



TOWN OF RIVERHEAD  
PLANNING DEPARTMENT  
200 HOWELL AVENUE, RIVERHEAD, NEW YORK 11901-2596  
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John Coughlin  
Re, Nielsen, Huber & Coughlin, LLP  
36 North New York Avenue  
Huntington, New York 11743

**Re: SEQR Final Scope of Issues for DEIS on Special Permit;  
Beacon Wireless Management, LLC and New York SMSA, LP (dba Verizon Wireless)  
Wireless Communications Facility, Little Flower Children's Services. SCTM 0600-36-1-2**

September 16, 2009

Dear Mr. Coughlin:

Pursuant to 6NYCRR Part 617.8(f) the Riverhead Town Board, as lead agency, hereby issues the final scope of issues for inclusion in the above referenced document. The following is based on agency review of the draft scope by VHB Engineering, Surveying and Landscape Architecture, PC submitted under cover dated June 30, 2009 and on public comment of its content at the public scoping hearing held August 12, 2009.

**1. Project Description:** The action is special permit permission pursuant to Article XLI, Section 108-216 of the Riverhead Town Code for the construction of a 150ft. agl monopole and 12 wireless communications panel antennas together with related base equipment including cabinets and a propane fired generator within a 4,200sq.ft. fenced lease area of a 98.5ac. parcel zoned Residence B-80 and improved with a children's and family service facility.

**2. Potentially Significant Impacts:** Agency analysis and scoping identified the potential for significant impact on: adopted plans or goals, area character and aesthetics.

**Adopted Plans or Goals:** The subject generally involves the project's agreement with the Town zoning ordinance as embodied by Article V (Residence B-80 district), Article XXVIA (special permit) and Article XLI (Wireless Communications and Towers). The RB-80 uses (Section 108-16) do not provide for the project and the wireless code (Section 108-213B.) doesn't call out the district as one where specially permitted towers are allowed. Agency administration and public commentary also indicated the potential that the project might not conform to the determinations and considerations applicable to all special permits and that the requirements for specially permitted cell towers had not been demonstrated. Approval of an action with a conflict as described would be the source of public attention and controversy and could set an improper precedent that might be relied on by others.

**Aesthetic Resources:** The proposed monopole's commercial nature and appearance are a marked departure from the surrounding single family residential developmental pattern. Its 150ft. agl height and 301 ft. height AMSL at the position chosen on site result in an extensive viewshed not limited to that surrounding area. Visual and aesthetic impact was the source of a great deal of

public comment at last October's special permit hearing and the recent scoping hearing and included criticism of the visual impact analysis done to date. A cell tower's appearance and the perception of that appearance is part of the attention to be paid by project documentation under Article XLI and aesthetic impact on the area and zoning district of a proposed special permit is a topic within the interest of Article XXVIA (Section 108-133.3A.,B.&C.).

Community Character: In addition to the above, the agency also received considerable public comment on the project's other impacts on area character. Locating a commercial use within a residentially zoned and used neighborhood and the potential to thereby adversely affect property values was a frequently voiced concern and issue was taken with the evidence previously offered in argument against the potential. The aforementioned zoning conflict with the RB-80 vision of low density single family residential development is a basic expression of area character impact.

### 3. Extent of Information Needed to Adequately Address Identified Impacts:

Adopted Plans and Goals: The draft scope presented stated its intent to analyze impacts on land use, zoning and area character, to evaluate consistency with special permit criteria and the potential to set precedent. The description of the pertinent zoning regulations must provide a compelling argument in favor of the project to overcome its not being provided for in the RB-80 district or the wireless ordinance. The aesthetic and community character impacts are both connected to and exacerbated by this underlying zoning conflict which was the focus of most of the public commentary. The key to this argument and a common topic of comment was the issue of need and of the necessity to address it by the proposed project and site. Therefore the service deficiency and site selection process to be included in the project description section are of critical importance to the Town's balancing of the public interest under the Monroe test. As mentioned on page two of the 11/17/08 letter by Jacalyn Fleming presented at the public hearing, it's a violation of the telecommunications act (TCA) to deny a permit for a site that's shown to be the **least intrusive** means to eliminate a **significant** service gap (emphasis added).

In addition to establishing consistency with the special permit criteria, it's the applicant's burden to provide information and demonstrations under Section 108-133.3A.,B.,&C. that the specially permitted use will be in harmony with the appropriate and orderly development of the district in which it's located, that it will not hinder or discourage the appropriate development and use of the adjacent lands and uses and that its operations will not be more objectionable to nearby properties than those of a permitted use. Administration of the special permit petition found there to be no specific information for those demonstrations. In addition to the conflict with Section 108-213B. of the cellular ordinance (applicability), administration of the petition found shortcomings with the supporting documentation that bear on need and other conformities with that code. The separation distances from the subject site to the existing cell sites on the inventory map provided were largely obscured by the site markers. As pointed out at the scoping hearing, the Town's precluded by the FCC's interest from regulating the location of cell towers by reason of the environmental effects of their electromagnetic emissions. The Town is however allowed to certify that those emissions meet all federal standards. The engineering report on radio frequency emission compliance with FCC and Health Department regulations doesn't appear to be the effort of a New York State licensed P.E. which is a requirement of the engineering certification (Section 108-216A.(2)). The submission had no information respecting the civil and mechanical engineering compliance of the monopole itself. The plans are the effort of a registered architect and so any inferences or claims to those standards are not properly certified to establish the structure's integrity and safety with all five antenna arrays attached. The monopole is sited such that most of the brick building to its north is within its topple height. A specific criticism to be made of the emissions report is its sole use of the Verizon antenna array at the 120ft. elevation. A 114ft. exposure distance is thereby measured to a 6ft. person at the base of the pole while the lowest array at 110ft. would expose the person from a 104ft. distance.

The project plans are to be more reflective of certain of the requirements of Section 108-216B.(1) (information required) and provide: setback from the tower (not the compound fencing) to each property line; to any residential dwelling on the parcel (resident cottages and dorms) and on adjoining parcels; to all other structures located on the same or adjoining parcels. Setback to any existing tower within 25,000ft. is a function of the revised existing inventory map. As the radius map provided shows, there are well over 200 parcels zoned for residential use within 2,500ft. of the monopole. While far too many to be depicted on the plans, the setback to their property lines shall be tabulated. As a note, there appears to be a discrepancy between the monopole's location as called out on the 2,500ft.radius map and on sheet C1 of the plans which needs to be reconciled.

Agreement with the aesthetic requirements of Section 108-214D. shall be recited including the evidence of the 5/28/08 report by Aviation Systems Inc. that the tower need not (and therefore per 214D.(4) will not) be illuminated. Any security or other illumination shall be designed to prevent light trespass. As another note, the ASI report calls out the ground elevation at the monopole site as 140ft. AMSL for an overall tower height of 290ft. while the project plans show 151 and 301ft. The difference needs to be cleared up. Although the compound and tower plans clearly indicate the potential, provide a notarized statement that the monopole will accommodate collocation of additional antennas for future users (216B.(1)(e)).

The importance of establishing need for the facility as proposed has been mentioned and 108-216B.(1)(f) calls for a description of the suitability of existing towers and/or other structures and/or alternative to fill that need. The memo of support accompanying the petition claimed the elimination of a service gap and cited an affidavit of Vishwa Mithu, a radio frequency engineer asserting no alternative sites or technologies would provide the needed coverage. A map of existing and proposed coverage was exhibited at the public hearing. All these documents shall be provided as well as the maps developed by the Town showing the location of existing towers and antennas and the cellular coverage of AT&T/Cingular, Sprint/Nextel and T-Mobile. In addition to Camp DeWolfe as an alternative site of a new tower, discuss the Shoreham power plant and the northern portion of the Great Rock Golf Course to the south. Discuss the usefulness of the Town water tower in Lewin Hills and the water tower at Wildwood State Park. Also discuss alternative technologies such as a Distributive Antenna System (DAS). An inability to collocate on any other provider's facility must be sufficiently explained.

Should it be established that there's a service gap for Verizon that can't be filled by an alternative site or technology, a discussion is necessary as to why the new monopole need be any higher than Verizon's 120ft. array. The ability to collocate other carriers is a necessary part of new towers under the wireless code but unless there are four other carriers with a similar service gap, the monopole could be reduced in height. Discuss if the additional arrays are necessary to coverage or for increased volume of wireless voice and data transmissions.

Aesthetic Resources: The draft scope identified a visual assessment to be presented which would include photo simulations of the proposed monopole from various publicly accessible locations. Such an examination (by Freudenthal & Elkowitz, dated October 2008) was provided at the public hearing and was the source of considerable critique. Issue was taken with the monopole's simulation with only Verizon's 120ft. antenna array affixed and that the viewshed photos didn't represent the visual and aesthetic impact of the facility when the existing deciduous screening vegetation was without leaves. The assessment shall be redone to simulate a fully occupied monopole with all five antenna arrays in place and with photos representing the screening provided after the leaves have fallen. In addition to the nine viewpoints already presented, another as seen by pleasure boaters from the Sound shall be added. It's to be located off the Little Flower site approximately 1,000ft. seaward of the mean low water line which defines the near shore area under the Town's erosion hazard ordinance (Chapter 12 of the Town Code).

Alternative designs of the monopole shall be explored by simulations of the facility as the stealth monopole called out in the draft scope, as a flagpole and as a MonoPine™. It must be remembered that though the simulation might be limited to taking viewpoint photos from publicly accessible locations, the visual impact is largely experienced on private property and the only screening vegetation that can be stipulated as mitigation by the lead agency is that on Little Flower's property.

**Community Character:** As mentioned, the project's compatibility with the special permit considerations and determinations and with the area zoning are a measure of the impact on community character, especially the demonstrations of Section 108-133.3A.,B.,&C. Of particular importance is the impact on property values. The draft scope was silent on this specific topic though analysis by Bradley & Company, Appraisers, Inc. was provided at the public hearing that concluded the proposed facility would have no adverse impact on the market value of real estate based on sales data of other area homes near a "new" cell tower. Public comment was critical of that effort citing a limited sample size of homes in proximity to a temporary cell tower (and already affected by a water tower) and that the selling prices were compared to each other, not to dwellings without cell towers nearby. Issue was also taken with the assertion that no studies in the United States demonstrated a decline in property values near cell towers. A 2004 Florida analysis and another in the United Kingdom were cited.

The DEIS shall include and discuss the analysis cited and the source of critique at the 10/21/08 public hearing (letter of Sarah Karlson) on record at the Town Clerk's office for the purpose of defending the report's conclusions. Also include and discuss Florida analysis (the abstract can be found at [entrepreneur.com/tradejournals/article/171851340.html](http://entrepreneur.com/tradejournals/article/171851340.html)) and the Hometrack study ([hometrack.co.uk](http://hometrack.co.uk)). The DEIS shall also discuss the feasibility of enclosing the emergency generator within a sound attenuating enclosure.

**4. Initial Identification of Mitigation Measures:** The draft scope cites the existing vegetative screening and the capacity to collocate multiple providers.

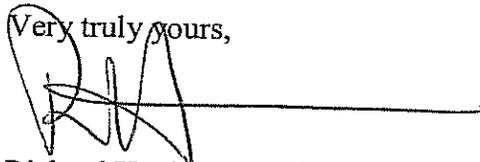
**5. Reasonable Alternatives:** In addition to the proposed project and the no action, the DEIS shall explore the alternative sites, configurations and technologies identified above.

**6. Information to be Included as an Appendix:** The engineering, visual and property value analyses cited above may be appended and discussed within the body of the DEIS. Correspondences and the final scope letter may be similarly treated.

**7. Agency Analysis and Scoping Issues Determined Not to be Significant:** None.

I trust the above will serve to accurately represent the agency Town Board's concerns and interests on the EIS for this project. Please submit five copies of the revised DEIS for its acceptance consideration and feel free to contact the undersigned with any questions you may have in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Richard Hanley', written over a horizontal line.

Richard Hanley, Planning Director