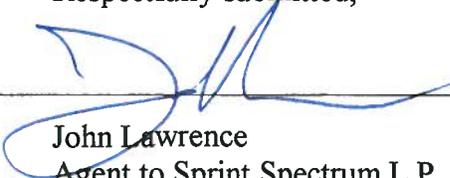
3.10.7 Nothing contained in this Section 3.10 shall, or is intended to, waive, restrict, modify, or limit any other of the Bylaws of the Town of Acton, or any rule or regulation made there under.

The Applicant acknowledges the preceding subsection.

IV. Conclusion

The Applicant hereby requests the Board to determine that it has satisfied the requirements for the grant of the requested Special Permit based upon the information contained herein. For the foregoing reasons, the Applicant respectfully requests the Board to grant the necessary zoning relief in the form of a Special Permit and/or such other relief as the Board deems necessary in order to allow the proposed modifications to the existing Facility.

Respectfully submitted,



John Lawrence
Agent to Sprint Spectrum L.P.