



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 26, 2009**

DATE: September 11, 2009

SUBJECT: U-2823-94-4 USE PERMIT REVIEW renew panel antennae and equipment cabinets on water tower located at 2400 N. Wakefield St. (Sprint PCS/Lee Pumping Station) (RPC #05-005-072)

Applicant:

Sprint Nextel
6391 Sprint Parkway
Mailstop KSOPHT0101-Z2650
Overland Park, KS 66251

By:

Denise X. Scott
Sprint Property Services—Zoning and Permitting
6125 Lakeview Road, Suite 100
Charlotte, NC 28269

C.M. RECOMMENDATION:

Renew the use permit, subject to all previous conditions, and with a review by the County Board in ten (10) months (July 2010).

ISSUES: This is an unscheduled review of a cell phone antenna and equipment cabinet use on a County-owned water tower prompted by the tardiness in submitting the required annual emissions report.

SUMMARY: This is an unscheduled use permit review for the operation of antennas and equipment cabinets located at the Lee Pumping Station along the borders of the Old Dominion and Donaldson Run neighborhoods. The applicant is required to submit an annual radiofrequency (R/F) emissions report to the County and the civic associations by June 1 of every year. Due to a change in personnel responsible for the site the report was only submitted to the County in September. When the applicant was notified of the missed deadline, the applicant was cooperative with staff and kept staff informed of the progress in obtaining the report from the third-party vendor as required by Condition #2 of the use permit. The report, as did all previous reports, shows emissions well below the maximum level considered safe by the Federal Communications Commission (FCC). (The Executive Summary of the report is attached

County Manager: _____

Staff: Peter Schulz, DCPHD, Planning Division

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and the full report is available at the Zoning Office.) The new site manager for the property has been furnished with a copy of the use permit's conditions, and is aware of the need for another R/F report by June 2010. Therefore, staff recommends renewing the use permit, subject to all previous conditions, and with a review by the County Board in ten (10) months (July 2010).

BACKGROUND: The use permit was originally approved by the County Board in 1995. The original applicant, Sprint PCS, sold three of the antennas to Voicestream LLC (now T-Mobile) in 2000.

The last review for this use permit was July 2008, when staff recommended a two (2) year review due to the applicant's having submitted the required R/F report on time for two straight years.

DISCUSSION: The applicant was significantly tardy in submitting the required R/F report, which Sprint ascribes to a change in personnel. The required report is due on June 1 of every year, and this year's report was finally submitted on September 10. Staff has made the applicant's new site manager aware of the conditions of approval for this use permit. As have all previous reports, the R/F emissions from the Sprint and T-Mobile uses on site are well below the federal government's maximum permissible exposure. (The Executive Summary of the report is attached and the full report is available at the Zoning Office.)

The Donaldson Run Civic Association, which is adjacent to the site, has stated that they request that the County Board discontinue this use permit, and make the applicant shut down the site.

Since the last County Board Review (July 19, 2008):

Use Permit Conditions: The applicant is now in compliance with the conditions.

Community Code Enforcement: The Code Enforcement Office does not report any issues.

Police Department: The Police Department does not report any issues.

Emergency Communications Center: The ECC reports no issues with the use permit.

Civic Associations: The site is located within the Old Dominion Civic Association and is adjacent to the Donaldson Run Civic Association. Both associations' presidents have received copies of the emissions report. The Old Dominion Civic Association has not submitted comments as of this writing. The Donaldson Run Civic Association President does not support renewal and desires the use permit be discontinued because the annual report was not submitted by June 1 as required by the use permit conditions.

CONCLUSION: The applicant has now submitted the required field measurement, which shows that the emissions are well below the limits established by the FCC. The applicant is in compliance with the other approved use permit conditions. Therefore, staff recommends the use permit be renewed, subject to all previous conditions, and with a review by the County Board in ten (10) months (July 2010).

PREVIOUS COUNTY BOARD ACTIONS:

- January 7, 1995 Approved use permit (U-2832-94-4) for installation of six panel antennae not exceeding 54 inches in length by 9 inches in width on the existing water tower and two equipment cabinets, subject to conditions with a review in one (1) year (January 1996).
- January 20, 1996 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions with a review in three (3) years (January 1999).
- January 27, 1999 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions and a revised Condition #2, with a review in three (3) years (January 2002).
- January 26, 2002 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions and a revised Condition #2, with a review in three (3) years (January 2005).
- April 16, 2005 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions, with a review in one (1) year (April 2006).
- April 22, 2006 Deferred use permit (U-2832-94-4) review for operation of six panel antennae on the existing water tower and two equipment cabinets to July 8, 2006.
- July 8, 2006 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions, with a review in one (1) year (July 2007).
- July 7, 2007 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions, with a review in one (1) year (July 2008).
- July 19, 2008 Renewed use permit (U-2832-94-4) for operation of six panel antennae on the existing water tower and two equipment cabinets, subject to all previous conditions, with a review in two (2) years (July 2010).

Approved Conditions:

1. The applicant agrees to limit the number of antennae to six (6) panel antennae (not to exceed 54 inches in length by 9 inches in width). All antennae shall be mounted on the catwalk railing of the water tower and shall be painted to match the color of the tank. No antennae are to be installed on the top of the tank or on the tank's legs or support structure.
2. The electromagnetic emissions from the applicant's antennae shall at all times comply with the ANSI C95.1-1992 Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 KHz to 300 GHz, as adopted by the Federal Communications Commission in its Second Order and Report on Personal Communications Systems (Adopted: September 23, 1993 in Docket 90-314). The applicant agrees to have an independent engineering firm conduct, at its sole costs and expense, field measurements of its electromagnetic emissions. The first test shall be conducted within 30 days after the applicant's equipment is installed and becomes operational. Thereafter, the test shall be conducted annually from the approval date of the special exception use permit (January 7, 1995). True and correct copies of the field measurement, certified by an engineer licensed to practice in the Commonwealth of Virginia, shall be submitted to the Zoning Administrator, the Presidents of the Donaldson Run and Old Dominion Civic Associations, and the Director of the Emergency Communications Center within 30 days of the test completion no later than June 1st of each year. If at any time the applicant's operations cause it to exceed the standards set forth in the above ANSI standard, then the applicant agrees to immediately cease operations until the violation can be corrected. The applicant agrees not to continue operations until such time as the system is operating within the applicable standard.
3. The applicant agrees to limit its use of the Lee Pumping Station to personal communications services operating within its FCC license.
4. The applicant agrees to limit access to the Lee Pumping Station site to bi-monthly maintenance and repair of equipment. Service vehicles shall be limited to vehicles no larger than a one (1) ton truck or van.
5. The applicant and County representatives, at the applicant's sole expense, shall make yearly inspections of the applicant's antenna mounts and other equipment installation to ensure the antennae and equipment are installed in accordance with the plans and specifications approved by the County. The applicant agrees to immediately repair any deficiencies found.
6. The applicant agrees to remove any equipment not in use or operation from the water tower.
7. The applicant agrees to install its equipment and antennae and to complete the relocation of County equipment, as provided for in the Lease Agreement, within 20 working days after commencement of the work. The applicant agrees to limit work to Mondays through Fridays from 8:00 a.m. to 6:00 p.m.

8. The applicant shall establish and identify a liaison who shall be available to address any concerns regarding its operations at the Lee Pumping Station. The name and telephone number of the liaison shall be sent to the Donaldson Run Civic Association and the Old Dominion Civic Association and to the Zoning Administrator.