



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of July 7, 2007

DATE: June 21, 2007

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

Applicant:

APC Realty and Equipment Company, LLC/Sprint PCS

C.M. RECOMMENDATION:

Renew use permit, subject to all previous conditions, and with a review by the County Board in one (1) year (July 2008).

ISSUES: None.

SUMMARY: This is a use permit review for the operation of six (6) panel antennas and two (2) equipment cabinets located at the Lee Pumping Station along the borders of the Old Dominion and Donaldson Run neighborhoods. The applicant has submitted the required emissions report, which shows emissions well below the maximum level considered safe by the Federal Communications Commission (FCC). However, because the corrected required report was not submitted by the June 1 deadline, staff recommends another one-year review. Therefore, staff recommends renewing the use permit, subject to all previous conditions, with a review by the County Board in one (1) year (July 2008).

BACKGROUND: The use permit was originally approved by the County Board in 1995. The original applicant, Sprint PCS, sold several of the antennas to Voicestream LLC in 2000. In March 2003, both applicants agreed to the conditions of the use permit and continued their leases with Arlington County to use the Lee Pumping Station for five (5) additional years.

The review was then deferred twice from the January 29, 2005, and March 12, 2005, County Board meetings. The first time was because the annual emissions report required by Condition #2 was not received by either County staff or the civic associations in 2004. Staff contacted the applicant requesting the report and the applicant conducted measurements in the vicinity of the station in late January 2005. The field strength exposures throughout the neighborhood were less than 0.25 percent of the maximum permissible exposures specified by the Federal Communications Commission for the general public. The review was deferred at the March 12,

County Manager: _____

Staff: Colleen Connor, DCPHD, Planning Division

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2005, County Board meeting in order to respond to complaints raised by two nearby neighbors concerning electronic interference. The applicant worked with the neighbors after the meeting and conducted field research, and concluded that there is no direct correlation between Sprint's antennae on the water tower and the interference the neighbors claimed.

The use was to be reviewed by the County Board on April 22, 2006. However, the applicant had not submitted the required annual field measurements. The review was deferred to the July 8, 2006, County Board meeting, when it was renewed for one year with a review by the County Board in one (1) year (July 2007).

DISCUSSION: In April 2007, Sprint submitted the report required by Condition #2, an annual field measurement (see attached report, Attachment A). The report included incorrect dates, and a corrected report was submitted on June 19, 2007, after the June 1 deadline. The report shows that field measurements of radio frequency exposure were conducted and found to be 65 times below the level the FCC considers safe for continuous exposure.

Since the last County Board Review (July 8, 2006):

Use Permit Conditions: The applicant has come into compliance with the conditions by submitting an up-to-date emissions report.

Community Code Enforcement: The Code Enforcement Office reports that there were no violations associated with the site and has no objection to the renewal of this use permit.

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

Civic Associations: Staff contacted the Old Dominion and Donaldson Run Civic Associations. The Donaldson Run Civic Association expressed concern (see Attachment B) on the validity and the quality of the monitoring report required in Condition #2. The consultant who prepared the report submitted a notarized statement attesting to the validity of the measurements. Sprint also informed County staff and the civic associations of the name and information of the new local contact person for the property.

Old Dominion expressed no comments on renewal of the use permit. Neither association had an objection to renewing the use permit, subject to the applicant providing the emission reports annually and maintaining a one (1) year review period to ensure the reports are submitted.

CONCLUSION: The applicant has submitted the required field measurement, which shows that the emissions are well below the limits. However, because of the applicant was unable to submit a correct annual report as of June 1, staff recommends a one-year review period to monitor the use permit. Therefore, staff recommends the use permit be renewed, subject to all previous conditions and with a review by the County Board in one (1) year (July 2008).

PREVIOUS COUNTY BOARD ACTIONS:

November 19, 1994	Deferred the consideration of use permit (U-2832-94-4) to January 20, 1995 County Board meeting.
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).
January 29, 2005	Deferred use permit (U-2832-94-4) review to the March 12, 2005 County Board meeting.
March 12, 2005	Deferred use permit (U-2832-94-4) review to the April 16, 2005 County Board meeting.
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).

Approved Conditions:

1. The applicant, American Personal Communications (APC), 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 APC'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). APC 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 APC'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 APC's operations cause it to exceed the standards set forth in the above ANSI standard, then APC agrees to immediately cease operations until the violation can be corrected. APC agrees not to continue operations until such time as the system is operating within the applicable standard.
3. APC agrees to limit its use of the Lee Pumping Station to personal communications services operating within its FCC license.
4. APC 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. APC and County representatives, at APC's sole expense, shall make yearly inspections of APC'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. APC agrees to immediately repair any deficiencies found.
6. APC agrees to remove any equipment not in use or operation from the water tower.
7. APC 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. APC agrees to limit work to Mondays through Fridays from 8:00 a.m. to 6:00 p.m.

8. APC 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.

Attachment B

Donaldson Run Civic Association

Our official position would be:

If we receive a notarize statement that says the revised report is actually correct, then DRCA would not object to the use permit renewal. We would insist that the review period continue to be one year due to the suspicious nature and sloppiness of the current report. We are reluctant to agree to anything greater than a one year review because this is the only leverage that we have to ensure that the reports are actually filed. While the numbers are within acceptable ranges, one of the purposes of the annual monitoring is to ensure that there are no current problems at the site and think the emissions reports should be done on an annual basis no matter what the use permit review period is.

We would view switching to a different engineering firm as a positive step in monitoring process as well as a more detailed report of the data measured. Maybe next year a civic association representative can be on site with the firm doing the measurements.