

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 11/25/14 (work session) **CUT OFF DATE:** 11/19/14
12/09/14 (regular mtg)

RESOLUTION ___ **ORDINANCE** ___ **PUBLIC HEARING** X

ITEM TITLE:

CU-14-637 Request of Ben Pelletier on behalf of Verizon Wireless for a conditional use permit for modifications to a telecommunication antennas at 1955 Valley Avenue (Map Number 251-01- - 5) zoned Limited Industrial (M-1).

STAFF RECOMMENDATION:

Approval with conditions.

PUBLIC NOTICE AND HEARING:

Public hearing for 12/09/14 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with conditions

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Zoning & Inspections	AMG		11/19/14
2. City Attorney	[Signature]		11/19/2014
3. City Manager	[Signature]		19 NOV 2014
4. Clerk of Council			

Initiating Department Director's Signature:
(Planning Dept)

[Signature]

11/19/14



APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

11/19/2014

APPROVED AS TO FORM

CITY ATTORNEY



CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Tim Youmans, Planning Director

Date: November 19, 2014

Re: **CU-14-637** Request of Ben Pelletier on behalf of Verizon Wireless for a conditional use permit for modifications to a telecommunication antennas at 1955 Valley Avenue (Map Number 251-01-5) zoned Limited Industrial (M-1).

THE ISSUE: The applicant is proposing to remove twelve (12) of the existing (15) antennas and replace with twelve (12) new antennas as part of an upgrade of existing rooftop telecommunications facilities at 1955 Valley Avenue.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1: Grow the Economy (ensure adequate cellular service to businesses and residents)

BACKGROUND:

See attached staff report

BUDGET IMPACT:

N/A

OPTIONS:

1. Approve with conditions as recommended by Planning Commission
2. Approve with modified conditions
3. Deny

RECOMMENDATIONS:

Recommend Option 1

City Council Work Session
November 25, 2014

CU-14-637 Request of Ben Pelletier on behalf of Verizon Wireless for a conditional use permit for modifications to a telecommunication antennas at 1955 Valley Avenue (Map Number 251-01- - 5) zoned Limited Industrial (M-1).

REQUEST DESCRIPTION

The applicant is proposing to remove twelve (12) of the existing (15) antennas and replace with twelve (12) new antennas as part of an upgrade of existing rooftop telecommunications facilities at 1955 Valley Avenue.

AREA DESCRIPTION

The majority of the subject property, located on the west side of Valley Ave, is zoned M-1. A vacant portion between the warehouse and Valley Ave is zoned B-2. A portion is also located in the Valley Ave CE overlay District, including the front portion of the warehouse structure. Property to the north and northeast on both sides of Valley Ave is zoned B-2 and consists of commercial uses. Directly to the east is the O'Sullivan industrial property, primarily zoned M-2 with a front portion in B-2. To the south of the warehouse is B-2 zoning including the Elms extended stay lodging and office uses. To the west is single-family residential use in the MR-zoned Park Place subdivision. To the northwest is HR/PUD zoning including the Stuart Hill apartment complex.



STAFF COMMENTS

The applicant originally applied for a conditional use permit to install a rooftop telecommunication facility at the subject property in 2011. That application was recommended for approval by the Planning Commission and subsequently approved by City Council on May 10, 2011. In the applicant most recent request, outlined in the attached letter received on September 17, 2014 and in the related site plan and elevations dated 8/20/14, a total of 12 of the original 15 panel antennas would be removed and replaced with antennas of similar or smaller sized. The antennas are proposed to be painted to match the brick building as they were originally. Both the existing and proposed antennas will be flush mounted to the existing penthouse in accordance with the prior approval.

The proposal continues to meet Ordinance 18-2-1.2 intent to utilize existing towers, buildings, or other structures as a primary option rather than construction of a new tower. While all proposed improvements are outside (to the rear) of the portion of the warehouse that is within the CE overlay District, the applicant has proposed a number of measures to minimize potential visual impacts on the surrounding area, as they have done in their previous conditional use permit.

RECOMMENDATION

For a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

At the 11/18/14 meeting, the Planning Commission forwarded **CU-14-637** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. Submit an as-built emissions certification after the facility is in operation;
2. Removal of the Nextel equipment as noted on the submitted plans;
3. The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use;
4. Submit a bond guaranteeing removal of facilities should the use cease.

September 17, 2014

City of Winchester
Department of Zoning and Inspections
15 N. Cameron St
Winchester, Virginia 22601

RE: Conditional Use Permit
1955 Valley Ave
Winchester, VA 22601

Site Name: Jubal Early

Applicant:

Verizon Wireless
9000 Junction Drive
Annapolis Junction, MD 20701

Applicant's Agent:

Benjamin Pelletier
6095 Marshalee Drive, Ste 300
Elkridge, MD 21075

Description of Intent

Per Section 18-2-1 of the Zoning Ordinance modifications to a previously approved telecommunications site located within an M-1, or Limited Industrial District, would require the approval of a Conditional Use Permit. Verizon Wireless is an FCC licensed provider of wireless services that is proposing to replace existing antennas with newer models. This replacement will improve Verizon Wireless existing coverage within the City of Winchester.

Proposed Scope of Work

Twelve (12) of the existing (15) antennas shall be removed and replaced with twelve (12) new antennas of similar or smaller size. Both the existing and proposed antennas shall be flush mounted to the existing penthouse in accordance with the prior approval. No cabinet or ground work is proposed for this site.

18-2-1 CONDITIONAL USE PERMIT

18-2-1. Conditional use permits may be granted by the City Council for any of the uses for which a permit is required by the provisions of this Ordinance. In granting any such use permit, the City Council may impose any such conditions in connection therewith as will assure that it will conform with the requirements contained herein and will continue to do so, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. A conditional use permit shall not be issued unless the City Council shall find that:

- a.** The proposal as submitted or as modified will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration, with due regard for timing of operation, screening, and other matters which might be regulated to mitigate adverse impact.

Proposal is consistent.

- b.** The proposal as submitted or modified will conform to the Comprehensive Plan, or to specific elements of such plan, and the official policies adopted in relation thereto, including the purposes and the expressed intent of this Ordinance.

Proposal is consistent.

18-2-1.2 Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following:

- a.** All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.

Existing site is located on an existing building.

CU-14-637

- b. The height of any tower is no more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts.

Existing building is 67'-3" and will not be extended. Proposal is consistent.

- c. The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility.

Existing site utilizes an existing building, proposal is consistent.

- d. The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or issued by the Federal Government subsequent to the adoption of this Ordinance.

Proposal is consistent.

18-2-3 PROCEDURES.

- 18-2-3.1 The procedures governing the application for and the granting of conditional use permit where required by this Ordinance shall be as follows:

- 18-2-3.2 The applicant, who shall be a record owner, or contract owner with written approval of the owner, of the land involved (if a contract owner, copy of said contract shall be filed with and made a part of application), shall make application for the use permit to the Administrator on the form provided for

18-2-3.8 **Expiration.** Notwithstanding any specific provision of any condition imposed by City Council in conjunction with the granting of a Conditional Use Permit which may conflict with this general provision, a Conditional Use Permit shall expire immediately upon any of the following occurrences: a) the use does not commence within one year of approval; b) the use ceases for more than one year; or, c) the use changes to another use allowed in the district. In cases where government action impedes reasonable operation of the use, these provisions shall not include the duration of such restrictions. Where permits are granted for portions of a site and/or structure, the expiration shall apply to just that portion of the site and/or structure.

Verizon Wireless understands and agrees to conditions.

18-2-3.9 **Revocation By City Council.** If the applicant or successor fails to comply with any conditions imposed by City Council per Section 18-2-1.1, City Council may, in accordance with §15.2-2286, Code of Virginia, et seq., either amend or revoke the Conditional Use Permit upon notification from the Administrator of such failure to comply. No such amendment or revocation shall be considered by City Council until a public hearing has been held per Section 23-7-1 of this Ordinance.

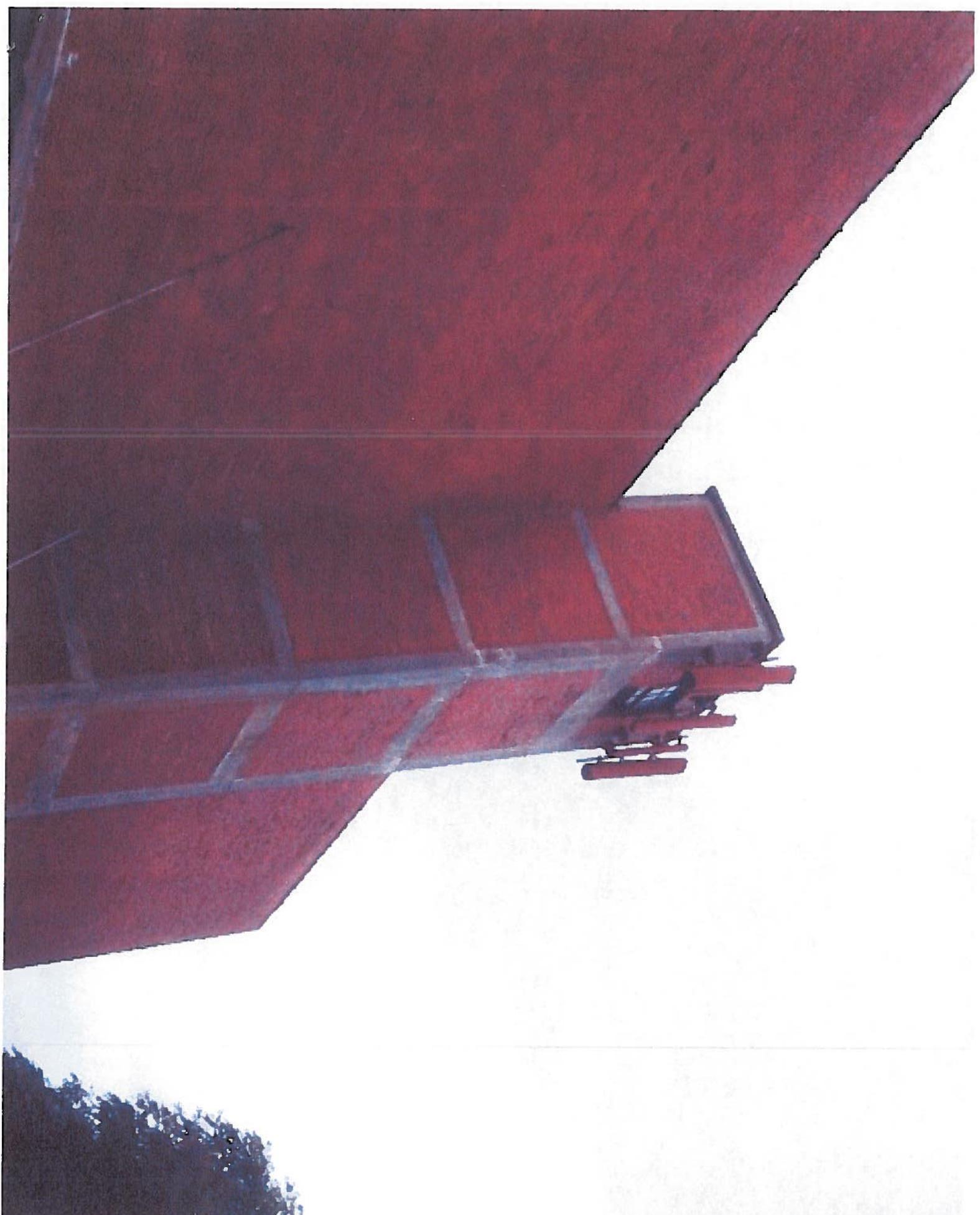
Verizon Wireless understands and agrees to conditions.

If you have any questions or need further information, please contact me at (757) 784-3671 or bpelletier@nbcllc.com



Most Respectfully,

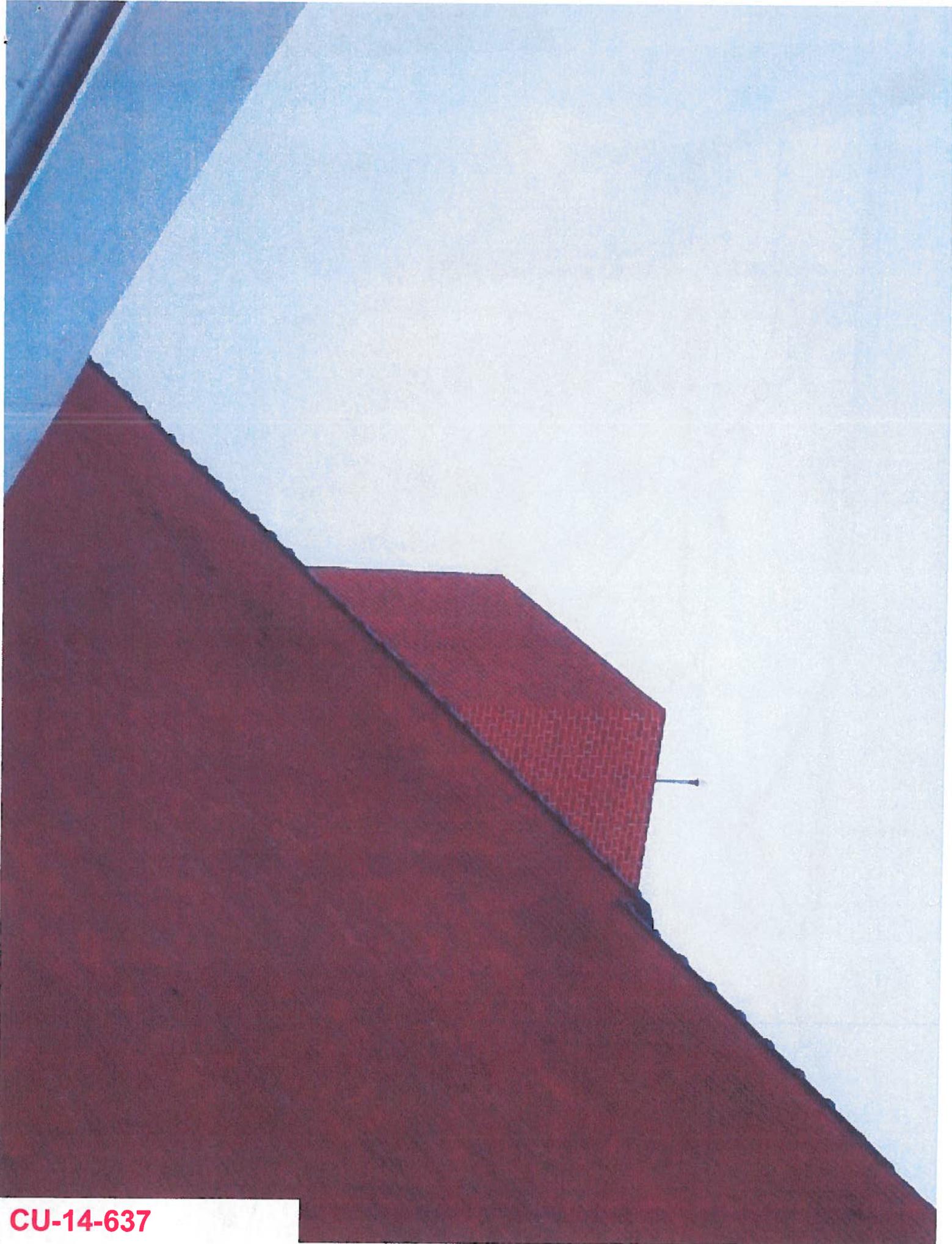
Benjamin Pelletier
Consultant for Verizon Wireless
Network Building & Consulting, LLC



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