



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

***PLANNING BOARD MEMBERS***

KEVIN PRIOR, *CHAIRMAN*  
JOSEPH FAVALORO, *CLERK*  
ELIZABETH MORONEY  
JAMES KIRYLO  
MICHAEL A. CAPUANO, ESQ.  
ELIZABETH MORONEY  
JERRY AMARAL, (ALT.)

**Case #: PB 2014-10**  
**Site: 844 McGrath Highway**  
**Date of Decision: May 8, 2014**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: May 12, 2014**

---

**PLANNING BOARD DECISION**

---

<b>Applicant Name:</b>	Sprint Spectrum
<b>Applicant Address:</b>	101 Palisades Circle, Stoughton, MA 02072
<b>Property Owner Name:</b>	Cummings-Middlesex Somerville, LLC
<b>Property Owner Address:</b>	P.O. Box 386, Weston, MA 02493
<b>Agent Name:</b>	Gerry Squires
<b>Agent Address:</b>	101 Palisades Circle, Stoughton, MA 02072

Legal Notice: Applicant, Sprint Spectrum, and Owner, Cummings-Middlesex Somerville, LLC, seek a Special Permit under SZO §7.11.15.3 and SZO §14 to add equipment to a wireless communication facility which includes the installation of new panel antennas and remote radio heads. ASMD zone. Ward 1.\*

<u>Zoning District/Ward:</u>	ASMD zone/Ward 1
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	April 1, 2014
<u>Date(s) of Public Hearing:</u>	May 8, 2014
<u>Date of Decision:</u>	May 8, 2014
<u>Vote:</u>	5-0

\* The correct type of permit is a Special Permit with Site Plan Review-A as written in the staff report and voted upon at the meeting.



Appeal #PB 2014-10 was opened before the Planning Board at the Visiting Nurse Association on May 8, 2014. 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 hearing of deliberation, the Planning Board took a vote.

**DESCRIPTION:**

The proposal is to add 3 panel antennas and 3 remote radio heads to the building to accommodate faster service in the area. The antennas will be mounted on the existing penthouse to centerlines (pipe supports) that are already mounted. Both pieces of equipment will be painted to match the penthouse and existing equipment. There will be a fiber-only cable installed following an existing coax line that will be mostly concealed by the hotel signage.

**FINDINGS FOR SPECIAL PERMIT (SZO §5.2 & §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."

Under SZO §7.11.15.3 establishment or modification of a wireless communications facility requires a Special Permit with Site Plan – A approval in the Assembly Square Mixed-Use District. The guideline requires the Applicant to follow guidelines and procedures as 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. NSAC, LLC is a FCC licensed company that is required to comply with all state and federal regulations.

*Review Criteria for Telecommunications Facilities SZO §14.5.1:*

- 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. The development of Assembly Row has increased the amount of residential capacity in the area but is further away from the RA & RB zones across Fellsway West. At the nearest point, 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, Planning Staff's proposal to match them to the color of the building to which they are affixed would reduce their prominence from any public way.
  - 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 and remote radio heads will be installed onto the sides of the existing penthouses on the and will be no higher than the existing antennas which do not protrude above the roofline of the penthouse. Staff is also proposing a condition that the antennas and associated equipment be painted to match the color of the penthouse walls to camouflage them.
  - g. *Location of tower, considering more suitable locations:* 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. The residential component of Assembly Square is approximately X feet away. Staff is proposing 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 impact on the viewshed of the area.
  - 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 increase in speed in the area. 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:* The site where the Applicant proposes to install three antennas and remote radio heads currently operates 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 Staff 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 provide for and maintain the uniquely integrated structure of uses in the City; 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;
- 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 add the additional equipment to the wireless communication facility is a convenience for residents of the district who use Sprint Spectrum as a wireless network carrier. Staff finds that the added equipment, as conditioned, will not negatively impact the surrounding uses in the area.

Furthermore, the Staff 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;*
- 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 property is situated between Interstate 93, Fellsway West, and the Assembly Square Mall Shopping Center at the intersection of McGrath Highway, Fellsway West, and Mystic Avenue. The block where this structure is located is composed predominantly of commercial, retail, and industrial uses. The Somerville District Court, a Ninety Nine Restaurant, a Christmas Tree Shop, Sports Authority, Staples, and other retail stores are located in the immediate vicinity. Most of the structures in the surrounding area are between 2 and 3 stories in height. Across Fellsway West are predominately RA and RB residential districts. Assembly Row is a mix of commercial and residential uses ¼ mile away.

Staff 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 facades 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 and the setback of the central penthouse. 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. Staff is proposing a condition that the antennas and associated equipment be painted to match the existing equipment to help reduce any visual impacts from the site on the surrounding area. The antennas will be mounted on the existing penthouse walls on the rooftop and will not extend higher than the roofline of the facade 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, NSAC, LLC 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.



**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 with Site Plan Review-A. 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 a Special Permit with Site Review A under SZO §7.11.15.3 and SZO §14 to add equipment to a wireless communication facility which includes the installation of new panel antennas and remote radio heads. 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>(April 1, 2014)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>March 26, 2014</td> <td>Modified plans submitted to OSPCD (Photo Simulations Existing &amp; Proposed – North, Southeast, &amp; South)</td> </tr> <tr> <td>March 24, 2014</td> <td>Photograph simulations submitted to OSPCD (T-1 Title Sheet, SP-1, SP-2, SP-3, SP-3 Outline Specs, A-1 Roof Plan, A-2 Elevation, A-3 Antenna Plans, A-4 Equipt Plan, A-5 RF Data, A-6 Wiring, S-1 Structural Details, E-1 1-Line Diagrams, E-2 Grounding Details, )</td> </tr> </tbody> </table> <p>Any changes to the approved plans, photo simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(April 1, 2014)	Initial application submitted to the City Clerk’s Office	March 26, 2014	Modified plans submitted to OSPCD (Photo Simulations Existing & Proposed – North, Southeast, & South)	March 24, 2014	Photograph simulations submitted to OSPCD (T-1 Title Sheet, SP-1, SP-2, SP-3, SP-3 Outline Specs, A-1 Roof Plan, A-2 Elevation, A-3 Antenna Plans, A-4 Equipt Plan, A-5 RF Data, A-6 Wiring, S-1 Structural Details, E-1 1-Line Diagrams, E-2 Grounding Details, )	BP/CO	ISD/Plng.	
Date (Stamp Date)	Submission											
(April 1, 2014)	Initial application submitted to the City Clerk’s Office											
March 26, 2014	Modified plans submitted to OSPCD (Photo Simulations Existing & Proposed – North, Southeast, & South)											
March 24, 2014	Photograph simulations submitted to OSPCD (T-1 Title Sheet, SP-1, SP-2, SP-3, SP-3 Outline Specs, A-1 Roof Plan, A-2 Elevation, A-3 Antenna Plans, A-4 Equipt Plan, A-5 RF Data, A-6 Wiring, S-1 Structural Details, E-1 1-Line Diagrams, E-2 Grounding Details, )											



2	<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 Division, 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. The Applicant shall provide the results of such measurements and certify that the facility complies with the decibel level standards established by the City of Somerville, Noise Control Ordinance, with a copy to the Zoning Board of Appeals.</p>	Continuous	ISD	
3	<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	Health Dept.	
4	<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. Failure to remove may result in a fine or penalty.</p>	Continuous	ISD	
5	<p>The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.</p>	Signoff	Plng.	
6	<p>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.</p>	Final Inspection	DPW	



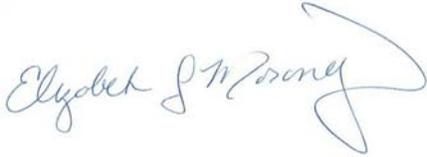
7	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
8	The panel antennas and remote radio heads will be painted to match the existing equipment.	Final Sign Off	Plng.	
9	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
10	The Applicant shall identify and inform Planning Staff of any non-operating wireless equipment from any carrier prior to installation.	BP	Plng.	
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	Plng.	



Attest, by the Planning Board:



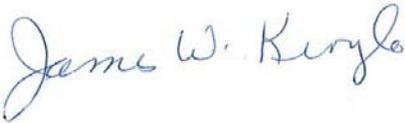
Kevin Prior, Chairman



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 \_\_\_\_\_

