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***Town Planner's Recommendation***  
**Wednesday, August 13, 2014**

XII. **Foss Farm Road Water Tank Wireless Facility**. Amendment to approved Personal Wireless Services Facility constructed on the Town of Durham's Foss Farm Road Water Tank. The application is to add 3 antennas, 3 radioheads, and 3 cables to the tank and to add a cabinet on the ground. Sprint Spectrum, c/o Dave Ford, applicant. The land is owned by UNH. The water tower is owned by the Town of Durham. Tax Map 6, Lot 1-18. Residence B Zoning District.

➤ I recommend setting the public hearing for September 10, 2014

Please note the following:

- 1) **Proposal**. This application is to make minor additions to the existing Personal Wireless Service Facility (PWSF) located on the Foss Farm Water Tank. Sprint already occupies the tank. The proposal would add 3 antennas spaced around the top of the tank to provide 360 degree service (with 1 radiohead for amplification attached behind each antenna). There are 3 existing pipes to hold the 3 new mounts already in place (installed earlier in anticipation of future expansion). 3 new fiber cables will run up the tank enclosed within an existing tray. They will run underground from a new cabinet to be added to the 2 existing cabinets at the base of the tank.
- 2) **Technology**. Sprint's facility serves cell phone use only. The purpose of the project is to incorporate new technology to add capacity and increase speed. Presently, the cables are coax wire to be augmented with new fiber optic cables.
- 3) **Appearance of project**. These changes should be unobtrusive. They will simply be added to an existing array at the top of the tank, and all will be painted dark green to match the existing color of the tank and all of the PWSF accoutrements now on the tank. The cabinet at the base will be an off white color like the other cabinets there.
- 4) **Setting**. The tank is set into the woods and shrouded on all sides by the woods. It is accessed beyond a chain link fence down a short gravel road from Foss Farm Road.
- 5) **Permits**. Once the amendment is approved Sprint will need a building permit and an electrical permit. They hope to do the work in November, 2014, prior to winter.
- 6) **Noise**. According to Dave Ford, there will be no noise other than a low hum one hears if one stands close to the new cabinet.

- 7) Impact. According to Dave Ford, the new facilities should have no additional impact upon the surrounding area or properties, in terms of appearance, noise, etc.
- 8) Battery back up. The cabinet will include batteries to provide backup power in the event of a power shortage. These have less impact than a back-up generator as generators have to be tested regularly (weekly, monthly?) for 10 minutes or so and can be noisy during the tests.
- 9) TRG. The applicant met with the TRG meeting on August 5. There were no noteworthy concerns. *I don't see any issues at this point with the proposed design of the project.*
- 10) Old site plan. A site plan was approved for Sprint Spectrum, by the Planning Board, on June 16, 1999 for a PWSF to be located on the Foss Farm Water Tank.
- 11) Co-location. Another site plan was approved for Verizon Wireless, by the Planning Board, on April 28, 2004 to co-locate another PWSF on the water tank. I believe that T-Mobile is also a user on the tank (according to Dave Ford).
- 12) Federal Act. My understanding is that the Federal Telecommunications Act, as amended, guides and supersedes local and state regulation. I understand that reasonable review of, and imposition of reasonable requirements upon, co-locations and modifications on existing sites are permitted.
- 13) Recent changes. Some changes were made to the water tank about a year ago. The Zoning Ordinance provides for an administrative review, rather than for site plan review with the Planning Board, of minor expansions on existing sites. The Town approved the changes administratively (in consultation with the Public Works and Planning Departments, Town Administrator, and Town Attorney regarding federal law). Paul Schlie, an abutter, expressed concern about that process and the work itself, so when this new application came in, Todd Selig and I thought it best to accommodate some public input, if feasible.
- 14) Process for review. I had conveyed earlier to the applicant and to the Planning Board that I did not believe that notices and a public hearing were required for the minor changes involved in *this new project*. There is much language in both the Site Plan Regulations and Zoning Ordinance dealing with Personal Wireless Service Facilities (PWSF). Some of the language is ambiguous and even contradictory about whether the process involves a site plan review or a simple administrative review. Plus, Federal law may dictate the process for modifications and co-locations, based on earlier communication with the Town Attorney. I had told the applicant that the Town's provisions did *not* require site plan review, but that the Town, as host of the site, would require notices and a public hearing, as is our prerogative. If only required by the Town as host, the Town might need to pay for the notices. *Upon further review of the Town's regulations, at Mr. Schlie's request, pointing specifically to Section 16 of the Site Plan Regulations, I believe that the Site Plan Regulations call for a site plan review with the Planning Board.* I will post a separate document to the web showing all of the language in the regulations and ordinance about PSWF in case anybody wishes to review it. I will check with the Town Attorney for clarification (including the federal law) in the next week or so about the process. Some amendment to the Site Plan Regulations about process is probably in order.
- 15) Concerns about the recent changes. Paul Schlie, an abutter located immediately adjacent to the lot, on lot1-17, to the south stated,

*“Last year's proposal also indicated that the tank-mounted remote-radio-heads would be similarly painted, but haven't been (and which are also larger than indicated in their plans); ...*

*Similarly the original approval required they install a visual and sound barrier such as a stockade fence and/or shrubbery which has now substantially died back, so it needs to be replaced to be in compliance, or possibly just augmented with an appropriate fence like a stockade as Verizon has done; and I'd like to know what noise the newly proposed equipment is likely to generate, and how the residential properties in the local vicinity will be protected from it if any is likely generated.”*

I have asked Dave Ford, the applicant, for a response to this comment.

- 16) Public hearing. At any rate, it is appropriate for the board to discuss the project as it sees fit on August 13 and then to schedule a public hearing. The applicant's agent, Dave Ford, is not able to attend the meeting on August 13 but is available on September 10.