

Town of Brookfield Planning Commission

Town Clerk's Office

P.O. Box 463 Brookfield, Vermont 05036

276-3352

April 16, 2015

Brian J. Sullivan, Esq.
Murphy Sullivan Kronk
275 College Street
P.O. Box 4485
Burlington, VT 05406

Re: Vermont RSA Limited Partnership and Cello Partnership, each d/b/a Verizon Wireless
Proposed 110-foot telecommunications facility, West Street, Brookfield

Dear Brian:

Thank you for the letter dated April 1, 2015 on behalf of Vermont RSA Limited Partnership and Cello Partnership, each d/b/a Verizon Wireless (Verizon Wireless) regarding filing an application under 30 V.S.A. § 248a for a wireless telecommunications facility to be constructed on Ray and Lora Churchill's West Street property.

I write on behalf of the Brookfield Planning Commission (the Planning Commission) to:

- State the Planning Commission's view on calculation of the 45-day notice period under § 248a as it would pertain to the letter.
- Inform you of the Planning Commission's position that the letter is not sufficient notice and therefore does not actually trigger the 45-day period.
- Request that Verizon refile or supplement the notice, as discussed further below, with the 45-day period commencing with that submittal. The Planning Commission subsequently would schedule a public meeting to consider the proposed project.

The Planning Commission would calculate the 45-day period from Verizon Wireless's letter to conclude on May 25, 2015. The envelope we received was postmarked April 7, 2015 and we would begin the calculation with that date. We would add three days for service by mail, as per VRCP 6, incorporated by Board Rule 2.207.

But, more importantly, the Planning Commission believes that the letter and attachments do not constitute sufficient notice under the Public Service Board's (Board) "Procedures Order" for § 248a and therefore do not actually trigger the 45-day notice period under that statute.

The Procedures Order requires "sufficient detail about the proposed project(s) to allow the parties receiving notice to understand the impact of the project(s) on the interests of those parties." Second Amended Order, standards and procedures pursuant to 30 V.S.A. § 248a at 6.

The Planning Commission has an unqualified right to appear and participate under § 248a, without any limitation to particular criteria. 30 V.S.A. § 248a(m).

The 45-day notice received addresses only conformance with the local and regional plans and does not specifically address other criteria not waived for projects of limited size and scope, such as aesthetics, historic sites, and other criteria. There is no indication of what heights and project configurations were investigated or whether the use of one or more facilities at shorter heights was considered. There is a general statement regarding identification of deer habitat and an agreement with the Department of Fish and Wildlife (DFW) but no specifics on the location or extent of that habitat, how the habitat will be protected, or content of the agreement with DFW, a copy of which is requested.

The 45-day notice also discusses the Brookfield Town Plan in a summary manner and does not apply all of the relevant policies stated in the plan, including but not limited to the policies on telecommunications facilities stated in and incorporated by Sec. VII.E. (state regulatory proceedings). For example, there is no mention of the Town Plan's incorporated height restriction.

Moreover, the Planning Commission understands that the Board balances the impacts of proposed facilities under § 248a with the public benefits of those facilities. The letter we received, however, provides only general discussion of those benefits, such as succeeding in the "global economy," and only a broad indication that the project will allow improvement in service and coverage in Brookfield and along I-89.

Separately, the Planning Commission believes that the General Assembly intended, when 45-day notices are provided under § 248a, that the notices to the municipal and regional planning commissions would attach a copy of the application that is to be filed. 30 V.S.A. § 248a(e) states in relevant part (emphasis added):

Notice. No less than 45 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. *In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.*

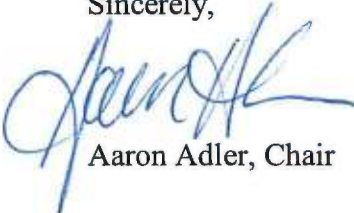
While the Procedures Order does not reference this requirement, it also does not state the requirement is inapplicable. Further, it is questionable whether the language and intent of the

Board's simplification authority under 30 V.S.A. § 248a(l) would support waiving this requirement.

Based on the foregoing, the Planning Commission requests that Verizon Wireless provide a new 45-day notice that attaches a copy of the application to be filed. In the alternative, the Planning Commission requests that Verizon Wireless supplement the 45-day notice with detailed information that allows the Planning Commission to understand the impacts of the proposed project, and agree that the 45-day period will run from that supplemental submittal. In either case, the Planning Commission would then schedule a public meeting to consider the proposed project and ask Verizon Wireless to attend.

Please feel free to contact me at planning@brookfieldvt.org or, during regular working hours, at 828-2236.

Sincerely,

A handwritten signature in blue ink, appearing to read "Aaron Adler".

Aaron Adler, Chair

cc: Dan Burke, Esq. (by e-mail)
Susan M. Hudson, PSB (by e-mail and US mail)
Peter Gregory, TRORC (by e-mail)
Brookfield Selectboard (hand delivery)