

RESOLUTION

CASE NO. SUP-11-96. VIRGINIA METRONET/360° COMMUNICATIONS

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance certain land uses requiring a special use permit; and

WHEREAS, James City County has developed certain policies for the placement of personal wireless communications towers; and

WHEREAS, the Planning Commission following its public hearing on October 7, 1996, voted 6-1 to recommend the Board defer the request until the completion of a revised ordinance or master plan for the placement of personal wireless communications towers in the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby issue SUP-11-96, as ordered by the United States District Court for the Eastern District of Virginia, as described herein with the following conditions:

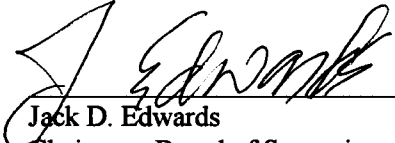
1. All towers shall be designed and constructed for at least three (3) users and shall be certified to that effect by an engineering report prior to the site plan approval.
2. The tower shall meet or exceed the structural requirements as set out in the most current version of "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," published by the Electronic Industries Association. A report certifying that these structural requirements will be met shall be submitted prior to preliminary site plan approval. Where the tower meets the structural criteria outlined above, the minimum side and rear yard setback may be consistent with the corresponding zoning district requirement or 110 percent of the document collapse radius, whichever is greater. In the event the tower does not meet the above requirements, then the minimum setback requirement from the base of the tower to any property line shall be equal to one hundred and ten (110) percent of the height of the tower. Additionally, no tower shall be located closer than two hundred (200) feet from an existing residential structure, regardless of the district in which the structure is located. However, in no case, shall setbacks or tower design be such that a collapsed tower will fall outside a property line as documented in the aforementioned report. The tower shall also be setback from any public planned right-of-way a minimum distance equal to one-half the height of the structure, including any attachments.
3. A statement from a registered engineer that NIER (nonionizing electromagnetic radiation) emitted from any equipment on or serving the facility does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U. S. Government or the American National Standards Institute shall be submitted prior to preliminary site plan approval.
4. Following construction of the facility, certification by the manufacturer, or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be

accommodated, demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and Section 222(D) of the standards adopted by the Electronics Industries Association, or any amendment thereof, have been met.

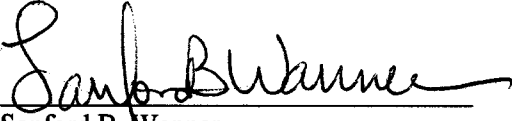
5. Towers shall be located on the site in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. Access drives shall be designed in a manner that provides no view of the tower's base or related facilities. A minimum buffer of 100 feet in width shall be maintained around the tower. Where existing vegetation on the site is not of a sufficient depth to provide this buffer, enhanced landscaping shall be provided within the 100 foot buffer area. A screening and landscaping plan for the enhanced buffer shall be provided for approval by the Planning Director or his designee prior to final site plan approval.
6. The applicant shall allow other users to locate on the tower and site and shall provide the County upon request verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant agrees to execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site.
7. The tower(s) shall have a finish that is grey in color.
8. Maximum height of all towers shall not be greater than 185 feet.
9. Lighting, beacons and other similar devices shall be prohibited unless required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA). When required by the FCC or FAA, a red beacon light of low-medium intensity shall be used rather than a white strobe light. Should the regulations and requirements of this subsection conflict with any regulation or requirement by the FCC or FAA, then the regulations of the FCC and FAA shall govern. At the time of site plan review, a copy of the FAA and/or FCC findings shall be made available to the County.
10. No advertising material or signs shall be placed on the tower.
11. Prior to the installation of equipment other than that of the applicant's, an intermodulation study prepared by a licensed engineer shall be submitted to, and approved by, the Planning Director or his designee, indicating that no interference with County operated emergency communications equipment will take place.
12. If the use of the tower or portions of the tower above the level of the uppermost equipment ceases and the tower or said portion remains unused for a period of six (6) months, the tower or unused portion and associated and unused accessories shall be removed from the property by its owners. The applicant shall post a surety, performance bond, or cash equivalent in an amount sufficient to guarantee removal of an unused facility or part thereof prior to final site plan approval.
13. The applicant shall allow the placement of County communications equipment on the proposed tower, rent free, at a height of 185 feet. County communication equipment

may, at the County's request, be placed at an elevation on the tower lower than 185 feet, rent free, if the County deems the lower elevation is suitable for effective public safety communications. Prior to final site plan approval and prior to leasing space on the tower to additional users, the applicant shall offer a lease option to this effect to the County to install public communications equipment on the tower. The County shall, within a reasonable time period, make a final determination regarding its desire to locate on the tower and shall notify the applicant of its intentions.

- 14. A Permanent Certificate of Occupancy shall be obtained within one (1) year of approval of this special use permit, or the permit shall become void.
- 15. The tower shall be freestanding and shall not use guy wires for support.
- 16. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material to that generally used on a single-family residence and shall be approved by the Planning Director prior to final site plan approval. A gable or shed roof shall be used on all equipment sheds and huts as determined by the Director of Planning prior to final site plan approval.
- 17. There shall be a future lease area to accommodate one additional tower and supporting equipment as generally depicted on the site plan, prepared by Timmons Engineering, titled "360° Communications - Governor's Landing Site," dated June 17, 1997. Such lease shall remain free of all structures until such time a second tower is constructed and the additional tower shall be subject to administrative approval only.
- 18. The fencing used to enclose the lease area shall be vinyl-coated and shall be dark green or black in color and shall be reviewed and approved by the Director of Planning prior to final site plan approval.
- 19. The applicant shall install an evergreen landscape buffer along Brick Bat Road as generally depicted on the conceptual site plan prepared by Timmons Engineering, dated June 17, 1997. The final landscape buffer along Brick Bat Road shall be reviewed and approved by the Director of Planning prior to final site plan approval.


 Jack D. Edwards
 Chairman, Board of Supervisors

ATTEST:


 Sanford B. Wanner
 Clerk to the Board

SUPERVISOR	VOTE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
NERVITT	NAY
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of January, 1998.