

From: Bruce Johnson
To: eastmontpelier@gmail.com
Subject: FW: Need advice by Monday on handling proposed cell tower
Date: Monday, November 16, 2020 4:14:00 PM

From: Juliana Potter <julianapotter@yahoo.com>
Sent: Monday, November 16, 2020 3:55 PM
To: Bruce Johnson <manager@eastmontpeliervt.org>
Cc: Zach Sullivan <zsullivan@gmail.com>
Subject: Fwd: Need advice by Monday on handling proposed cell tower

Here is the info from the RPC.

My discussion with Bonnie at the RPC indicates that we would probably need the town to hire an attorney if we want take an active role in the Section 248 permitting process (e.g. involvement beyond asking the PUC to hold a hearing). She said that without strong language in our town plan or solid data of our own, the PUC will be focused on the public good of the project rather than any comments the town provides.

Bonnie also made a few additional suggestions for the town (not necessarily actions for the PC):

- Ask whether this tower would actually help town emergency responders.
- Negotiate with applicant to ensure that emergency responders have access to the tower in the future for a repeater
- Let the property owner know that the state taxes cell towers, and they should review their lease terms and talk with the state tax department to determine whether the lease compensates for the additional property taxes.

Begin forwarded message:

From: Bonnie Waninger <waninger@cvregion.com>
Subject: RE: Need advice by Monday on handling proposed cell tower
Date: November 15, 2020 at 3:29:05 PM EST
To: Juliana Potter <julianapotter@yahoo.com>
Cc: Clare Rock <rock@cvregion.com>, Bonnie Waninger <waninger@cvregion.com>

Hi Julie,

I left you a message a few moments ago. You are welcome to call me back today at 802-585-9174. Tomorrow, I'm available between noon – 4 pm. Calling earlier is better. You also are welcome to contact Clare, who may have additional advice.

Yes, it is beneficial to meet with the applicant. Applicants are more likely to respond to local comments and to consider those comments when developing future applications if a town demonstrates interest/actively participates in the 248a process. If there is significant neighbor interest, requesting a formal Section 248a hearing may be beneficial. Both the Selectboard and Planning Commission have standing in this process; this means they can take different positions on the same project.

Questions that Towns/Regions often ask about Section 248a projects (in no particular order):

- Is the project located in an area the Town has defined for land conservation (either for purchase or because of high valued resources)? Section 248a's focus for town plans is *land conservation measures* that may be described in the Town Plan. For example, if the plan addresses protection of forest blocks and the project is located in a high priority forest block, the plan's information can be used even if the plan doesn't address cell towers and forest blocks specifically. For Section 248a, land conservation measures "are those that are specifically directed toward land conservation, and not general policy statements that apply indiscriminately throughout the municipality." Module 2 of "Municipal Enhanced Energy Planning in Vermont" provides a good basis for understanding how Section 248 is different and the same as Act 250. While this document is aimed at energy planning, much of its guidance also works for telecommunication projects. You can find the document at <https://publicservice.vermont.gov/sites/dps/files/documents/Municipal%20Enhanced%20Energy%20Planning%20in%20Vermont%20-%20Best%20Practices%20and%20Resources%20-%2009.12.19.pdf>.
- Is the coverage duplicative? How well is the tower's proposed coverage area currently served (By this company? By other companies?) CVRPC conducted a mobile wireless drive test last fall using equipment and procedures from the Public Service Department. The results are posted on the PSD's website at https://dev.maps.vcgi.vermont.gov/arcgis/rest/services/PSD_services/PSD_test_layers/MapServer. Using the "Layers" function, users can turn on a layer to see a composite of cell coverage from roads as well as coverage by carrier. It can be beneficial to weigh this against what the applicant shows as existing coverage. The applicant's information is developed using a model; the drive test is real life. A tower's coverage is a factor of its height and service strength combined with topography of the area. Exhibit B in the application package shows current and proposed coverage. Comparing the two maps, it appears the primary area of benefit is Middlesex and Worcester.
- How does the site clearance/design plans relate to the Town's zoning requirements? Section 248a projects aren't subject to zoning, however a Town can use its zoning to demonstrate how aspects of its plan are meant to be interpreted.
- Does the town have any limits related to road weights and seasonality that it wants honored during construction or replacement of the facility?
- During the balloon test, were locations for photos missed that are critical to evaluating undue adverse effects?

Resources

The Public Service Department has a 7-page guide to the CPG process -

https://publicservice.vermont.gov/sites/dps/files/documents/Pubs_Plans_Reports/Legislative_Reports/Public%20Guide%20248a.pdf.

Before the Board can issue a CPG, it must make findings that the project will not have an "undue adverse effect" with regard to:

- Aesthetics
- Historic sites
- Air and water purity
- The natural environment
- Public health and safety
- Public use and enjoyment of I-89 and I-91 scenic corridors, and any highway designated as a scenic road.
- Criteria in 10 V.S.A §1424a(d) and 6086(a)(1)-(8). [Act 250 criteria]

Any town (or neighbor) comments should be focused in these areas for greatest effect.

Another good resource (24 pages) is the Citizen's Guide to the Vermont Public Service Board's Section 248 Process - https://www.velco.com/library/document/download/2173/Station8_Citizens_Guide_to_248.pdf.

The Public Service Department has a Public Advocacy Division who may be able to assist the Town or the neighbors (https://publicservice.vermont.gov/about_us/contact_us). The advocates don't work for the Town/neighbors. They can listen to concerns, and if the State's public interests align with the Town's/neighbors, they can save you considerable costs for legal resources.

The State does have broadband maps - <https://publicservice.vermont.gov/content/interactive-broadband-map>. They are less useful as they show fiber versus cable service, and not coverage available via other means.

You are welcome to call my cell through 8 pm tonight or tomorrow.

Thank you

Bonnie

Bonnie Waninger, Executive Director
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CVRPC employees are working remotely, and our offices are closed to visitors. Please call or email, and we will respond as soon as possible. Thank you.