

# ***SAUK COUNTY BOARD OF ADJUSTMENT***

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*SAUK COUNTY WEST SQUARE BUILDING  
505 BRADWAY  
BARABOO, WI 53913  
Telephone: (608) 355-3285*

February 24, 2011

DECISION  
SAUK COUNTY BOARD OF ADJUSTMENT  
Appeal Application No. SP-01-11

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Todd Anderson  
Cloud 1, LLC.  
130 E. Walnut St. Suite 301  
Green Bay, WI. 54301

Dear Mr. Anderson:

On February 24, 2011, the Sauk County Board of Adjustment considered your application for a special exception permit, pursuant to Sauk Co. Code § 23.07(1)(b)2. Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

## FINDINGS OF FACT

Cloud 1, LLC., hereinafter referred to as "Applicant", applied for a special exception permit pursuant to Sauk Co. Code § 23.07(1)(b)2, to authorize the location and operation of a new telecommunication tower. The property is located in Section 14 of the Town of Excelsior and subject to Chapter 23, the Sauk County Zoning Ordinance.

Sauk Co. Code § 23.07(1)(b)2, provides that a special exception permit is required for any new tower greater than 150 feet in height, to a maximum of 300 feet.

The surrounding area contains agricultural, forested and few residential properties. The site is located in the closed Sauk County landfill.

## CONCLUSIONS OF LAW

The Sauk County Board of Adjustment may not grant a special exception permit for the location of a new tower site unless all of the conditions listed in Sauk Co. Code § 23.09(2) are met. As part of its review, the Board must determine whether the location of the tower will significantly injure the public health, safety or welfare. The applicant has the burden of showing that the permit meets the standards designated in Sauk Co. Code § 23.09(2). Edward Kraemer & Sons, Inc. v. Sauk County Board of Adjustment, 183 Wis. 2d 1, 515 N.W.2d 256, 262 (1994).

Upon reviewing the evidence and testimony, the Board determined the proposed location of the new telecommunication tower is consistent with the purpose and intent of the Ordinance. The board made this decision based on testimony and information provided at the hearing, and the following:

The Sauk County and the Town of Excelsior's Comprehensive Plan recognize the need for reliable communication during emergency situations. This tower is also proposed to be located more than 1000 feet from the nearest neighboring structure or road. There were no locations available for collocation on an existing tower in the area.

## DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a unanimous vote, approves your request, subject to conditions, for a special exception permit for a new 176 foot telecommunication tower.

In issuing the special exception permit, the Board set forth the following conditions the Applicant shall comply with:

- A. All work on and use of the premises shall proceed with the plans and supplemental evidence presented at the hearing. It is the responsibility of the applicant to secure all required Town, State, Federal and County permits within one year of the hearing date.
- B. The tower shall be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1K Change 2, Obstruction Marking and Lighting, a med-dual system-- Chapters 4, 8 (M-dual), & 12.
- C. The tower shall have a maximum height of 176 feet.
- D. The tower shall be freestanding not guyed.
- E. The applicant shall secure approval of the revised plan for the tower.
- F. The Endangered Resources Review issue shall be addressed and approved by DNR.
- G. Sauk County Planning and Zoning shall be granted permission to view the site to ensure compliance with these conditions and other relevant provisions of Sauk County Ordinances. The power to ensure compliance with these conditions is given to Sauk County Planning and Zoning. If the department finds that any of these conditions have been violated, they are hereby authorized to take corrective action, either through suspension of the permit, citations or by any means of enforcement that is within their power.
- H. Failure by the Applicant to follow all of the conditions set forth by the Sauk County Board of Adjustment is grounds for suspension or revocation of the special exception permit and possible enforcement action. In order to have the special exception permit

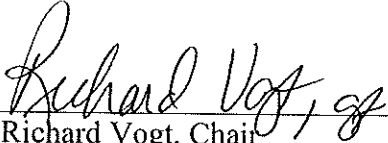
reinstated after suspension, the applicant must comply with all conditions established by the Board of Adjustment, as determined by the Sauk County Planning & Zoning Director or appear in front of the Board of Adjustment. In order to have the special exception permit reinstated after revocation the applicant must appear in front of the Board of Adjustment for a new hearing and comply with all requirements as outlined in this letter.


#### APPEAL RIGHTS

A complete record of the hearing and the decision of the Board is available for inspection at the Sauk County West Square Building. Please note that advance arrangements may be necessary to inspect such records. This decision will become final unless a written appeal is filed with the Sauk County Circuit Court within 30 days of the decision being filed in the Sauk County Planning and Zoning Office. Copies of the record may be secured upon written request and upon payment of the transcription fees.

Very truly yours,

SAUK COUNTY BOARD OF ADJUSTMENT

  
Richard Vogt, Chair

  
Robert Roloff, Secretary

Filed on this date: Mar 1, 2011

#### COPY TO:

Mr. Richard Vogt, S10284 Dead End Road, Plain, WI. 53577  
Ms. Linda White, S3175 White Road, Reedsburg, WI. 53959  
Mr. Robert Roloff S1661 Fox Court, La Valle, WI. 53941  
Mr. Henry Netzinger E11085 Sauk Prairie Road, Prairie du Sac, WI. 53578  
Mr. David Allen, S3951 Grote Hill Road, Reedsburg, WI. 53959  
Mr. Ron Lestikow, S6463 Devils Delight Road, Merrimac, WI. 53561  
Mr. David Wernecke E13119 State Road 33, Baraboo, WI. 53913  
Sauk County Planning and Zoning Office  
Town Clerk  
District Supervisor