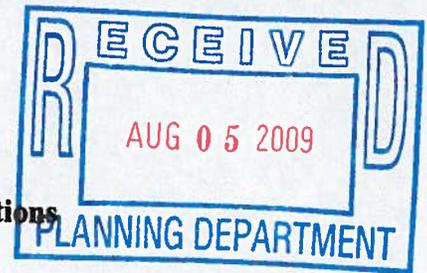


**STATEMENT OF JUSTIFICATION
POTOMAC RADIO
Special Exception and Commission Permit Applications
SPEX & CMPT
February 27, 2009
Revised July 13, 2009**



I. INTRODUCTION

Potomac Radio LLC, (hereinafter, the "Applicant"), is proposing special exception and commission permit applications for the approval of AM radio station towers and the associated equipment and related facilities (hereinafter, the "Facilities") on certain property (hereinafter, the "Subject Property") leased from the Loudoun County Sanitation Authority (hereinafter, "Loudoun Water") consisting of approximately 7.5 acres of land zoned Planned Development – Industrial Park ("PD-IP") and within the Floodplain Overlay District (hereinafter, "FOD") governed by the 1972 Zoning Ordinance (hereinafter, the "Zoning Ordinance"). The Subject Property is identified as Tax Map 80 (4), Parcel A2 (MCPI 041-37-4022) and is located on the east side of Loudoun County Parkway (Rt. 607), west of the Broad Run, and north of future Gloucester Parkway. The Subject Property also is within the Route 28 Tax Improvement District and is located within the northern portion of the Broad Run Water Reclamation Facility (hereinafter, "BRWRF") owned and operated by Loudoun Water.

II. BACKGROUND

The Applicant has been working with Loudoun Water for over two years to locate a proposed radio transmission tower array within a portion of Loudoun Water's BRWRF facility that would be compatible with Loudoun Water's long range plans for the BRWRF and has a signed Deed of Lease with Loudoun Water to lease 7.5 acres of the BRWRF property. The Applicant has obtained approval from the Federal Communications Commission (hereinafter, "FCC") to construct three (3) AM radio station towers which together will operate as the new WAGE daytime antenna system. WAGE is Loudoun County's only radio station. A copy of the FCC approval, entitled, "AM Broadcast Station Construction Permit" dated October 29, 2008 is attached hereto as Exhibit A. As required by the FCC, an environmental assessment entitled "Environmental Assessment New WAGE (AM) Daytime Transmitter Site Sterling, Virginia", prepared by blueskies environmental associates, inc., and dated January 2007, was submitted to the FCC along with a subsequent environmental assessment addendum dated July 2008, prepared in accordance with 47 CFR Section 1.1307 for new structures associated with WAGE AM radio permit in Leesburg, Virginia. The addendum stated that "*The proposed activity will have no adverse impact on the environmental conditions at the proposed project site . . .*". A copy of this environmental assessment is attached as Exhibit B.

The Applicant has also received for each proposed tower certain "Determinations of No Hazard to Air Navigation from the Federal Aviation Administration" (hereinafter, "FAA"). The FAA determined that marking and lighting are not necessary for aviation safety pursuant to a letter ruling attached as Exhibit C. The Metropolitan Washington Airport Authority (hereinafter, "MWAA") has also stated that there would be no impediments to the Washington Dulles

International Airport from the three proposed radio station towers. A copy of the MWAA letter ruling is attached as Exhibit D.

III. PROPOSAL

The Applicant is proposing three (3) steel self-supporting AM radio station transmission towers to be constructed on the Subject Property. Each tower will be erected on a concrete pad base, the size of which will depend on the soil conditions and will be specified by a tower structural engineer, tower manufacturer and qualified tower system installer.

Each tower will have an overall height that will be approximately 195 feet above grade level at the base of the tower. More specifically, each tower will consist of 190 feet of structural steel mounted atop the concrete base pier and insulator system (the combined base pier and insulator system having a height of five (5) feet). Each tower must be enclosed by a locked six (6)-foot minimum high metal chain link or wooden fence to prevent trespass and accidental contact with the towers and must meet the requirements of FCC OET Bulletin 65. The fence will be located approximately 20 feet from the nearest point of the tower. A transmitter building will be located within the Subject Property adjacent to an existing on-site gravel access road which will provide access to the Facilities. The transmitter building will house the transmitter and other equipment. Additionally, there will be an auxiliary generator and satellites receive dishes with associated equipment that will be mounted onto concrete pads adjacent to the transmitter building.

Cables consisting of Radio Frequency ("RF") transmission lines, RF telemetry system lines, messenger and control lines, and 110 volt electrical power lines must run between the transmitter building and each tower. These lines may be buried or supported above ground by stanchions or trestles. At each tower base, a small metal enclosure will be placed within a few feet of the tower. This enclosure will house electrical components and switchgear. Additionally, there may be antennae for station two-way radio communications, studio-transmitter links, and/or other suitable telecommunications technology, all of which will be mounted on one of the radio station transmission towers. The grounding wires for each tower will consist of 120 equally-spaced copper wire radials that will be buried around each tower. A buried four (4) inch copper strap will be installed between each tower to connect to the ground radials.

The Facilities are permitted as a "Public Utility, Communications and Transmission Use" with approval of a special exception by the Board of Supervisors pursuant to Section 722.3.2 of the Zoning Ordinance. In addition to the above referenced special exception, the Applicant is requesting special exception approval for the Facilities to be located within the FOD pursuant to Section 740.7 (4) of the Zoning Ordinance. The Applicant is also requesting commission permit approval of the Facilities as required in Section 905 of the Zoning Ordinance.

As required by Sections 740.8 and 1211.5 of the Zoning Ordinance, the standards for special exceptions are addressed in the Attachment to this Statement of Justification.

IV. COMPREHENSIVE PLAN

The Loudoun County Revised General Plan ("RGP") designates the Subject Property for Keynote Employment uses within the Suburban Policy Area. In accordance with a staff recommendation at the Pre-Application Conference, the "Strategic Land Use Plan for Telecommunications Facilities", adopted November 6, 1996 (hereinafter, "Telecommunications Plan") apply to the proposed Facilities. The proposed Facilities are consistent with the following policies of the Telecommunications Plan, as follows:

B. DESIGN STANDARDS

Countywide Location Policies:

2. *Where is not feasible to locate on an existing structure, the County prefers the new towers or monopoles be located*
 - a. *In planned and zoned industrial and employment areas,*
 - b. *Within overhead utility transmission line rights of way where structures greater than eighty (80) feet in height already exists, and*
 - c. *On public sites or volunteer fire or rescue company properties where such facilities mitigate adverse impacts on the character and use of public or public safety site.*

The Subject Property is zoned PD-IP and planned for Keynote Employment uses that is consistent with these location policies. The proposed AM radio station towers are compatible with and will not create adverse impacts on the character and use of the Loudoun Water BRWRF.

Publicly Owned or Controlled Facilities and Volunteer Fire and Rescue Companies

1. *Applicants for commercial public telecommunications towers or monopoles must demonstrate that there will not be any physical or technological interference with the existing or planned function of the public facility or volunteer fire or rescue company facility.*
2. *Required landscaping may be less stringent for public sites or volunteer fire or rescue company sites where the visual impact of the support building is otherwise mitigated or is consistent with the surrounding area.*

There will be no physical or technological interference with Loudoun Water's BRWRF. The transmitter building (support building) will be compatible with the Loudoun Water BRWRF and has been determined by Loudoun Water following detailed review to be so.

C. SAFETY AND HEALTH POLICIES

Policies

1. *Applications for any commercial public telecommunications facility shall demonstrate that they have complied with applicable regulations of the FCC and the FAA. If a proposed telecommunications tower or monopole is higher than 200 feet or within (5) five miles of either Dulles or Leesburg Airports, the applicant will provide verification that he/she has notified the appropriate airport authority (Metropolitan Washington Airports Authority or the Town of Leesburg) and that the FAA has determined that the proposed facility is neither a hazard nor an obstruction to aviation.*
2. *An applicant or its successors shall remove all unused structures and facilities from a commercial public telecommunications site, including towers and monopoles, within 90 days of cessation of commercial public telecommunication use or the expiration of the lease, whichever occurs first, and the site should be restored as closely as possible to its original condition.*

As stated above and demonstrated by the enclosed exhibits, the Applicant has secured approvals from the FCC, FAA and MWA for the Facilities. The Applicant must comply with the applicable regulations of the FCC and the FAA to construct these radio towers on the Subject Property.

D. IMPLEMENTATION POLICIES

Require all applications for future monopoles and towers to:

- a. *Demonstrate that the location proposed has resulted from the systematic review of all options from the hierarchy of County location preferences and justify the option selected.*

An exhaustive search was conducted by the Applicant over several years to locate a suitable site in Loudoun County that would meet stringent FCC requirements. Various real estate agents were engaged to search out properly zoned parcels of appropriate size, dimension, soil quality¹ and physical location to accommodate the required tower configuration, signal coverage requirements, constraints of FCC rules to protect from interference radio stations operating on WAGE's channel and on the immediately adjacent frequencies, and FAA requirements to protect aviation.

¹ AM signal coverage criteria require sufficient ground conductivity levels. This necessitates that soils of a proposed antenna site not be materially composed of sand, clay or rock, several of which predominate in Loudoun County, further narrowing the selection of candidate sites which are otherwise suitable. Soil conductivity dictates a proposed site's permissible distance from the Town of Leesburg boundaries inasmuch as poor conductivity levels could adversely affect compliance with FCC-mandated requirements for minimal signal strengths over a station's city of license.

A few larger parcels believed to be suitable were identified. However, in each case, the seller either did not respond to inquiries or declined to negotiate a sale. This experience tracks those of others who have sought sites on which to locate AM broadcast station transmission facilities, such as WAGE, whose frequency assignments necessitate the use of multiple towers in order to generate a directional signal pattern.

The proposed Loudoun Water BRWRF property is the only site found in Loudoun County which meets the signal coverage needs of WAGE, FCC-mandated criteria for radio station transmitter and towers and the FAA requirements to prevent hazards to aviation. It is unique in terms of its suitable physical size, geographic location, geometric dimensions, soil types, zoning classification and compatibility.

- b. Demonstrate compliance with all design criteria. The applicant should provide a photo-image or other similar visual simulation to show the proposed tower or monopole in relations to its surroundings. The applicant should provide such visual imagery from several different perspectives to help determine the extent to which the facility could be designed to mitigate the visual impact on area residences and road.*

During discussions with Loudoun Water in negotiation of the Deed of Lease, dated July 10, 2008 (hereinafter, the "Lease"), the Applicant provided photosimulations and Loudoun Water determined that the proposed AM radio station towers will not be visually intrusive. These photosimulations were prepared by Whitman, Requardt & Associates, dated June 2006, and are attached as Exhibit E.

- c. Address the terms and conditions which collocation by other users would be acceptable.*

The Lease permits Loudoun Water to install on one of the antenna towers a telecommunications system and also allows Loudoun Water to license space on one or more of the antenna towers for other parties designated by Loudoun Water. Otherwise, co-location of other users on the proposed towers, while not impossible, would be exceedingly difficult, technically-complicated and necessitate frequent disruptions to the operations of WAGE and the other users. The reason for this is that insulated AM broadcast towers, unlike standard grounded steel communications towers, are energized along their entire lengths. The energized towers are the radio station's antenna. As such, they present an extremely undesirable platform for other communications antennas, including wireless antennas.

SUMMARY

For all of the reasons stated above, the proposed applications are in accord with the adopted comprehensive plan. Potomac Radio, LLC respectfully requests a recommendation of approval from staff and the Loudoun County Planning Commission and approval and ratification by the Loudoun County Board of Supervisors.

**ATTACHMENT
STATEMENT OF JUSTIFICATION
POTOMAC RADIO
Special Exception and Commission Permit Applications
SPEX & CMPT
Standards for Special Exceptions – 1972 Zoning Ordinance Sections 740.8 and 1211.5
February 26, 2009
Revised July 13, 2009**

Section 1211.5 of the 1972 Zoning Ordinance states: “In fulfilling the purposes and intent of this ordinance as set forth in Article 1, the Board of Supervisors, in exercising the powers and duties granted and imposed by the ordinance, shall act in accordance with and shall be guided by the following standards which shall be in addition to any other standards imposed by the ordinance:”

To preserve the agricultural character of the County, and to discourage the inappropriate location of non-farm uses in agricultural areas.

The proposed AM broadcast radio station towers and equipment (the “Facilities”) are located on the Loudoun Water Broad Run Water Reclamation Facility (“BRWRF”) and will not impact the agricultural character of the County. The bases of the towers, the equipment enclosure, and ancillary equipment comprise an extremely small footprint. The vast majority of the 7.5 acres of leased site area will remain in its natural state unaltered by the proposed use.

To conserve the ground water supply in the areas of the County where it is limited.

The proposed Facilities will not impact the ground water supply of the County.

To prevent high population density on soils that are incapable of providing adequate water supply, or of meeting proper sanitary requirements for sewage disposal.

There will be no impacts on the water supply or needs for sewage disposal. The radio station towers and equipment will be un-manned and will have no sewage disposal or water usages.

To protect against the overcrowding of land and undue density of population in relation to the community facilities existing or available.

The proposed Facilities will have no impacts on the overcrowding of land or density in population.

To facilitate orderly highway development and transportation, and lessen traffic hazards and congestion.

The Facilities will be accessed from an on-site gravel access road and only two vehicular trips per month will be required to normally maintain the Facilities.

To protect residential sections from unnecessary traffic, fire hazards, noise, noxious fumes, or offensive odors and other unwholesome conditions and influences.

The Facilities will not have an impact on residential areas. Only two vehicular trips per month will be required to normally maintain the Facilities. The Facilities will not increase fire

hazards, generate noise, create noxious fumes or offensive odors, nor cause any other unwholesome conditions and influences.

The proposed use at the specified location shall be in harmony with the policies embodied in the adopted comprehensive plan.

The proposed AM radio station towers are in harmony with the policies of the Revised General Plan. The Subject Property is zoned PD-IP and planned for Keynote Employment Centers. Moreover, the proposed AM radio broadcasting station towers are consistent with the Countywide Location Policies of the Telecommunications Plan. Finally, the proposed AM radio station towers are compatible and will not create adverse impacts, or physical and/or technological interference with the BRWRF operated by the Loudoun County Sanitation Authority ("Loudoun Water").

During discussions with Loudoun Water in negotiation of the lease, the Applicant provided a report titled "Broad Run WWTP Potomac Radio Antennas Superimposed Photography June 2006" prepared by Whitman, Requardt & Associates" This report is enclosed and demonstrates that the proposed AM radio station towers will not be visually intrusive.

An exhaustive search was conducted by the Applicant over several years to locate a suitable site in Loudoun County that would meet stringent FCC requirements. The proposed location on the Loudoun Water BRWRF property fits the FCC-mandated criteria for the radio station transmitter and towers and the FAA restrictions within this particular area of the County. The proposed AM radio station towers will serve Loudoun County's only radio station.

The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

The general purpose and intent of the PD-IP zoning district is a planned development primarily for light and medium industrial uses which present an attractive appearance and complement surrounding land use character by means of appropriate siting of building and service areas, and landscape treatment. The proposed AM radio station towers are appropriately sited on the northern portion of the Loudoun Water BRWRF within the Floodplain Overlay District ("FOD") which will have minimal impacts to the floodplain.

The proposed use shall be such that it will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the applicable provisions of the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

The proposed AM radio station towers will not adversely affect the use or development of the neighboring properties and the uses are in accordance with the applicable zoning district regulations and the policies of the comprehensive plan. The location and size of the Facilities will not hinder or discourage appropriate development and use of adjacent lands nor impair the value. The site is surrounded by the Loudoun Water BRWRF and has been determined by Loudoun Water to be compatible with the long range development plans for the BRWRF. In

addition to the visual impact study referred to above which concluded that the towers would not be visually intrusive, the particular location selected by Loudoun Water for the radio station is on some of the lowest elevations of the BRWRF site, contributing to the diminished visibility of such installation.

Section 740.8 of the 1972 Zoning Ordinance states: "In considering applications for special exceptions, the Board of Supervisors must be satisfied that the following standards have been met:

- 1. The proposed use will not increase the danger to life and property due to increased flood heights or velocities caused by encroachments.**

It is not at all unusual for AM radio station towers and related equipment to be located within floodplain areas. The installation of the Facilities will cause minimal disturbance and will not adversely impact flood heights or velocities. Indeed, the site is at the edge of the floodplain, completely outside of the water flow channels of the Broad Run. The portion of the site that is outside of the wooded area is a sod farm. The fact that the soil at the site will remain capable of being tilled is indicative of the character of the floodplain in the area proposed for the radio station. Further, the area is not environmentally sensitive in any way.

- 2. The proposed use will not increase the danger that materials may be swept on to other lands or downstreams to the injury of others.**

It is significant that the proposed site is at the edge of the floodplain, far away from the flow line of the creek. Appropriate measures will be taken in the installation to anchor and secure the Facilities so that in the event of a flood, equipment or other materials from the Facilities will not be swept onto other lands or downstream. The downward thrust of the towers themselves and the utilization of pilings of sufficient mass, spread and depth for the concrete foundations of the towers, transmitter enclosure and related equipment will assure sufficient anchorage and stability in the event of a flood. The specifications of such foundations will be set by the tower manufacturers in close consultation with soil and civil engineers, giving due consideration to the nature of the firmament of the site. The frequency with which AM radio station transmission facilities have long been sited on floodplains such as this across the country evidences not just the particular suitability of such areas for radio signal propagation but, more importantly, the compatibility of such sitings with environmental and safety concerns.

- 3. The proposed water supply and sanitation systems are designed to prevent disease, contamination, and unsanitary conditions.**

The Facilities will be unmanned and will not require water or sanitary sewer

- 4. The proposed use or structure must be located and designed to limit its susceptibility to flood damage, and available alternative locations, not subject to flooding, for the proposed use must be considered.**

The proposed location within the floodplain is appropriate for AM radio stations due to the compatibility of the floodplain's ground conductivity with the electric grounding system of the proposed equipment. These Facilities have been designed specifically to be located within the floodplain and will have minimal impacts on flooding. It is noteworthy that a

number of locations on the BRWRF property were considered by Loudoun Water, the site owner, and it is this precise location that was ultimately selected by Loudoun Water, to be the best for location for the radio station facilities. If Loudoun Water were concerned about potential susceptibility of its vital water treatment facilities to damage during a flood event from the station's installations, Loudoun Water would have never countenanced the proposed use at this location.

5. The proposed use is compatible with existing and planned development.

The Facilities are compatible with the existing and the planned development of Loudoun Water's BRWRF. Indeed, given the floodplain nature of the site and its industrial designation, the reality is that this site is impractical or undesirable for other uses. By siting the radio station transmission facilities at this location, this essentially non-productive land can be constructively put to use, thereby benefitting Loudoun Water and County residents through enhancing tax rolls and preserving the viability of the County's only licensed broadcast station.

6. The proposed use is in harmony with the comprehensive plan.

As stated above, the proposed Facilities are in harmony with the Revised General Plan policies and more particularly the Telecommunications Plan.

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site should not cause significant damage to the structure.

As stated above, the Facilities have been designed to be located within the floodplain and measures will be taken to anchor and secure the various components to provide for stability and safety of the structures in the event of a flood.

8. Such other standards which are relevant, including Section 1211.5, Criteria for a Special Exception, and Section 103, Purposes of Zoning.

The Section 1211.5 Criteria are addressed above.

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