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ORDINANCE NO. 09-52

AN ORDINANCE GRANTING A SPECIAL PERMIT FOR PERSONAL WIRELESS SERVICE
ANTENNAS LOCATED ON A TOWER STYLE SUPPORT STRUCTURE

(205 HUEHL ROAD)

Passed by the Board of Trustees, September 8, 2009
Printed and Published, September 9, 2009

Printed and Published in Pamphlet Form
by Authority of the
President and Board of Trustees
VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

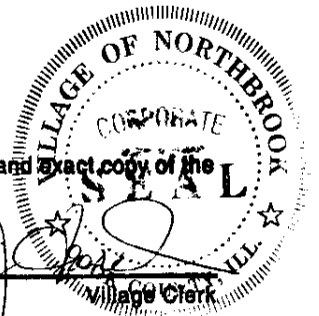
I hereby certify that this document
was properly published on the date
stated above.

/s/ Debra J. Ford
Village Clerk

I hereby certify this to be a true and exact copy of the
original

10-12-09
Date

Debra J. Ford
Village Clerk



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ORDINANCE NO. 09-52

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

AN ORDINANCE GRANTING A SPECIAL PERMIT FOR PERSONAL WIRELESS SERVICE ANTENNAS LOCATED ON A TOWER STYLE SUPPORT STRUCTURE

(205 HUEHL ROAD)

shall be, and is hereby, adopted as follows:

Section 1. BACKGROUND.

STC TWO LLC, a Delaware limited liability company is the lessee ("**Lessee**") of a portion of the property located at 205 Huehl Road in the Village of Northbrook ("**Property**") and the owner of a tower-style support structure located on the Property ("**Tower**"). Global Signal Acquisitions III LLC ("**Operator**") operates the Tower for the Lessee. SprintCom, Inc., a Kansas corporation ("**SprintCom**") has leased space on the Tower and has installed personal wireless service antennas and associated equipment ("**Communications Equipment**") on the Tower. Chicago Title Land Trust Company as Trustee under Trust No. 25-7659 dated March 17, 1986 is the record owner ("**Record Owner**") of the Property. The beneficial owners of Trust No. 25-7659 do business as NR Properties ("**Beneficial Owner**").

On April 28, 1998, the President and the Board of Trustees of the Village of Northbrook approved Ordinance No. 98-17 ("**Original Special Permit Ordinance**"), granting SprintCom a special permit to erect and operate the Tower on the Property for ten years from the effective date of the Ordinance. The Original Special Permit Ordinance became effective upon its recordation in the Office of the Cook County Recorder on June 2, 1998 as Document No. 9859239. By its own terms, the Original Special Permit Ordinance expired on June 2, 2008.

Notwithstanding the expiration the Lessee and the Operator have continued to operate the Tower on the Property. On August 28, 2009, the Village issued an administrative citation to the Lessee, the Operator and the Record Owner for violation of provisions of the Village of Northbrook Zoning Code (1988), as amended ("**Zoning Code**").

The Lessee and the Operator have expressed their desire to continue to maintain and operate the Tower and the Communication Equipment on the Property for a limited period of time and the Village has agreed to allow the Lessee and the Operator to do so. Section 11-703 of the Village of Northbrook Zoning Code (1988), as amended ("**Zoning Code**"), authorizes the Board of Trustees to grant zoning approvals as a means of settling pending litigation.

On September 8, 2009, the Board of Trustees adopted Resolution 09-R-/// approving a Agreement to Enter into a Consent Decree by, between and among the Village, the Lessee, the Operator, SprintCom and the Record Owner ("**Agreement**"), setting forth the terms under which the parties will settle their dispute over the maintenance and operation of the Tower and obligating the Board of Trustees to adopt this Ordinance. Both the Record Owner and the Beneficial Owner consent to the granting of the Lessee and the Operator's requested relief pursuant to the terms of the Agreement.

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The President and the Board of Trustees hereby find that granting a special permit for the continued operation of the Tower and the Communication Equipment to the Lessee, the Operator and SprintCom would be in the best interest of the Village and the public.

Section 2. DESCRIPTION OF PROPERTY.

The Property is legally described in *Exhibit A* attached and, by this reference, made a part of this Ordinance. The Property is part of a larger parcel commonly known as 205 Huehl Road and is located within the I-1 Restricted Industrial District.

Section 3. PUBLIC HEARING.

In accordance with Section 11-704 of the Zoning Code and pursuant to public notice published in the *Northbrook Star* on August 20, 2009, a public hearing was held by the Board of Trustees on September 8, 2009, to consider the Lessee and the Operator's request for a temporary special permit.

Section 4. SPECIAL PERMIT.

Subject to, and contingent upon the conditions, restrictions, and provisions set forth in Section 6 of this Ordinance, a special permit allowing for the continued operation of personal wireless service antennas located on a tower style support structure and related electronic equipment and equipment structures, within or in excess of I-1 District height limitations (Northbrook SIC Code: 4810.02) on the Property shall be, and is hereby, granted pursuant to Subsection 11-704 of the Zoning Code to the Lessee, the Operator and SprintCom. This permit shall include the right of a second provider of personal wireless services to maintain existing antennas and communication equipment on the Tower subject to all of the conditions, restrictions, and provisions of this Ordinance.

Section 5. SPECIAL PERMIT CONDITIONS.

The special permit granted in Section 4 of this Ordinance is expressly subject to and contingent upon the use and maintenance of the Tower by the Lessee, the Operator and SprintCom in compliance with the following terms, conditions and provisions:

A. No Alteration, Enlargement or Additions. The Lessee, the Operator and SprintCom shall operate the Tower and the Communications Equipment in their condition as of the effective date of this Ordinance. The Lessee, the Operator and SprintCom may conduct normal maintenance and incidental repair, replacement and installation to the Tower and the Communications Equipment, but shall be prohibited from structurally altering, enlarging or adding to the Tower or the Communications Equipment during the term of this Ordinance.

B. Compliance with Standards. The Tower and the Communications Equipment shall comply with all applicable requirements of Section 9-201 of the Zoning Code.

C. Conditions for Abandonment. The abandonment and removal of the Tower and the Communications Equipment shall be subject to the standards of Subsection 9-201 N of the Zoning Code, except as provided for in Section 5.D below.

D. Removal of Tower. The Lessee and the Operator shall be obligated, at their sole cost and expense, to deconstruct, demolish and completely remove the Tower, the foundation of the Tower and the Communications Equipment from the Property no later than the date 60 days after the expiration date of this Ordinance, as provided in Section 8 of this Ordinance.

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Section 6. FAILURE TO COMPLY WITH CONDITIONS.

Upon failure or refusal of the Lessee, the Operator and SprintCom to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the special permit granted in Section 4 of this Ordinance shall, at the sole discretion of the Village Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Board of Trustees may not so revoke the special permit unless it shall first provide the Lessee and the Record Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village Board of Trustees. In the event of revocation, the development and use of the Property shall be governed solely by the regulations of the I-1 Restricted Industrial District, as the same may, from time to time, be amended. Further, in the event of such revocation of the special permit, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. The Lessee, the Operator and SprintCom acknowledge that public notices and hearings have been held with respect to the adoption of this Ordinance, have considered the possibility of the revocation provided for in this Section 6, and agree not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Lessee and the Record Owner required by this Section is given.

Section 7. AMENDMENT TO SPECIAL PERMIT.

Any amendment to the special permit renewed in Section 4 of this Ordinance that may be requested by the Lessee, the Operator or SprintCom after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Code.

Section 8. TERM.

The special permit renewed in Section 4 of this Ordinance shall automatically expire, and the designated use shall terminate and expire on April 30, 2010 ("**Expiration Date**"), unless prior to the Expiration Date, the Lessee shall have requested, and the Village Manager shall have granted, a one month extension of the Expiration Date. The Village Manager is authorized to grant, in his sole and absolute discretion, twelve such one month extensions; provided, however, that the Lessee shall be required to pay an administrative fee, in the amount of \$2,000, for each one month extension that is granted by the Village Manager. The administrative fee shall be paid to the Village in advance of the commencement of each such one month extension.

Section 9. BINDING EFFECT; NON-TRANSFERABILITY.

The special permit granted in Section 4 of this Ordinance is for the sole benefit of, and shall inure to the benefit of, and is and shall be binding on, the Lessee, the Operator and SprintCom, except as otherwise expressly provided in this Ordinance. Nothing in this Ordinance shall be deemed to allow such special permit to be transferred to any person or entity other than the Lessee, the Operator or SprintCom.

Section 10. EFFECTIVE DATE.

This Ordinance shall be effective only upon the occurrence of all of the following events:

- i. Passage by the Board of Trustees of the Village of Northbrook by a majority vote in the manner required by law;

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- ii. Publication in pamphlet form in the manner required by law;
- iii. Recordation of this Ordinance, together with such exhibits as the Village Clerk shall deem appropriate for recordation, with the Cook County Recorder of Deeds. The Lessee shall bear the full cost of such recordation.

PASSED: This 8th day of September, 2009.

AYES: (7) Trustees Karagianis, Buehler, Scolaro, Heller, Ciesla, Spaniak, and President Frum

NAYS: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST:

/s/ Sandra E. Frum
Village President

/s/ Debra J. Ford
Village Clerk

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

A PART OF LOT 62 IN SKY HARBOR AIR INDUSTRIAL PARK UNIT 2, A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 62; THENCE N 89°54'48" E, ALONG THE NORTH LINE OF SAID LOT 62, 570.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 89°54'48" E 30.00 FEET; THENCE S 00°27'48" W, 20.00 FEET; THENCE S 89°54'48" W, 30.00 FEET; THENCE N 00°27'48" E, 20.00 FEET TO THE POINT OF BEGINNING, CONTAINING 600 SQUARE FEET, MORE OR LESS.

Commonly known as: 205 Huehl Road, Northbrook, Illinois

Permanent Index No.: 04-05-102-020