

ORDINANCE NO. 7301-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-16-371 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A COMMUNICATION TOWER/ANTENNA ON A SITE ZONED P1 PARK.

WHEREAS, application number CU-16-371 has been made by **THE CITY OF NEWPORT NEWS SCHOOL BOARD and N8+C, LLC** for a conditional use permit for the hereinafter described property for the purpose of operating a communication tower/antenna on a site zoned P1 Park; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

(a) That conditional use permit number CU-16-371 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating a communication tower/antenna on a site zoned P1 Park; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

All that certain tract, piece or parcel of land situate, lying and being in the City of Newport News, Virginia, (formerly Warwick County, Virginia), containing 31.55 acres, more or less, bounded on the south by Hoopes Road, on the west by Crafford, on the north by Stoney Run, and on the east by R. B. Curtis, being part of the same land conveyed to R. B. Curtis, M. Madora Curtis and Sallie E. Hay by B. D. Peachy, Special Commissioner, by deed dated March 6, 1937, and of record in the Clerk's Office of the Hustings Court for the City of Newport News, Virginia, in Deed Book 73, Page 440, and being the same land allotted to Sallie E. Hay by deed of partition dated January 20, 1960, and recorded in said Clerk's Office in Deed Book 387, Page 196, and designated as Parcel "A" and Parcel "B" on the plat thereto attached and made by Walter S. Grant, Jr., Civil Engineer, and dated October 30, 1959, to which reference is hereto made, said land being more particularly described as 31.55 acres as shown on a plat dated October 30, 1959, revised December 15, 1962, by Walter S. Grant, Jr., Civil Engineer, entitled, "Property conveyed to The School Board

of the City of Newport News, Virginia, by Sallie E. Hay, et vir.” This conditional use permit shall only apply to 1,308 square feet of the described property as shown on Exhibit A-2, which is attached hereto and made a part of hereof.

The property has a common street address of 259 Denbigh Boulevard. The parcel is assigned Real Estate Assessor’s #117.00-01-02.)

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The placement of the tower and associated equipment shall be limited to the 1,308 square feet lease area identified on Exhibit A-2, attached hereto and made a part hereof.
2. The height of the communications tower shall not exceed 135 feet including antennas and appurtenances. The design of the tower shall be a stealth light pole with a low profile platform array.
3. The final design and materials of the tower and equipment shall be submitted to and approved by the Director of Planning prior to site plan approval.
4. Except where specified herein, all applicable provisions of Chapter 45, Zoning Ordinance of the Code of the City of Newport News, Virginia, Article V, General Regulations Applicable without Reference to Zoning Districts, Section 45-523, Communication tower/antenna, shall be met, prior to issuance of a building permit, to include the requirement of a bond to expedite the removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.
5. The owner or owners of the communications tower, through its lease agreement with the Newport News School Board, shall permit the Newport News School Board the right of first refusal for collocation of any school equipment on the tower.
6. The tower shall have no markings, signs, or lighting except for the lighting required for the baseball field and that which is required by the Federal Aviation Administration (FAA).
7. The applicants, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
8. The applicants, as well as successors, assigns, and agents, if any, shall obtain

all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.

9. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
10. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
11. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of September 13, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

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PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON SEPTEMBER 13, 2016

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

