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ORDINANCE NO. 98-17

AN ORDINANCE GRANTING A SPECIAL PERMIT
TO ERECT A PERSONAL WIRELESS SERVICE ANTENNA
LOCATED ON A TOWER STYLE SUPPORT STRUCTURE
AT 205 HUEHL ROAD

(SPRINTCOMM. 205 HUEHL ROAD)
(PLAN COMMISSION DOCKET NO. 97-25)

Passed by the Board of Trustees, April 28, 1998

Printed and Published, April 29, 1998

Printed and Published in Pamphlet Form
by Authority of the
President and Board of Trustees

VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

BOX 337

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

/s/ Lona N. Louis

Village Clerk

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

5/18/98 Lona N. Louis
Date Village Clerk

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Scott
Lumpkin

File to [unclear]

Scott

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ORDINANCE NO. 98-17

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
TO ERECT A PERSONAL WIRELESS SERVICE ANTENNA
LOCATED ON A TOWER STYLE SUPPORT STRUCTURE
AT 205 HUEHL ROAD

(SPRINTCOM: 205 HUEHL ROAD)
(PLAN COMMISSION DOCKET NO. 97-25) 98459239

be hereby adopted as follows:

Section 1. BACKGROUND.

American National Bank & Trust Company of Chicago as Trustee under Trust No. 25-7659 dated March 17, 1986 is the record owner (the "Record Owner") of certain real property located at 205 Huehl Road in the Village of Northbrook (the "Subject Property"). NR Properties Joint Venture is the beneficial property owner of said trust (the "Beneficial Owner"). SprintCom, Inc. of Rosemont, Illinois (the "Applicant") proposes to lease the Subject Property. The Applicant has requested a special permit to allow the erection of a personal wireless service antenna located on a tower style support structure and related electronic equipment and equipment structures, within or in excess of the I-1 District Height Limitations (Northbrook SIC Code No. 4810.02) on the Subject Property, subject to the standards established in Section 9-201 of the Northbrook Zoning Code (1988), as amended (the "Zoning Code"). Both the Record Owner and the Beneficial Owner have consented to the application for the special permit.

Section 2. DESCRIPTION OF SUBJECT PROPERTY.

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

Section 3. PUBLIC HEARING.

A public hearing to consider the application for a special permit to allow erection of a personal wireless service antenna located on a tower style support structure on the Subject Property in the I-1 Restricted Industrial District was duly advertised on January 29, 1998 in the *Northbrook Star* and was held at the Plan Commission's regular meeting on March 3, 1998 with a formal recommendation being rendered during the Plan Commission's regular meeting on March 17, 1998 (Plan Commission Resolution No. 98-PC-7).

Section 4. SPECIAL PERMIT.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 5 of this Ordinance, a special permit to erect a personal wireless service antenna located on a tower style support structure and related electronic equipment and equipment structures, within or in excess of the I-1 District height limitations (Northbrook SIC Code No. 4810.02) on the Subject

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Property (the "Antenna Facility") is hereby granted to the Applicant in accordance with and pursuant to Section 11-602 of the Zoning Code and the home rule powers of the Village of Northbrook.

Section 5. SPECIAL PERMIT CONDITIONS.

The special permit granted in Section 4 of this Ordinance shall be, and is hereby, expressly subject to and contingent upon each of the following conditions, restrictions, and provisions:

A. Final Engineering Plans. The Applicant shall submit to the Village Engineer for his review, acceptance, and approval, a final engineering plan (the "Final Engineering Plan") for the Subject Property in conformance with all applicable laws, codes, ordinances, rules and regulations, including, without limitation, the Village Standards and Specifications for Public and Private Improvements (1990), as amended from time to time.

B. Compliance with Plans. The development, use, and maintenance of the Subject Property shall be only in strict accordance with the following documents and plans, except for minor changes and site work approved by the Director of Development or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards:

- i. Site Plan and Detailed Site Plan, Sheets A-1 and A-2, prepared by Sciencetech, Inc. with latest revision date of December 28, 1997, attached as Exhibit B and, by this reference, made a part of this Ordinance;
- ii. Elevations, Details (two sheets), Fence Details, and Grounding Details, Sheets A-3, A-4, A-5 and E-3, prepared by Sciencetech, Inc., with Sheets A-3 and A-5 having a latest revision date of December 28, 1997 and Sheets A-4 and E-3 having a latest revision date of October, 1997, attached as Exhibit C and, by this reference, made a part of this Ordinance; and
- iii. The Final Engineering Plan.

C. Height Restrictions. The Antenna Facility, including any lightning rod thereon, shall be limited to and shall not exceed a maximum of 80 feet in height.

D. Tower Design and Lighting. The antenna support structure of the Antenna Facility shall be a monopole design and painted gray in color, and shall not be illuminated unless required by federal law or regulations.

E. Number of Antennas. The Antenna Facility shall have not more than nine panel antennas and not more than two whip (omnidirectional) antennas.

F. Barbed Wire Fence Prohibition. The Applicant shall be prohibited from constructing, installing, or maintaining barbed wire on the fence surrounding the Antenna Facility.

G. Co-location Covenant. The Applicant shall make the Antenna Facility available for the co-location of one other personal wireless services provider on commercially reasonable terms.

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H. Compliance with Standards. The Antenna Facility shall comply with all applicable requirements of Section 9-201 of the Zoning Code.

I. Conditions for Abandonment. The abandonment and removal of the Antenna Facility and related appurtenances shall be subject to the standards of Subsection 9-201 N of the Northbrook Zoning Code.

Section 6. TERM.

The special permit granted in Section 4 of this Ordinance shall be valid only for a period of ten years from the effective date of this Ordinance and shall be subject to the time limitations provided in the Zoning Code, as amended from time to time.

Section 7. FAILURE TO COMPLY WITH CONDITIONS.

Upon the failure or refusal of the Applicant 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 Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees. In the event of revocation, the development and use of the Subject Property shall be governed solely by the regulations of the L-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 Applicant acknowledges that public notices have been given and public hearings have been held with respect to the adoption of this Ordinance, has considered the possibility of the revocation provided for in this Section, and agrees 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 Applicant required by this Section is given.

Section 8. AMENDMENT TO SPECIAL PERMIT.

Any additional amendment to the special permit granted in Section 4 of this Ordinance that may be requested by the Applicant 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 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 Applicant, 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 Applicant without a new application for approval for any person or entity other than the Applicant.

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Section 10. EFFECTIVE DATE.

A. 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; and
- ii. publication in pamphlet form in the manner required by law; and
- iii. the filing by the Applicant with the Village Clerk of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance. Said unconditional agreement and consent shall be in the form of Exhibit D, attached to and made a part of this Ordinance by this reference; and
- iv. 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 Applicant shall bear the full cost of such recordation.

B. In the event that the Applicant does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 10.A.iii of this Ordinance within 90 days of the date of passage of this Ordinance by the corporate authorities, the corporate authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

PASSED: This 28th day of April, 1998

AYES: (6) Trustees Frum, Karagianis, Buehler, Donewald, and Meek and President Pro-Tem Jaeger

NAYS: (0)

ABSENT: (0)

ABSTAIN: (0)

/s/ Robert J. Jaeger
Village President Pro-Tem Jaeger

ATTEST:

/s/ Lona N. Louis
Village Clerk

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LIST OF EXHIBITS

- EXHIBIT A: Legal Description of the Subject Property
- EXHIBIT B: Site Plan and Detailed Site Plan
- EXHIBIT C: Elevations, Details, and Fence Details
- EXHIBIT D: Unconditional Agreement and Consent

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EXHIBIT A

Legal Description of the Subject Property

LEASE AREA

A PART OF LOT 62 IN SKY HARBOR AIR INDUSTRIAL PARK UNIT 2, A SUBDIVISION OF PART OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ 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.

ACCESS EASEMENT

A PART OF LOT 62 IN SKY HARBOR AIR INDUSTRIAL PARK UNIT 2, A SUBDIVISION OF PART OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ 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 S 00°27'48" W, ALONG THE WEST LINE OF SAID LOT 62, 72.35 FEET TO THE POINT OF BEGINNING; THENCE N 89°54'48" E, 57.39 FEET; THENCE N 47°36'27" E 60.88 FEET; THENCE N 76°18'48" E, 33.54 FEET; THENCE S 89°01'04" E, 234.91 FEET; THENCE N 45°00'00" E, 28.13 FEET; THENCE N 89°54'48" E, 180.70 FEET; THENCE S 45°00'00" W, 28.26 FEET; THENCE N 89°01'04" W, 238.46 FEET; THENCE S 76°18'48" W, 28.92 FEET; THENCE S 47°36'27" W, 62.45 FEET; THENCE S 89°54'48" W, TO THE WEST LINE OF SAID LOT 62, 62.04 FEET; THENCE N 00°27'48" W, 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 7140.24 SQUARE FEET, MORE OR LESS.

Commonly known as: 205 Huehl Road, Northbrook, Illinois

Permanent Index No.: 04-05-103-020

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EXHIBITS NOT ATTACHED FOR RECORDATION

The following exhibits, not attached hereto, are on file in the Office of Village Clerk,
Village Hall, 1225 Cedar Lane, Northbrook, IL 60062.

EXHIBIT B - Site Plan and Detailed Site Plan

EXHIBIT C - Elevations, Details, and Fence Details

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EXHIBIT D

Unconditional Agreement and Consent of Applicant

TO: The Village of Northbrook, Illinois (the "Village");

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WHEREAS, SprintCom, Inc., of Rosemont, Illinois (the "Applicant") has applied for a special permit to erect a personal wireless service antenna located on a tower style support structure and related electronic equipment and equipment structures, within or in excess of the I-1 District Height Limitations (Northbrook SIC Code No. 4810.02) on a portion of the property at 205 Huehl Road in the Village of Northbrook (the "Subject Property"), subject to the standards established in Section 9-201 of the Northbrook Zoning Code, as amended.

WHEREAS, Ordinance No. 98-17, adopted by the President and Board of Trustees of the Village of Northbrook on April 28, 1998 (the "Ordinance"), grants approval of such special permit, subject to certain conditions; and

WHEREAS, the Applicant desires to evidence to the Village its unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in said Ordinance;

NOW THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant shall and does hereby unconditionally agree to, accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Village Ordinance No. 98-17, adopted by the Village Board of Trustees on April 28, 1998 (the "Ordinance").
2. The Applicant acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's review and approval of any plans for the Subject Property, or the issuance of any permits for the use and development of the Subject Property, and that the Village's review and approval of any such plans and issuance of any such permits does not, and shall not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time.
3. The Applicant acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees 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 Applicant required by Section 7 of the Ordinance is given.
4. The Applicant agrees to and does hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the Village's review and approval

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of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Subject Property, and (d) the performance by the Applicant of its obligations under this Unconditional Consent and Agreement.

5. The Applicant shall, and does hereby agree to, pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in this Unconditional Consent and Agreement. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the Village.

ATTEST:

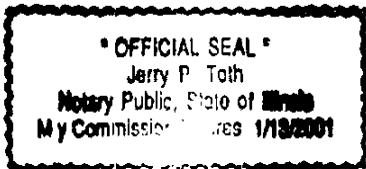
SPRINTCOM, INC.

By: [Signature]
Its: Administrative Assistant

By: [Signature]
Its: AREA MANAGER

SUBSCRIBED and SWORN to
before me this 13th day of
May, 1998.

[Signature]
Notary Public



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