

ORDINANCE NO. 7322-16

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2016-0002 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A COMMUNICATION TOWER/ANTENNA ON A SITE ZONED R9 MIXED USE.

WHEREAS, application number CU-2016-0002 has been made by **CROWN CASTLE GT COMPANY, LLC, owner and applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating a communication tower/antenna on a site zoned R9 Mixed Use; 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-2016-0002 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating a communication tower/antenna on a site zoned R9 Mixed Use; and

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

PARCEL ONE:

All those certain lots, pieces or parcels of land, lying, situate and being in the City of Newport News, Virginia, and designated by Lots Numbered Twenty-Seven (27) and Twenty-Eight (28), in Block Numbered One Hundred Fifty-Five (155), as shown on a certain map entitled, "Map of a part of the City of Newport News, VA," which said map is of record in the Clerk's Office of the Circuit Court (formerly Corporation Court) of the City of Newport News, Virginia, in Plat Book 1, page 3.

PARCEL TWO:

All those certain lots, pieces or parcels of land, lying, situate and being in the City of Newport News, Virginia, and designated by Lots Numbered Twenty-Nine (29) and Thirty (30) and Thirty-One (31), in Block Numbered One Hundred Fifty-Five (155), as shown on a certain map entitled, "Map of a part of the City of Newport News, VA," which said map is of record in the Clerk's Office of the Circuit Court (formerly Corporation Court) of the City of Newport News, Virginia, in Plat Book 1, page 3.

The property has a common street address of 517 29th Street. The parcel is assigned Real Estate Assessor's Tax I.D. #305.04-04-53.

(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 height of the communications tower shall not exceed 128 feet including antennas and appurtenances.
2. All equipment and materials shall be limited to within the 2,260 square foot enclosed lease area as depicted in Appendix A-2, which is attached hereto and made a part hereof.
3. The landscape plan shall be largely in conformance with the plan prepared by BC Architecture and Engineering, dated October 24, 2016 and noted as Appendix A-6, which is attached hereto and made a part hereof, and shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
4. The owner shall have a structural inspection conducted annually by a registered professional engineer licensed in the Commonwealth of Virginia and a copy of the inspection report shall be filed with the Department of Codes Compliance.
5. The applicant shall file with the Department of Codes Compliance a statement from a registered engineer that non-ionizing electromagnetic radiation (NEIR) emitted from the communications tower 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.
6. Obsolete, unused or abandoned communications towers/antenna facilities shall be removed within twelve (12) months of obsolescence, cessation of use or abandonment.
7. A bond of \$50,000 shall be required to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.
8. 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 removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.

9. The tower shall have no markings, signs, or lighting except for lighting that may be required by the Federal Aviation Administration (FAA).
10. The applicant, 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.
11. The applicant, 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.
12. 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.
13. 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.
14. 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 November 22, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON NOVEMBER 22, 2016

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

