

## **PC RESOLUTION NO.**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING MAJOR WIRELESS COMMUNICATION FACILITY PERMIT (WIRE 2511-2015) TO ALLOW THE ESTABLISHMENT OF A 65'-2" TALL STEALTH TOWER AND SUPPORTING EQUIPMENT CABINETS ON PROPERTY LOCATED AT 2377 N. GAREY AVENUE.**

**WHEREAS**, Spectrum Services, Inc., on behalf of Verizon Wireless, has submitted an application for a Major Wireless Communication Facility Permit (WIRE 2511-2015) for the establishment of a new freestanding wireless communication facility designed as a stealth tower within the Transit Oriented District (TOD) of the Pomona Corridors Specific Plan (PCSP) in the City of Pomona;

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

**WHEREAS**, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on May 24, 2017, concerning the requested Major Wireless Communications Facility Permit (WIRE 3511-2015); 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.

**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 (WIRE 3511-2015). 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 co-location is not technically feasible due to coverage needs, potential interference, or other technical issues.

*The applicant has provided coverage maps which illustrate that the location of the proposed facility was selected so that Verizon Wireless would be able to provide appropriate support coverage for their services in this region. There are no existing co-locatable facilities that will serve to meet Verizon Wireless' 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 proposed wireless communication facility is to be located on a parcel that is approximately 10,424 square feet in size, improved as a commercial retail store (Daily Doughnuts) and surface off-street parking. The proposed project meets all applicable development standards required under a Major Wireless Communications Facility Permit and does not conflict with existing buildings/structures, required parking, landscaping setbacks, or other development standards as those items listed above are not associated with the subject site are present.*

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.

*The proposed wireless communication facility will be mounted within a freestanding structure designed as a stealth tower. The proposed facility will not adversely impact the use of the property since the wireless communications facility equipment will be completely enclosed. The surrounding area consists of single-family residential and commercial and the nearest residential neighbor is approximately 350 feet away from the proposed wireless communication facility.*

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 proposed to be screened in a manner that has the least visual impact from public view and located in a portion of the site furthest away from Garey Avenue. 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 as a stealth tower, which is expected to have minimal adverse visual impacts. The antennas will be screened by the enclosure of the tower. The equipment cabinets and related equipment will be housed in a screened enclosure designed as an addition to an existing building on the subject site.*

**SECTION 4.** Based on the above findings, the Planning Commission hereby adopts this Resolution approving Major Wireless Communication Facility Permit (WIRE 2511-2015) 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 May 24, 2017. 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 Development Services Manager.
2. Major Wireless Communication Facilities Permit (WIRE 2511-2015) 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 (May 24, 2018). 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 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 major wireless communications facility permit.
7. 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.

8. Graffiti shall be removed from the wireless communication facility, including graffiti that affects the public artwork, within forty-eight (48) 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 equipment enclosures to minimize the disparity, subject to the approval of the Development Services Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
9. Before issuance of a building permit, the applicant shall submit plans to the Building Division for structural review.
10. Before finalization of building permits, the Wireless Communication Facility Permittee must obtain a business license for operating a wireless communications facility site.
11. Certification of continued use of the Wireless Communication Facility 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 Wireless Communication Facility is no longer in operation, it shall be removed within 90 days of discontinuance.
12. 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 provided in a manner acceptable to the Development Services Manager.
13. 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 Wireless Communication Facility and rehabilitate the site.
14. The applicant shall regularly maintain all components of the wireless communications facility, including the artwork, to the satisfaction of the Development Services Manager.

15. Before excavation, applicant shall contact Underground Service Alert of Southern California to determine presence of underground pipelines, cables, etc.
16. Before finalization of building permits, Planning Division staff shall inspect the site to ensure that all antennas and equipment are screened from public view.
17. Before finalization of building permits, the applicant must provide evidence (such as FCC License) to the Planning Division showing that the proposed Wireless Communication Facility complies with FCC rules, regulations and standards governing environmental effects of radio frequency emission.
18. The property shall be maintained free of weeds and debris prior, during and after the construction period.
19. No antennas or equipment cabinets shall be directly visible to the public. All antennas shall be adequately screened to the satisfaction of the Development Services Manager.
20. Before finalization of building permits the Development Services Manager shall approve the final design and the applicant shall make all the necessary enhancements to the proposed wireless tower as required by the Development Services Manager.
21. 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.
22. In addition to the landscaping proposed on the project plans approved by the Planning Commission, the applicant shall plant one new shade tree within the planter located between the existing building and proposed wireless site, along the south property line subject to the review and approval of the Development Services Manager.
23. The existing building on the site shall be repainted to a color scheme acceptable to the Planning Division and the existing off-street parking lot shall be slurry sealed and restriped to City standards.
24. Prior to the finalization of building permits and prior to the facility going online, a total of two painted, mural illustrations of public art shall be installed on the wireless communications facility tower, to the satisfaction of the Cultural Arts Commission.

**PUBLIC WORKS DEPARTMENT/TRANSPORTATION AND DEVELOPMENT  
DIVISION**

25. The following conditions and public improvements, as well as all applicable plan check fees, permit fees and bond deposits shall be complied with, completed and paid for by the developer in accordance with the City standards, fee schedules and applicable laws, including, but not limited to California Subdivision Map Act, all applicable City of Pomona ordinances and resolutions, City of Pomona Water Code, City of Pomona Standard Drawings and Fee Schedule, Construction Standard Specifications for Public Works Construction, Los Angeles County Department of Public Health requirements, California Code of Regulations, Title 22, California Department of Transportation Highway Design Manual.
26. All the required plans, studies and calculations shall be performed by a registered civil engineer or other registered/licensed professional as required, and submitted for review and approval of the City Engineer.

**Land Development Requirements**

27. Property Owner shall submit a Certificate of Compliance application to the Public Works Engineering Department, in accordance with the Subdivision Map Act Section 66412.6(b). The Certificate of Compliance shall be recorded prior to the issuance of the building permits.
28. Owner shall dedicate minimum 4-foot wide strip of land around the property's Pine Street driveway approach, to accommodate the required Americans with Disabilities Act (ADA) pedestrian path of travel.

**Improvement Plan Requirements**

29. Applicant/Developer shall revise the Site Plan to include the following:
  - a. Reconstruction of Pine Street driveway approach and addition of necessary sidewalk panels on both sides of the driveway, to ensure a continuous pedestrian path of travel, in compliance with the City standards and ADA requirements.
  - b. Unobstructed visibility shall be ensured at all intersections along the project boundaries.
  - c. Undergrounding of all existing and proposed utility lines is required as per City of Pomona Municipal Code Section 62-31(b)(1).

d. It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements.

e. The demolition or relocation of all public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project construction must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and applicable ADA requirements, and must be reviewed and approved by the Engineering Division of the Public Works Department.

30. Applicant/Developer shall implement stormwater Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
31. 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 per City Resolution 89-200.
32. Property Owner is responsible for the compliance with any special annual levy assessment derived from the current inclusion of the project site into the City's Street Lighting and Landscaping Maintenance District. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes.
33. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

#### **Public Works Improvement Permit**

34. All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.
35. Prior to building permit issuance Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: driveway approach and sidewalk.
36. 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;

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

- 37. Permittee shall pay fees associated with and possess the City of Pomona Business License.
- 38. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

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

**APPROVED AND PASSED THIS 24<sup>th</sup> DAY OF MAY, 2017.**

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CAROLYN HEMMING,  
PLANNING COMMISSION CHAIRPERSON

**ATTEST:**

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BRAD JOHNSON  
PLANNING COMMISSION SECRETARY

**APPROVED AS TO FORM:**

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ANDREW JARED

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WIRE 2511-2015  
2377 North Garey Avenue  
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ASSISTANT CITY ATTORNEY

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

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

“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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