

RESOLUTION NO. A-_____

SPECIAL PERMIT NO. 1794

WHEREAS, Sprint PCS has submitted an application designated as Special Permit No. 1794 for authority to construct an 85 foot monopole telecommunications tower on property located at 445 "A" Street, and legally described to wit:

Lot 133 I.T. located in the Northwest Quarter of Section 35, Township 10 North, Range 6 East, Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this 85 foot monopole telecommunications tower will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Sprint PCS, hereinafter referred to as "Permittee", to construct an 85 foot monopole telecommunications tower, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.720 of the Lincoln Municipal Code upon condition that installation of said wireless communication antennas of said wireless communication antennas be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves:
 - a. An 85 foot wireless communications facility for a period of 15 years, with the ability to increase up to a 120 foot height by administrative permit to provide for future co-location;
 - b. A waiver of the landscaping required by the Design Standards for Zoning Regulations; and
 - c. A waiver of the fall zone required by Section 27.68.110(g) of the Lincoln Municipal Code.

2. Before receiving building permits:
 - a. The Permittee must complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - i. Show that the propane tank and generator will be elevated to one foot above the base flood elevation.
 - ii. Revise the plans to show elevations in NAVD 1988, and clearly label the datum on the plans.
 - iii. A landscape plan showing an opaque fence surrounding the compound and two Swamp White Oaks placed in the A Street right-of-way, in a location satisfactory to the Parks and Recreation Department.
 - b. The construction plans must meet all the floodplain requirements of the Zoning Ordinance to the satisfaction of the Building and Safety Department.
 - c. The construction plans must conform to the approved plans.
 - d. Provide evidence that the proposed tower meets all FAA, and state and local aviation requirements.
 - e. Record the required easements as shown on the site plan with the Register of Deeds.
 - f. Provide a surety, in a form to be approved by the City Attorney, in the amount of \$35,000 to guarantee the removal of the facility

and the restoration of the property to its original condition. The surety shall be held for the duration of the Special Permit.

- g. Provide a surety, in a form to be approved by the City Attorney, in the amount of \$500 to guarantee the installation of two Swamp White Oaks and their health and vitality for a year after installation.
- h. Provide documentation, satisfactory to the City Attorney, that the Permittee and Permittee's successors and assigns shall, at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or result from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

3. Before operating this personal wireless facility, all development and construction must conform to the approved plans.

4. The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.

5. All privately-owned improvements, including landscaping, are to be permanently maintained by the Permittee.

6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, locations of parking and circulation elements, and similar matters.

7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant