

**RESOLUTION**

**APPROVAL OF AN APPLICATION BY METROPCS NEW YORK LLC FOR A SPECIAL USE PERMIT AND AMENDED SITE PLAN TO UPGRADE AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY AT 21 BROADWAY, SECTION 27.45, BLOCK 2, LOT 49**

**VILLAGE OF HAVERSTRAW (“Village”) PLANNING BOARD (“PB”)**

WHEREAS, MetroPCS<sup>1</sup> New York LLC (“MetroPCS” or “Applicant”) seeks a Special Use Permit and Amended Site Plan approval to modify a Wireless Telecommunications Facility (WTF) to consist of nine panel antennas, a 42” screening wall, and associated equipment at 21 Broadway, Haverstraw, New York; and

WHEREAS, the Village PB’s Planning Consultant, Engineering Consultant, and Telecommunications Consultant have reviewed the information submitted and have made recommendations regarding conformance with nonionizing electromagnetic radiation hazard criteria, structural and safety issues, visual and aesthetic impacts, site plan, the State Environmental Quality Review Act (“SEQRA”), and other items; and

WHEREAS, the following submittals were reviewed for this application:

1. February 2, 2018 submittal for a proposal to add an additional antenna per sector, for a total of 9 panel antennas - the 3 that currently exist plus the 6 that are approved by this Resolution
  - Photographic Simulations, prepared by David Karlebach, PP, PC, dated 4/11/17, revised January 30, 2018.
  - 01/29/2018 Revised Construction drawings, received 2/2/2018.
2. March 22, 2018 submittal of photosimulations depicting existing conditions, and three options for consideration, and a stealth screen wall drawing.
3. May 7, 2018 submittal:
  - Photosimulations, including the design recommendation (“Option E”) that resulted from the Village’s Technical Advisory Committee (“TAC”) meetings and Planning Board consultants’ reviews and feedback.
  - Special Use Permit and Amended Site Plan Approval application dated May 2, 2018.
  - Full Environmental Assessment Form (i.e., the SEQRA long form).
  - PierCon Solutions RF and capacity analysis letter.
4. May 8, 2018 submittal of 04/26/2018 Revised construction drawings.
5. May 24, 2018 submittal:
  - Structural Analysis certification letter, dated May 23, 2018.

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<sup>1</sup> It is noted that MetroPCS has merged with another carrier, T-Mobile, in recent years. Application materials, first submitted and discussed in 2016, have been submitted under the MetroPCS name. References to both “MetroPCS” and “T-Mobile” are made interchangeably.

- April 24, 2018 PierCon Solutions capacity analysis (previously received on May 7<sup>th</sup>).
6. May 31, 2018 submittal:
    - Centerline Solutions RF Safety and NIER Analysis Report, dated May 25, 2018.
    - TMA specifications.
  7. June 22, 2018 revised Drawings
  8. June 8, 2018 and June 22, 2018 supplemental NIER Analysis Reports.

WHEREAS, a Public Hearing was appropriately noticed and held by the Village PB on June 11, 2018, which Public Hearing was continued and held open to June 25, 2018, and the Public Hearing was closed on June 25, 2018; and

WHEREAS, the Village PB has reviewed the application and additional information submitted by the Applicant, including, but not limited to, visual impact assessment and compliance with radio frequency (RF) emissions criteria; recommendations of the Village PB's Planning, Engineering and Telecommunications Consultants; and comments provided by the public; and are familiar with the site and issues with respect to the application; and

WHEREAS the application materials are deemed to be comprehensive and in accordance with the requirements of Village Code Chapter 221 (Telecommunications Facilities), and the proposed modified facility will provide enhanced wireless services to the site area; and

WHEREAS the proposed waivers to Village Code Chapter 221 were reviewed, and deemed to be reasonable and appropriate; and

WHEREAS, the Village PB declared itself Lead Agency under SEQRA, and, on June 11, 2018, determined that the proposed action will not result in any potential significant adverse environmental impacts, that an Environmental Impact Statement need not be submitted by the Applicant, and the Village PB, therefore, adopted a SEQRA Negative Declaration determination.

NOW, THEREFORE, BE IT RESOLVED, that the Village PB hereby approves of a Special Use Permit and Amended Site Plan for modification of an existing Wireless Telecommunications Facility at 21 Broadway, subject to the following conditions:

1. The proposed screening walls will be gray in color ("warm grey") on the south and west sides of the building, to match the building's cornice. The small length of screening wall on the north side of the building will match the color of the building wall that is immediately below this portion of the screening wall. Color matching will be established in the field during the Building Permit phase of the project. The existing chimney and penthouse bulkhead will also be painted to match the "warm grey" screening wall.
2. The proposed panel antennas, antenna mounts, and other equipment shall be color-matched to the existing building façade, backgrounds (e.g., sky grey), and/or colors of the existing MetroPCS equipment. Color matching will be conducted in the field during the Building Permit phase of the project. The proposed cables that connect the panel antennas with the equipment cabinets located in the basement will be routed along the exterior of the building in an enclosed cable tray that is painted to match the building's facade.
3. Rooftop cable trays shall be placed along the centerline of the building and set back away from the building parapets to the extent feasible.
4. All visible aspects of MetroPCS' equipment shall be of a non-reflective, matted finish, and shall be periodically inspected and maintained for the life of the project in accordance with the

Drawings and photosimulations provided (“Option E”). Maintenance may include, but is not limited to, re-painting or replacing sections of the screening wall that become faded or otherwise damaged.

5. A complete structural analysis report for the final, approved rooftop upgrade configuration shall be submitted, with supporting calculations, for Village review. The structural analysis report shall include all elements of the upgrade (antennas, screening wall, etc.).
6. FCC-type warning signage shall be provided and maintained - at a minimum - at the basement equipment cabinet room, at rooftop accessways, at each antenna sector, and at other areas in accordance with the Drawings dated June 22, 2018, the final NIER Report dated June 22, 2018, and with all appropriate FCC and Village requirements. Needs for additional signage will be assessed during the Building Permit phase of the project. The building roof shall at all times be maintained as an FCC Controlled Exposure environment.
7. The proposed FCC signage, provided in both English and Spanish, shall be installed and routinely inspected and maintained in accordance with all FCC rules, regulations, and guidance. It is the Applicant’s sole responsibility to comply with all FCC rules and regulations that are applicable to the site and operations, including but not limited to compliance with RF emission levels.
8. Any building roof maintenance or inspection activities by persons not trained in RF exposures shall be coordinated appropriately between the owner and/or operator of the building and MetroPCS to eliminate the potential for RF exposures at levels above the general public MPE. Documentation of such coordination protocol shall be provided to the Village Building Inspector upon request.
9. Appropriate grounding and compliance with all applicable codes and laws shall be established during the facility upgrade work.
10. Operations shall be maintained in accordance with Chapter 221 of the Village Code (Telecommunications Facilities; see below), and all other applicable Village Code provisions, and New York State, County of Rockland and Federal codes, rules and regulations, including requirements for annual or periodic certifications. Any changes to the proposed number, sizes, locations, and transmit powers of any antennas are to be reviewed by the appropriate Village agency prior to future modifications. All necessary Village approvals must be obtained before any modifications are conducted.

**The following requirements must be met prior to issuance of a Certificate of Use:**

- Applicant has demonstrated installed and tested remote disconnect device disconnecting power from the facility in the case of emergency. (243-19)
- A sign indicating the owner, address and telephone number for emergency contacts has been placed at the entrance to the site. (243-19)
- Required cash deposit, letter of credit or bond of 125% of the cost to remove the facility and restore the site to its original condition has been provided. This security shall be maintained at all times throughout the term of the permit and/or until the removal of the WTF and any necessary site restoration is completed. (243-12)
- Public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, in the amounts indicated in the code has been secured and the Village is named an

additional insured to the extent available. This security shall be maintained at all times throughout the term of the permit. (243-17)

- The site has been certified by a New York State licensed professional engineer stating that the WTF is in compliance with all applicable regulations and does not pose any threat which shall endanger the health, safety and general welfare of the community. (243-12)

**The following are the required periodic certifications and inspections required as an ongoing requirement of the permit which shall be submitted to the Village Building Inspector:**

- Evidence of compliance with FCC standards shall be submitted annually. Annual certification in writing that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer must be licensed to practice engineering in the State of New York. Next submission required June 25, 2019.
- An annual certification by a New York State licensed professional engineer stating that the WTF is in compliance with all applicable regulations and does not pose any threat which shall endanger the health, safety and general welfare of the community. Next submission required June 25, 2019.
- Required inspection by Village RF Consultant on the one-year anniversary of the permit issuance and every five years thereafter, to ensure the structural integrity of the facility and that RF emissions are within acceptable limits. Next inspection June 25, 2019.

**The permit holder is required to abide by the following continuing standards:**

- Any malfunction of a WTF, which shall endanger the health, safety and general welfare of the community, shall cause the carrier to notify the Building Department in writing within 24 hours of the event. Such notification shall be made by electronic communication and certified mail, return receipt requested, at addresses to be provided by the Building Inspector. Failure on the part of the carrier to provide the Building Department of this notification shall be grounds to suspend the operating license for a period no less than 30 days. The carrier shall present to the Village Board the reason for failure to notify the Village.
- The holder of a SUP shall notify the Building Department of any intended modification of a WTF. Review of an amendment or modification to an existing SUP shall contain the same information as a new application and shall be acted upon in the same manner as the review of the original application.
- In the event that the use of a WTF is discontinued by the WTF owner, the WTF owner shall provide written notice to the Village of its intent to discontinue use and the date when the use shall be discontinued. Subsequent to the notice, the tower shall be removed pursuant to § 243-20 of the Village Code.

11. If constructed, As-built Drawings shall be prepared for the Building Department files which depict the actual locations and heights of all MetroPCS equipment, signage, etc.
12. As part of the Building Permit phase of the project, the following will be required:
  - a. A construction plan for Village review which provides a scope and schedule for the rooftop facility modifications. Plans for site access and construction equipment to be used (including crane and other heavy machinery) shall be described. All work associated with the removal of existing equipment and the construction of the subject MetroPCS facility

upgrade will be coordinated with the Village Building Department as part of the Building Permit, and work hours / other logistics shall comply with Village requirements. Contractor submittals (e.g. insurance, workers' compensation filings) shall be provided to the satisfaction of the Village.

13. The Applicant maintains full responsibility for the accuracy and adequacy of all aspects of the design and analyses provided to the Village, for the construction and maintenance/operation of the subject MetroPCS facility, and for compliance with Village Code Chapter 221 criteria. The Applicant maintains responsibility for inspection work required for utility connections and construction, and for compliance with all applicable Village Code provisions, and New York State, County of Rockland and Federal codes, rules and regulations.
14. A removal bond, if not already posted for the site, shall be submitted during the Building Permit phase of the project. The bond amount shall be specified by the Village Building Inspector. The Village should review the Applicant fees and escrows (during Special Use Permit and Amended Site Plan review), and insurance, worker's compensation, escrows, and other submittals (during the Building Permit stage of the project) to verify that they are appropriate.

PB Members voting in FAVOR of the Resolution: Edwin Molina, Danny Scaffidi, Joseph Natale, Gil Carlevaro, Diogenes Dominguez;

PB Members voting AGAINST the Resolution: None \_\_\_\_\_;

PB Members ABSTAINING from voting on the Resolution: None \_\_\_\_\_;  
and

PB Members ABSENT: None \_\_\_\_\_;

Dated: \_\_\_\_\_

PLANNING BOARD  
OF THE VILLAGE OF HAVERSTRAW

By: \_\_\_\_\_  
MICHELLE VENTURA  
PB Secretary/Clerk