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Paged General Indexed

City of Norfolk
127 N 1st
Norfolk NE 68701

STATE OF NEBRASKA ss This instrument filed for record this
MADISON COUNTY 20 day of December 2006
8:30 o'clock A.M. and recorded in 2006-12 page 1206 - 1207 Incl.
Nancy G. Gross
Register of Deeds Deputy

RESOLUTION NO. 2006-42

WHEREAS, NE Colorado Cellular, Inc., d/b/a Viaero Wireless has filed an application for a Conditional Use Permit seeking a permit for a telecommunications tower on property which is legally described as follows:

Lot 4, Pilger's Addition to the City of Norfolk, Madison County, Nebraska; and

WHEREAS, the property described above is presently included in Zoning District C-2; and

WHEREAS, a public hearing on said application was held before the Planning Commission of the City of Norfolk, Nebraska on October 17, 2006, said hearing having been duly noticed; and

WHEREAS, on November 7, 2006, the Planning Commission approved the Conditional Use Permit by a vote of 7 to 0; and

WHEREAS, on November 15, 2006, Robert G. Thomas, Vice President and General Manager of WJAG AM & KEXL FM Radio, filed with the City an appeal from the Planning Commission's approval of a Conditional Use Permit to the applicant; and

WHEREAS, pursuant to Norfolk City Code Section 27-56 the City Council may, following a public hearing, reverse, affirm or modify the decision of the Planning Commission; and

WHEREAS, a public hearing on the appeal filed by Robert G. Thomas was held before the City Council on December 4, 2006, said hearing having been duly noticed; and

WHEREAS, said hearing was held open and continued at the December 18, 2006 meeting before the City Council; and

WHEREAS, information and testimony both in favor of and in opposition to the application of NE Colorado Cellular, Inc., d/b/a Viaero Wireless were presented at said hearing.

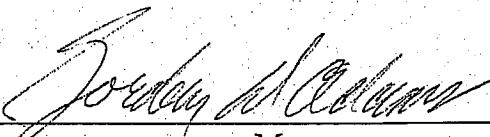
NOW THEREFORE, in consideration of the foregoing recitals and based upon the evidence and testimony received at said public hearing, the Mayor and City Council of the City of Norfolk, Nebraska hereby adopt the following Resolution:

BE IT RESOLVED by the Mayor and City Council of the City of Norfolk, Nebraska that the determination of the Planning Commission in Resolution No. PC2006-9 to approve the application of NE Colorado Cellular, Inc., d/b/a Viaero Wireless for a Conditional Use Permit is hereby modified and NE Colorado Cellular, Inc., d/b/a Viaero Wireless is hereby granted a Conditional Use Permit for a wireless telecommunications facility on property at 413 Norfolk Avenue, Norfolk, Nebraska, subject to the following terms and conditions:

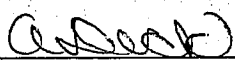
- (1) There shall be an 8' high chain-link fence surrounding the tower;
- (2) This permit shall be for twenty (20) years and granted to the landowner. If the property is sold, the new owner shall make application for a new Conditional Use Permit or the property shall be restored to its original condition within ninety (90) days;
- (3) The applicant shall receive final approval from the Federal Aviation Administration;
- (4) The applicant shall encourage co-location of use on this tower;
- (5) Street curbing shall be installed surrounding the tower base;
- (6) All procedures and standards outlined in Section 27-56 of the Norfolk City Code pertaining to Conditional Use Permits shall be observed;
- (7) The Conditional Use Permit granted herein shall be a personal privilege granted to the applicant and shall not be subject to transfer;
- (8) There shall be compliance with any other applicable City, County, State or Federal regulations that may apply.
- (9) Any interference to the STL links owned and operated by WJAG Incorporated whose cause is attributable to NE Colorado Cellular, Inc. d/b/a Viera Wireless and/or co-located lessees on said tower shall be physically and financially remedied on an attributable basis by said party(s), and their assigns.

PASSED AND APPROVED this 18 day of Dec., 2006.

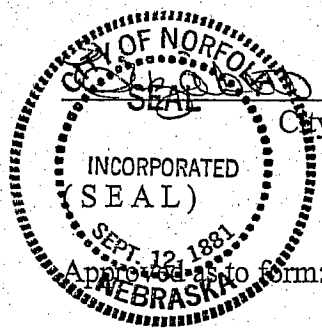
ATTEST:

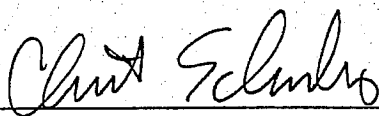


 Mayor



 City Clerk





 City Attorney