

PC RESOLUTION NO. 14-049**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING MAJOR WIRELESS COMMUNICATION FACILITY PERMIT (WCF 12-004) TO ALLOW THE ESTABLISHMENT OF A NEW FREESTANDING WIRELESS COMMUNICATION FACILITY DESIGNED AS A BROADLEAF TREE ON A PROPERTY LOCATED AT 1748 ALAMEDA STREET IN THE WORKPLACE GATEWAY DISTRICT OF THE POMONA CORRIDORS SPECIFIC PLAN.**

WHEREAS, Smartlink LLC on behalf of AT&T Mobility, has submitted an application for a Major Wireless Communication Facility Permit (WCF 12-004) for the establishment of a new freestanding wireless communication facility designed as a broadleaf tree within a vacant parcel located at 1748 Alameda Street in the Workplace Gateway segment of the Pomona Corridors Specific Plan;

WHEREAS, Section 5809-15 of the City Zoning Ordinance regulates the location of wireless communications facilities and establishes development standards for the installation and construction of wireless communications facilities;

WHEREAS, the Planning Commission has determined that the proposed wireless communication facility does not meet the "Complimentary Design" development standard that is required by Zoning Ordinance Section .5809-15-E-;

WHEREAS, Section .5809-15 of the City Zoning Ordinance requires a Major Wireless Communications Facility Permit for new freestanding concealed wireless communication facilities in the Workplace Gateway segment of the Pomona Corridors Specific Plan;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on October 9, 2013 concerning the requested Major Wireless Communications Facility Permit (WCF 12-004) and denied the project by a 7-0-0-0 vote;

WHEREAS, the applicant submitted an appeal application on October 28, 2013;

WHEREAS, the City Council of the City of Pomona has remanded (WCF 12-004) back to the Planning Commission to consider the new information presented in the appeal submittal;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held public hearings on February 26, 2014 and November 12, 2014 concerning the requested Major Wireless Communications Facility Permit (WCF 12-004); and

WHEREAS, the Planning Commission of the City of Pomona has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

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NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California:

SECTION 1. The Planning Commission exercising independent judgment has determined that, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt, under Section 15303, Class 3 exemption for construction of small facilities, from further environmental review.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. In accordance with Section .5809-15-G of the Zoning Ordinance, the Planning Commission must make five (5) findings in order to approve Major Wireless Communication Facility Permit (WCF 12-004). Based on consideration of the whole record before it, including but not limited to, the public hearing report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

1. The Wireless Communications Facility permittee has demonstrated to the City a good faith effort to locate on an approved facility or has demonstrated that colocation is not technically feasible due to coverage needs, potential interference, or other technical issues.

The applicant has stated that locating on an existing approved facility is not feasible for AT&T's purposes. The location of the proposed facility was selected for providing supportive coverage for AT&T services for this region. There are no existing co-locatable facilities that will serve to meet AT&T's coverage capacity for this area.

2. There is adequate space on the property for the antenna and support equipment without conflicting with existing buildings or other structures on the property, or reducing required parking, landscaping setbacks or other development standards.

The wireless communication facility will be mounted within a freestanding structure designed as a broadleaf tree. The facility is located within a vacant lot and thus will not conflict with existing buildings or other structures on the property, or reduce required parking, landscaping setbacks or other development standards.

3. The design and placement of the antenna and support equipment will not adversely impact the use of the property, other buildings and structures located on the property, or the surrounding area or neighborhood.

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The wireless communication facility will be mounted within a freestanding structure designed as a broadleaf tree. The facility is located within a vacant lot and thus will not affect the use of the property, other buildings and structures located on the property, or the surrounding area or neighborhood.

4. The antenna and support equipment as proposed are consistent with the intent of this part and comply with the operational standards and any applicable special sections.

The proposed installation and support equipment are consistent with the intent of Section .5809-15 of the Zoning Ordinance in that facility was designed and location chosen to have the least possible visual impacts. The antennas and the support equipment are screened in a manner that they will not be visible from public view. Additionally, the applicant will apply for a business license each year, provide proper maintenance to the facility and provide a cash bond to the City for the removal of the facility and rehabilitation of the site if the facility is abandoned.

5. The applicant has demonstrated that the wireless communications facility will have the least possible visual impact on the environment taking into account technical, engineering, economic and other relevant factors.

The proposed wireless communication facility is designed to be completely screened from public view and to reduce any possibility of adverse visual impacts. The applicant has proposed to design its wireless facility as a broad-leaf tree. The base of the tree will be located in an unimproved area at the rear of a vacant parcel. The wireless facility will have a trunk fitted with synthetic bark and will be dresses with synthetic branches and foliage to conceal the equipment attached to the trunk. The panel antennas will be will be provided with broad-leaf sock sleeves to further camouflage the antennas. In addition, the mounting arms along with the brackets will be painted to match the color of the foliage located through out the proposed wireless facility. The equipment cabinets and related equipment will be screened behind an enclosure.

SECTION 4. Based on the above findings, the Planning Commission hereby adopts this Resolution approving Major Wireless Communication Facility Permit (WCF 12-004) for a freestanding wireless communication facility with equipment cabinets subject to all existing laws and ordinances of this City and the following specific conditions:

PLANNING DIVISION:

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on November 12, 2014. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Planning Manager.

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2. Major Wireless Communication Facilities Permit (WCF 12-004) shall lapse and become void if the privilege authorized is not utilized or where some form of construction pursuant to issuance of a building permit has not commenced within one year of the date of this approval (November 12, 2015). The Planning Commission may extend this period for one year upon receipt of a written request by the applicant at least thirty days prior the expiration date of this approval.
3. The applicant shall include all approved resolutions related to the project which shall be placed on the title sheet of construction plans prior to plan check submittal.
4. The project is subject to a twenty (20) day appeal period. Written appeals may be filed with the City Clerk within twenty (20) days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty (20) days from the date of action by the Planning Commission.
5. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
6. In case of violation of any of the conditions of approval or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not

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remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein conditional use permit.

7. Prior to the issuance of building permits, landscape and irrigation plans shall be prepared by a licensed landscape architect and presented to the Planning Division for review and approval. Landscaping to include a variation of trees, shrubs, vines and ground covers, shall be installed and permanently maintained in all common areas of the project site, and shall be in substantial conformance to the conceptual landscaping plan submitted as part of the Conditional Use Permit process. The plans shall conform to the State Model Water Efficient Landscape Ordinance per AB 1881 and landscape requirements contained in Section .503-J of the Pomona Zoning Ordinance. A landscaping maintenance bond shall be required and held for a period of one year to ensure the project's compliance with the approved landscaping. Amount shall be determined by the Planning Manager.
8. The installation of fences and walls that were not contemplated as part of this permit will require the submittal of a "Fence and Wall Permit" for review and approval by the Planning Division.
9. Before issuance of a Zoning Clearance and business license, the applicant and any successor in interest shall sign a Certificate of Compliance stating that:
 - They have read and understand all the conditions of approval applicable to their project;
 - That they are familiar with the daily operations of the use; and
 - That the use will operate in compliance with the conditions of approval.
10. Graffiti shall be removed from the wireless communication facility within seventy-two (72) hours of notification to the applicant by the City. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner/applicant shall paint additional portions of the screen enclosures to minimize the disparity, subject to the approval of the Planning Manager.
11. Before issuance of a building permit, the applicant shall submit plans to the Building Division for structural review.
12. Before finalization of building permits, the Wireless Communication Facility Permittee must obtain a business license for operating a wireless communications

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facility site.

13. Certification of continued use of the WCF shall be submitted on a yearly basis at the time of business license renewal for as long as the facility remains in operation. The certification shall indicate that the facility is operating as approved and that the facility complies with the most current Federal Communications Commission (FCC) safety standards. If the WCF is no longer in operation, it shall be removed within 90 days of discontinuance.
14. Before building permits are finalized for construction of the facility, the applicant shall provide to the City a cash bond for the removal of the facility and any accessory equipment and for rehabilitation of the site if the facility is abandoned. The bond amount shall be determined by the Chief Building Official and shall be no less than 15 percent of construction cost. The bond shall be deposited in an interest bearing account with the City named as co-depositor.
15. The permittee may petition to the Chief Building Official for release of a portion of the bond funds no more than once a year. The petition must demonstrate to the satisfaction of the Chief Building Official that the value of the account exceeds the amount required to remove the WCF and rehabilitate the site.
16. The property owner shall file an easement granting the City access to the property for rehabilitation purposes after the wireless communication facility is abandoned. Proof of recordation shall be filed with the Planning and Building & Safety Divisions prior to finalizing the building permits.
17. Before excavation, applicant shall contact Underground Service Alert of Southern California to determine presence of underground pipelines, cables, etc.
18. Before finalization of building permits, Planning Division staff shall inspect the site to ensure that all antennas and equipment are screened from public view.
19. Before finalization of building permits, the applicant must provide evidence to the Planning Division showing that the proposed WCF complies with FCC rules, regulations and standards governing environmental effects of radio frequency emission.
20. The property shall be maintained free of weeds and debris prior, during and after the construction period.
21. No antennas or equipment cabinets shall be directly visible to the public. All antennas shall be completely screened.

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22. The branches and foliage covering the proposed antenna sectors shall extend a minimum of one (1') foot beyond the proposed antenna panels, that way obscuring any visibility of the antennas, and then continue from that point down.
23. The antennas, mounting arms and microwave dish along with the brackets shall be painted to match the matte color of the broadleaf tree foliage.
24. There shall be no unpainted metal on the broadleaf mono-tree facility.
25. Aesthetic broadleaf sleeves to conceal the proposed antenna panels and mounting arms shall be provided for the proposed twelve (12) antennas and future carrier's antennas and tower mounted equipment.
26. The broadleaf mono-tree support pole shall be completely covered with synthetic bark and textured with substantial etchings, which shall be constructed of a cladding to resemble the bark of a real broadleaf tree. The synthetic bark shall be installed starting from the base (finished grade) and continue to the top of the pole.
27. The minimum height to the bottom the proposed broadleaf mono-tree foliage branches shall be minimum 12-feet from finished grade.
28. Before finalization of building permits, the applicant shall ensure that the broadleaf mono-tree's branches shall be placed asymmetrical from each other and provide sufficient foliage through out the mono-tree to ensure fullness and concealment of the proposed antennas and future co-locatable antennas, subject to review and approval by the Planning Manager.
29. Before finalization of building permits the Planning Manager shall approve the final design and the applicant shall make all the necessary enhancements to the proposed broadleaf mono-tree as required by the Planning Manager.
30. The applicant/WCF operator shall routinely maintain the wireless communication facility's (broadleaf mono-tree) trunk, branches, and broadleaf foliage should it deteriorate or accumulate dust.
31. A minimum of 215 branches (3.3 branches per lineal foot) shall be installed on the broadleaf mono-tree.
32. The new facility shall be structurally designed to accommodate more than one service provider. This co-locatable area shall be identified in the plan set when submitting for Plan Check.

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33. Prior to issuance of building permits, the equipment enclosure shall be redesigned to eliminate the storage shed portion of the structure. The equipment enclosure shall solely be used to store and enclose necessary wireless communication facility support equipment for service providers.

CODE COMPLIANCE DIVISION

34. Emergency contact information shall be clearly posted on the access gate for the driveway.

BUILDING AND SAFETY DIVISION

35. All building and structure construction design components shall comply with the provisions of the 2013 California Building Code, Chapters 5, 6, 7, 10, 11B for non-constructional provisions and Chapter 16, 17, 18, 19, 21, and 22 for structural provisions.
36. All proposed electrical work shall comply with the provisions of the 2013 California Electrical Code, and all other laws, ordinances, and resolutions governing electrical as adopted by the City of Pomona at the time of installation of improvements.
37. All proposed mechanical work shall comply with the provisions of the 2013 California Mechanical Code, and all other laws, ordinances, and resolutions governing mechanical as adopted by the City of Pomona at the time of installation of improvements.
38. All grading shall comply with the provisions of the 2013 California Building Code, Appendix J, and all other laws, ordinances, and resolutions governing grading as adopted by the City of Pomona at the time of grading. The applicant shall obtain a grading permit from the Building & Safety Division prior to commencing any grading or site excavation.
39. Geotechnical and/or soils reports required in order to obtain a grading permit shall be submitted to the Building Official for review and approval prior to issuance of a grading permit. All grading shall be in conformance with the recommendations of the geotechnical/soils reports as approved by the City of Pomona.
40. A notarized letter of permission, from the affected property owner(s) or easement(s) holders, is required for any proposed on-site or off-site grading.

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PUBLIC WORKS DEPARTMENT

Improvement Plans Requirement

41. Applicant/Developer shall submit street improvement plans to include the following:
 - a. Removal of the existing driveway approach and replacing it with concrete sidewalk;
 - b. New driveway apron to facilitate the street access to the proposed telecommunication site;
 - c. Undergrounding of the electrical and telecommunications service lines within the public right-of-way, from the back of the sidewalk to the existing power pole #515497E located across Alameda Street, to comply with the City of Pomona Municipal Code Section 62-32(b)(1). Trench resurfacing and street pavement restoration shall be completed in accordance with City Standard A-26-02 Case V.
42. Prior to issuance of the building permits applicant/developer is responsible for paying the project's impact fees for traffic signals and control devices, road and highway improvements and public safety improvements.
43. The project applicant and the contractor are required to implement the required storm water pollution prevention Best management Practices (BMP's) applicable to construction activities, as reflected in the City of Pomona Construction Site BMP Guidelines. The Owner/Contractor Water Quality Compliance Statement included on page 15 of the Guidelines must be signed and returned to the Building & Safety Department prior to issuance of any City permits.

Public Works Improvements Permit

Any work in the public right-of-way is subject to review, approval, and permitting requirements of Public Works Department

44. Prior to building permit issuance applicant /developer shall post surety bonds for all public improvements, including but not limited to: street frontage pavement, sidewalk, and driveway approaches.
45. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
 - a. Commercial General Liability;
 - b. Automobile Liability;
 - c. Worker's Compensation as required by the State of California;

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Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured

46. Permittee shall possess a City of Pomona Business License.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND PASSED THIS 12th DAY OF NOVEMBER, 2014.



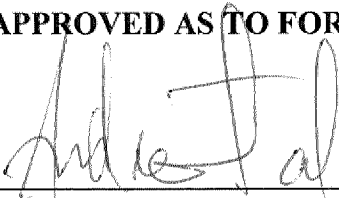
PLANNING COMMISSION CHAIRPERSON

ATTEST:



BRAD JOHNSON
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:



ANDREW JARED
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES: Ixco, Juarez, Valencia, and Mosier.

NOES: None.

ABSTAIN: None.

ABSENT: Starr and Coble.

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"Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6."

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