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State of Vermont

LAND USE PERMIT

CASE NO: 3R1021
PERMITTEES: T-Mobile Northeast LLC
ADDRESS: c/o Mark Hall, Esq.,
Paul Frank + Collins P.C.
P.O. Box 1307
Burlington, VT 05402-1307
and
Douglas and Diane Haggett
7523 VT Route 14
Brookfield, VT 05036

LAWS/REGULATIONS INVOLVED:
10 V.S.A. §§ 6001 - 6092 (Act 250)

District Environmental Commission #3 hereby issues Land Use Permit #3R1021, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6092. This permit applies to the lands identified in Book 75, Page 152, of the land records of the Town of Brookfield, Vermont, as the subject of a deed to Douglas R. and Diane C. Haggett, the permittees, as grantees and subject of a lease with T-Mobile Northeast, LLC.

This permit specifically authorizes the permittees to construct a 75-foot monopole tower. This permit also authorizes the permittees to install nine panel antennas to be mounted and centered at 72 feet above-ground level as well as related equipment including cabinets and necessary infrastructure. The project is located at 2382 Ridge Road in the Town of Brookfield.

The project is subject to Act 250 jurisdiction because the project involves construction of a commercial project on more than one acre and thus constitutes "development" pursuant to 10 V.S.A. §§ 6001(3)(A)(ii), and the project involves construction of a communication tower higher than twenty feet and thus constitutes "development" pursuant to 10 V.S.A. § 6001(26).

The permittees, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Environmental Commission in accordance with the following conditions:

1. The project shall be completed, operated and maintained in accordance with the plans and exhibits on file with the District Environmental Commission and the conditions of this permit.

2. No changes shall be made in the design or use of this project without the written approval of the District Coordinator or the District Environmental Commission, whichever is appropriate under the Act 250 Rules.

3. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the permittees and their successors and assigns.

4. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed, operated and maintained in accordance with the terms of the permit, as provided by 10 V.S.A. Chapter 151 and the rules of the Natural Resources Board.

5. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.

6. Should the monitoring of a facility site reveal that the site exceeds the current FCC standards and guidelines, then the permittees of all facilities utilizing the site shall be notified by the Commission and the permittees must immediately reduce power, cease operation, or limit access as necessary to protect persons in the vicinity of the site, tower, or antennas. In addition, the permittees shall submit to the Commission an analysis of what caused the problem and a plan for the reduction of emissions to a level that complies with the FCC standards within 5 business days of demonstrated non-compliance.

8. The permittees shall comply with Exhibits #3, 24, and 27 for erosion control. The permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas. The District Environmental Commission reserves the right to schedule hearings and site inspections to review erosion control and to evaluate and impose additional conditions with respect to erosion control as it deems necessary.

9. In addition to conformance with all erosion control conditions, the permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the permittees from compliance with 10 V.S.A. Chapter 47, Vermont's Water Pollution Control Law.

10. The leased compound shall be secured by a 6-foot chain link fence that shall be locked at all times when applicants are not servicing the site.

11. The monopole tower, antennas, and equipment shall be camouflaged to match the surrounding vegetation. The tower shall be painted with earth tones to match the surroundings, and the antennas shall be non-reflective.

12. Trees and vegetation screening the view of the tower shall be preserved and shall not be removed without the written approval of the District 3 Environmental Commission.

13. All energy conservation devices shall be maintained in good working order and any failed devices shall be promptly replaced by equipment which is as energy efficient as the failed device being replaced if the device was operating as designed.

14. No permanent lighting shall be installed without the written approval of the District Environmental Commission.

15. The permittees shall allow other telecommunication providers to co-locate on this tower to minimize future aesthetic impacts from other facilities that may serve this area.

16. The permittees shall remove all visible communications-related equipment, including utility lines and poles, within 120 days if equipment or utility lines are no longer in use, abandoned, or obsolete.

17. No further alteration, and/or development shall be permitted without the written approval of the District Environmental Commission.

18. A copy of this permit and approved plans shall be on the site at all times throughout the construction process.

19. Pursuant to 10 V.S.A. § 6090(b), this permit is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.

20. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittees have not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).

21. All site work and construction shall be completed in accordance with the approved plans by October 1, 2012, unless an extension of this date is approved in writing by the District Environmental Commission.

Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. § 6027(g).

Dated at Springfield, Vermont, on December 1, 2009.

By: Joshua B. Powers
Joshua B. Powers, Chair
District #3 Environmental Commission
Natural Resources Board

Members participating in
this decision:

Roderick J. Maclay
Paul E. Kendall, Jr.

Any party may file a motion to alter with the District Environmental Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A). See 10 V.S.A. § 8504(k) for further restrictions on the right to appeal. Appeals must be filed with the clerk of the Environmental Court within 30 days of the date of the decision, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must include all information required by Rule 5(b)(3) of the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Drawer 20, Montpelier, VT 05620-3201, in accordance with Rule 5(b)(4)(B) of the VRECP. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is: Environmental Court, 2418 Airport Road, Suite 1, Barre, VT 05641-8701. (Tel: 802-828-1660)

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Brookfield Town Clerks Office
Received for Record
December 15, 2009 A.D.
at 9 O'clock 00 Minutes AM
The instrument of which the foregoing is a true record. Recorded in Book 85 Page 273-276
Attest: Janet B. Woodruff
Town Clerk