

CITY OF CHARLOTTESVILLE
"A World Class City"



Department of Neighborhood Development Services

City Hall Post Office Box 911
Charlottesville, Virginia 22902
Telephone 434-970-3182
Fax 434-970-3359
www.charlottesville.org

September 30, 2015

NTELOS Wireless
1150 Shenandoah Village Drive
Waynesboro, VA 22980
ATTN: Jessie Wilmer

Re: 500 Court Square
Eligible Facilities Request—NTELOS Wireless Site "CV101 Court Square Building"

Dear Applicant,

The City has completed its review of your application, seeking approval of plans to replace three (3) existing antennas, located on the rooftop of the building at 500 Court Square ("Site"), with a new set of antennas installed in different [lowered] locations on the Site ("Request"), and collocation of six (6) new antennas. Your request is submitted to the City pursuant to Section 6409 of the federal Spectrum Act (codified at 47 U.S.C. 1455), which mandates that "*A...local government may not deny and shall approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure.*"

Upon review of the plans entitled "Zoning Drawings Court Square CV101" prepared by Mead & Hunt (dated July 8, 2015), and the September 11, 2015 opinion (attached) of Valerie Long, Esq., an attorney licensed to practice in the Commonwealth of Virginia, the following have been established:

- The Site is an "existing base station" and an "eligible support structure"
- The Request constitutes an "eligible facilities request" which does not substantially change the physical dimensions of the "existing base station"/ "eligible support structure"

Therefore, as required by the Spectrum Act, and the federal regulations set forth within 47 C.F.R. Sec. 1.40001 (effective 4/8/2015), the City may not deny, and therefore does hereby approve, the above-referenced Eligible Facilities Request. Conditions of approval: (i) this approval is limited to the matters depicted within the above-referenced plans, and (ii) installation shall be in accordance with the requirements of a building permit to be obtained from the City's Building Official.

Sincerely,



Missy Creasy, Assistant Director
Charlottesville Department of Neighborhood Development Services

cc: Kevin O'Brien for 500 Court Square Association
Board of Architectural Review
Mary Joy Scala
Lisa Robertson, Chief Deputy City Attorney

WILLIAMS MULLEN

Direct Dial: 434.951.5709
vlong@williamsmullen.com

September 11, 2015

Via Email: robertsonl@charlottesville.org
Lisa Robertson, Esq.
Deputy City Attorney
City of Charlottesville
City Attorney's Office

Via email: scala@charlottesville.org
Mary Joy Scala
Preservation & Design Planner
City of Charlottesville
Department of Neighborhood Development Services

Re: NTELOS Wireless Site "CV101 Court Square Building"

Dear Ms. Robertson and Ms. Scala,

As we discussed in a recent meeting, our client NTELOS has an existing lease with the owners of the property located at 500 Court Square, commonly referred to as the Court Square Building or the Monticello Hotel (the "Property"), where it has placed its wireless telecommunications antennas on the various areas of the roof of the building, including the penthouse.

NTELOS now proposes to replace the existing antennas with a new set of antennas, and to relocate its antennas to a new location on the building where they can be screened by proposed stealth material. These antenna replacements and other equipment upgrades are as necessary to accommodate changes in technology as required by its license from the Federal Communications Commission (the "FCC"). The proposal is shown in greater detail on the enclosed plans entitled "Zoning Drawings Court Square CV101" prepared by Mead & Hunt and dated July 8, 2015 (the "Plans").

NTELOS's collocation proposal is permitted by right pursuant to the new FCC regulations promulgated to implement Section 6409 of the Spectrum Act (codified at 47 U.S.C. 1455). The new regulations are contained in 47 C.F.R. Section 1.40001 and became effective on April 8, 2015 (the "FCC Regulations"). For your convenience I have enclosed a copy of the FCC Regulations.

As noted in subparagraph (a), the "Purpose" section of the FCC Regulations, Section 6409 of the Spectrum Act "requires a State or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such a tower or base station." The

WILLIAMS MULLEN

September 11, 2015

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FCC Regulations provide clarification as to what types of facilities requests “substantially change the physical dimensions of” a tower or base station.

Because the proposed NTELOS collocation equipment upgrade does not “substantially change the physical dimensions” of its existing base station, it is an Eligible Facilities Request pursuant to Section 6409 of the Spectrum Act, and the City is required to approve the application.

The FCC Regulations define a Base Station as “a structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network.” The existing NTELOS facility at the Property is a base station because it is comprised of equipment at a fixed location and it enables NTELOS’s Commission-licensed communication between its user equipment and its communications network. And as subparagraph (b)(ii) provides, the term includes antennas and other similar equipment. NTELOS’s existing antennas and equipment at the Property satisfies the requirement of subparagraph (b)(iv) that the Base Station exist prior to the time the application was filed.

The NTELOS proposal is an Eligible Facilities Request pursuant to subsection (3) because it is a modification of an existing base station that does not substantially change the physical dimensions of the base station, and involves the collocation of new transmission equipment or the replacement of transmission equipment.

Subparagraph (7) defines a Substantial Change as a modification that meets any of the criteria in Section (7)(1) through (vi):

(i). The NTELOS proposal does not increase the height of the eligible support structure by more than 10%, or more than ten feet, whichever is greater. Rather, the NTELOS proposal will actually reduce the height of its equipment since some antennas will be removed from the penthouse and moved to a location on the roof at a lower elevation.

(ii). The NTELOS proposal will not involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet. In fact, the appurtenances will not protrude from the edge of the structure at all.

(iii). The NTELOS proposal does not involve installing more than the standard number of new equipment cabinets for the technology involved, not to exceed four cabinets, for proposal does not include the installation of any new equipment cabinets.

(iv). The NTELOS proposal does not involve any excavation or deployment outside the current site. The FCC Regulations define “Site” as “the current

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Page 3

boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground." The NTELOS proposal involves the antennas being moved from the penthouse to the roof, still within close proximity of their existing location on the roof of the building on the Property.

(v). The NTELOS proposal will not defeat the concealment elements of the eligible support structure, since no concealment elements or other stealth screening was required by the original equipment and antenna approvals.

(vi). The NTELOS proposal would not violate any conditions associated with the approval of the existing wireless equipment at the Property because there were not any conditions of approval associated with the original approval.

Because the NTELOS proposal does not meet any of the criteria of sections (7)(1) through (iv), it does not "substantially change the physical dimensions of an eligible support structure." Thus, the NTELOS proposal is an Eligible Facilities Request, and Section 6409 of the Spectrum Act requires the City to approve the NTELOS proposal.

As you know, NTELOS is working with the building owner on a proposal to provide a comprehensive stealth screening design to screen all the wireless telecommunications antennas and other equipment on the building. NTELOS is actively supporting and involved in this proposal, and I understand that with the most recent design that will be under consideration by the City Board of Architectural Review, that all of NTELOS's antennas will be fully screened from the view of the street and adjacent properties, as will the antennas of the other wireless providers. However, while that screening proposal is under review, NTELOS must move forward to implement its antenna upgrades to ensure that it can comply with new technological requirements and meet rapidly approaching deadlines. Since the NTELOS antenna and equipment upgrade qualifies as an Eligible Facilities Request under the FCC regulations of Section 6409 of the Spectrum Act, we respectfully request that the building permit for this proposal be issued promptly.

Thank you for your consideration of this application. Please contact me with any questions.

Sincerely,

Valerie W. Long

cc: Jessie Wilmer, NTELOS

2B910574_1.docx



Board of Architectural Review (BAR)
Certificate of Appropriateness

RECEIVED

Please Return To: City of Charlottesville
Department of Neighborhood Development Services
P.O. Box 911, City Hall
Charlottesville, Virginia 22902
Telephone (434) 970-3130 Fax (434) 970-3359

Please submit ten (10) copies of application form and all attachments.
For a new construction project, please include \$375 application fee. For all other projects requiring BAR approval, please include \$125 application fee. For projects that require only administrative approval, please include \$100 administrative fee. Make checks payable to the City of Charlottesville.
The BAR meets the third Tuesday of the month.
Deadline for submittals is Tuesday 3 weeks prior to next BAR meeting by 3:30 p.m.

Owner Name 500 Court Square Association Applicant Name Ntelos Wireless
Project Name/Description Ntelos C101 Court Square Parcel Number 530096000
Property Address 500 Court Square, Charlottesville

Applicant Information

Address: 1150 Shenandoah Village Dr
Waynesboro, VA 22980
Email: Wilmerj@ntelos.com
Phone: (W) (540) 241-5060 (H)
FAX: (540) 941-4106

Signature of Applicant

I hereby attest that the information I have provided is, to the best of my knowledge, correct. (Signature also denotes commitment to pay invoice for required mail notices.)

Signature Jim RWL Date 4/28/15

Print Name Jessie Wilmer Date

Property Owner Information (if not applicant)

Address: 500 Court Square Association
40 Real Property Inc. 1500 Amherst St #3
Charlottesville, VA 22903-5158
Phone: (W) (H)
FAX:

Property Owner Permission (if not applicant)

I have read this application and hereby give my consent to its submission.

Signature see attached Owner Consent Date

Print Name Date

Do you intend to apply for Federal or State Tax Credits for this project? N/A

Description of Proposed Work (attach separate narrative if necessary): see attached narrative

List All Attachments (see reverse side for submittal requirements): 1) Site Plan, 2) photo simulations 2) sample material

For Office Use Only
Received by O. Ebanks
Fee paid: 125.00 Cash/Ck. # 6080661
Date Received: 5/19/15
Approved/Disapproved by: N/A
Date:
Conditions of approval:

**500 COURT SQUARE ASSOCIATION
OWNER'S CONSENT LETTER**


500 Court Square Association hereby grants permission to Virginia PCS Alliance, L.C., d/b/a NTELOS and its authorized contractors/agents to act as "Applicant" in the processing of all applications and permits associated with the modification and placement of NTELOS' antennas and base station equipment on the rooftop of the building located at 500 Court Square, Charlottesville, VA (Parcel ID 530096000).

This consent includes the permission to file all applications for any required governmental approvals necessary to modify the existing facilities installed by NTELOS on the property to make all presentations necessary during any zoning, site plan and building permitting processes with regards to such approvals.

The consent granted in this letter shall expire on June 30, 2015

By Owner:

500 Court Square Association

Signature: 

Title: Board member / building committee chair

Date: March 17, 2015

From: Scala, Mary Joy
Sent: Thursday, June 18, 2015 3:43 PM
To: 'Wilmer, Jessica'
Cc: 'Tony Rocklein'; Doug Brooks (doug@realpropertyinc.com)
Subject: BAR Actions - 500 Court Square - June 16, 2015

June 18, 2015

Thomas Michie – TR – 1st Mont LD TR
500 Court Square
Charlottesville, VA 22902

Jessie Wilmer
Ntelos Wireless
1150 Shenandoah Village Dr.
Waynesboro, VA 22980

Certificate of Appropriateness Application

BAR 15-06-02
500 Court Square
Tax Parcel 530096000
Thomas Michie, TR -1st Mont LD TR, Owner/ Ntelos Wireless, Applicant
Replace 3 existing with 9 screened antennas and relocate ground cabinets.

Dear Applicant,

The above referenced project was discussed before a meeting of the City of Charlottesville Board of Architectural Review (BAR) on June 16, 2015. The following action was taken:

The BAR accepted (5-0-1 with DeLoach recused) the applicant's request for deferral. The BAR recommends that the property board propose a master plan or approach rather than a disjointed solution. BAR members are willing to meet with the owners to discuss possible solutions. Some possible options to consider are: locating the antennas behind the baluster; locating the antennas to the sides of the penthouse, and painting the antennas to match the penthouse; or adding screening to the penthouse area resulting in a wider penthouse.

Please resubmit when you are ready, by the submittal deadline three weeks prior to the meeting at which you wish to be heard.

If you have any questions, please contact me at 434-970-3130 or scala@charlottesville.org.

Sincerely yours,

Mary Joy Scala, AICP
Preservation and Design Planner

Mary Joy Scala, AICP
Preservation and Design Planner
City of Charlottesville
Department of Neighborhood Development Services
City Hall – 610 East Market Street
P.O. Box 911
Charlottesville, VA 22902
Ph 434.970.3130 FAX 434.970.3359
scala@charlottesville.org



May 18, 2015

City of Charlottesville
Department of Neighborhood Development Services
P.O. Box 911, City Hall
Charlottesville, VA 22902

**RE: NTELOS Wireless Board of Architectural Review (BAR) Application
CV101 500 Court Square (Rooftop)**

Dear Ms. Scala;

Virginia PCS Alliance, L.C. ('NTELOS') is in the process of enhancing its existing 3G voice and data network by replacing old network equipment with 4G/LTE (Long Term Evolution) equipment at most of its wireless telecommunications facilities in the City and Albemarle County, which will provide improved call performance, expanded coverage, faster downloads and stronger indoor signals for its customers. The current 3G voice and data network utilizes the 1900 MHz spectrum only. Because of a unique partnership that NTELOS has with Sprint, NTELOS is able to have diverse spectrum available for its use. The proposed NTELOS 4G/LTE equipment upgrades will use a tri-band system that will: 1) repurpose old Nextel spectrum (800 MHz spectrum) for increased coverage and better in-building coverage, 2) use Clearwire spectrum (2.5 GHz spectrum) for increased data capacity and 3) continue to use the existing Sprint/NTELOS spectrum (1900 MHz spectrum). By using this tri-band system, NTELOS and Sprint customers will have LTE enhancement, improved call quality and diverse data capacity.

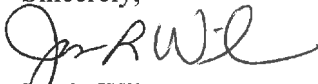
This specific application is a proposal to replace the existing antennas and base station equipment on the rooftop of the 500 Court Square building in downtown Charlottesville. The subject parcel is owned by 500 Court Square Association, described as tax parcel 530096000. The building is located on the south side of Court Square, east of 5th Street, NE.

Attached is a site plan of the rooftop of the building. Currently NTELOS has three (3) panel antennas located on the existing penthouse and a base station equipment frame location on the rooftop, east of the penthouse. With this proposal, NTELOS is proposing remove the existing (3) panel antennas from the penthouse and install (9) tri-band antennas that will support multiple spectrum capabilities for 4G/LTE services on the existing steel frame (labeled as Alpha, Beta and Gamma) recently vacated by Nextel. The proposed new antennas will be screened from public view at ground elevation by stealth screening walls. The remote radio head ancillary equipment will be located behind the antennas and behind the stealth screen walls as shown on the site plan drawings. Photo simulations are attached as part of the BAR application showing the location of the stealth screening walls. A sample of the stealth screening wall material is submitted along with this application. In addition to the stealth screening walls, the building owner has proposed to replace the white ballast parapet wall recently removed. This will further shield the NTELOS installation from public visibility. NTELOS is also proposing to relocate its ground equipment cabinets to a larger existing steel frame on the rooftop located on the west side of the penthouse, also recently vacated by Nextel.

While not all the telecommunications equipment on the building's rooftop by other carriers will be concealed from public view, the proposed equipment upgrades by NTELOS and stealth screening walls are compatible with the area's urban setting and will have minimal visual impact on the surrounding area as compared to its current scenario. This proposal will deliver a much improved customer communications experience and will serve the public health and safety needs to the community by providing increased wireless voice capabilities and improved high speed data services to this heavily populated area of Charlottesville. I look forward to receiving your comments regarding this proposal.

Please feel free to contact me if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Wilmer". The signature is fluid and cursive, with the first name "Jessie" and last name "Wilmer" clearly distinguishable.

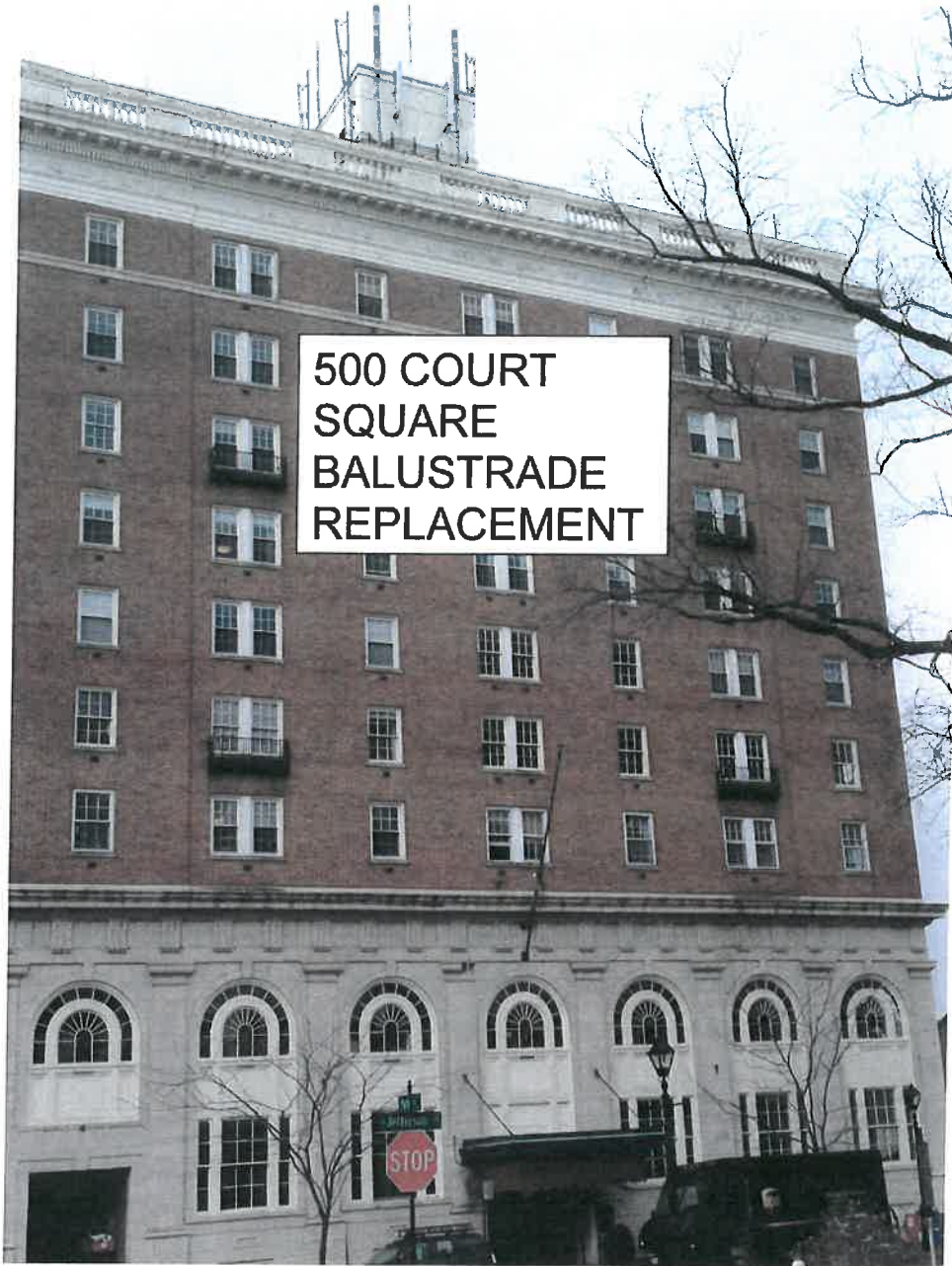
Jessie Wilmer

NTELOS

Sr. Site Acquisition Specialist

(540) 241-5060

wilmerj@ntelos.com

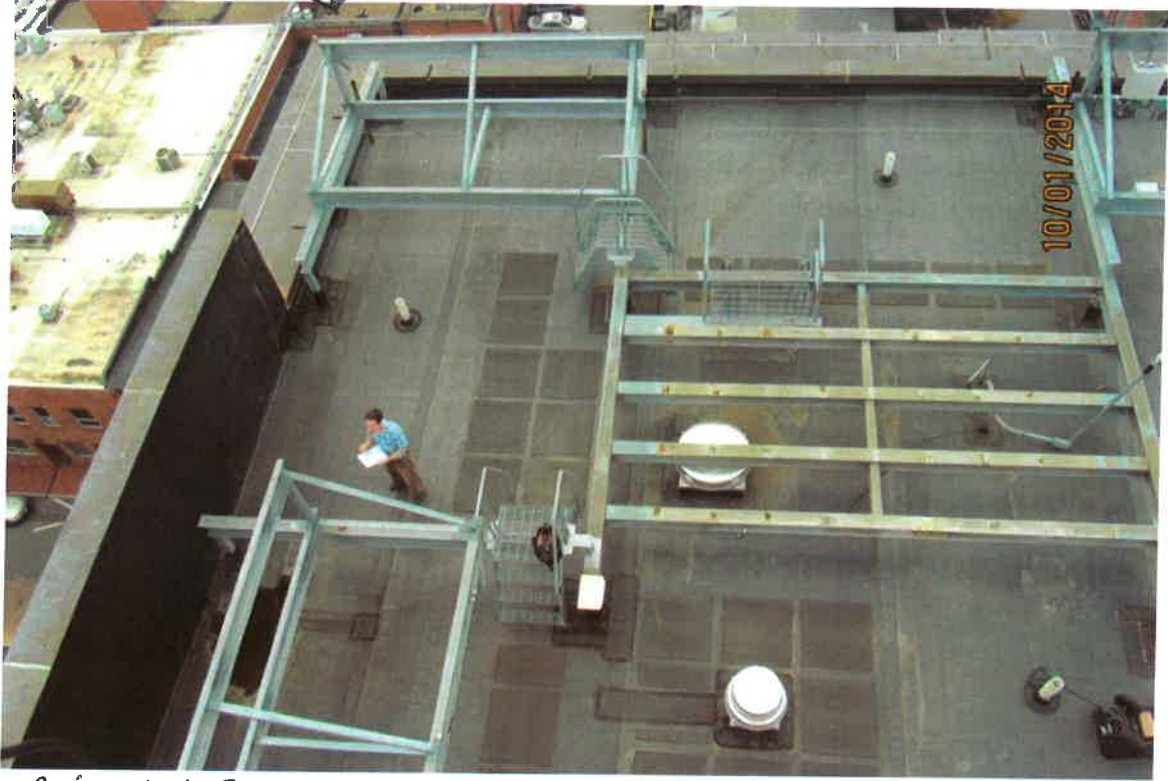






CV (101) (24) Ntelos antennas on penthouse
To be removed

Gamma Skid



equipment platform
←

Beta Skid ↗

CV 101 (7)

SW Corner

AT&T Antenna (n Telos Site : CV101)



CV 101 (AT & T Antenna Height)
NW corner