

PC RESOLUTION NO. 17-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING MAJOR WIRELESS COMMUNICATION FACILITY PERMIT (WIRE 4071-2016) TO ALLOW THE ESTABLISHMENT OF A NEW FREESTANDING WIRELESS COMMUNICATION FACILITY DESIGNED AS A TOWER IN THE PARKING LOT OF A PROPERTY LOCATED AT 625, 675, AND 679 E. FOOTHILL BOULEVARD IN THE NEIGHBORHOOD CENTER SEGMENT OF THE POMONA CORRIDORS SPECIFIC PLAN.

WHEREAS, Spectrum Services, Inc., on behalf of Verizon Wireless, has submitted an application for a Major Wireless Communication Facility Permit (WIRE 4071-2016) to allow the installation of a new freestanding 60-foot high wireless communication facility designed as a freestanding tower in the parking lot of a commercial shopping center located at 625, 675, and 679 E. Foothill Boulevard in the Neighborhood Center 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, Section .5809-15 of the City Zoning Ordinance requires a Major Wireless Communications Facility Permit for new building mounted concealed wireless communication facilities in the Neighborhood Center 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 August 23, 2017 concerning the requested Major Wireless Communications Facility Permit (WIRE 4071-2016); 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 4071-2016). 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 location on an existing approved facility is not feasible for Verizon's purposes. The location of the proposed facility was selected for providing supportive coverage for Verizon services for this region. There are no existing co-locatable facilities that will serve to meet Verizon'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 is to be located adjacent to an existing building in the parking lot of a commercial shopping center. The project does not propose the removal of any required landscaping or parking spaces and meets all applicable 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.

The wireless communication facility will be mounted within a freestanding tower structure. The facility is located within a parking lot area and will not affect traffic circulation within the site. Furthermore, the facility will be located in such a way that it will not adversely impact the use of the shopping center buildings, parking areas, 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 antennas will be screened by the walls of the tower structure. The equipment cabinets and related equipment will be screened behind a decorative block wall enclosure.

SECTION 4. Based on the above findings, the Planning Commission hereby adopts this Resolution approving Major Wireless Communication Facility Permit (WIRE 4071-2016) for a freestanding wireless communication facility tower and associated ground mounted 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 August 23, 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 4071-2016) 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 (August 23, 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 conditional use 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 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 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 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.
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 deposited in an interest bearing account with the City named as co-depositor.
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 WCF and rehabilitate the site.
14. 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.
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 to the Planning Division showing that the proposed WCF 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 completely screened.
20. The tower structure walls shall be formed, textured and painted to resemble horizontal wood plank siding; samples shall be provided for approval by the Development Services Manager prior to the issuance of building permits.
21. The tower structure cross beams and enclosure pergola shall be designed in the Craftsman style of architecture. Final design of tower shall be approved by the Development Services Manager prior to building permit issuance.
22. The color of the tower shall be a darker color so as to blend in with the surrounding landscaping. Final color shall be approved by the Development Services Manager prior to building permit issuance.
23. The tower faces shall be lit with a lighting system that is designed to be unobtrusive to the overall design of the tower. Lighting shall be allowed only with the property owner's consent. Design and placement of lighting equipment shall match the colors and architectural style of the tower structure and shall be approved by the Development Services Manager prior to building permit issuance.
24. The applicant shall install decorative medallions for the tower cross bracing junctions. Final design shall be approved by the Development Services Manager prior to building permit issuance.
25. The applicant shall install two (2) Pomona orange crate labels, utilizing two (2) different designs on the south and east facing tower walls to be reviewed and approved by the Cultural Arts Commission and the Development Services Manager.
26. The applicant/WCF operator shall routinely maintain, repair and paint the tower structure, equipment cabinet enclosure, and orange crate label artwork should they deteriorate, get damaged or fade with the appropriate colors.

27. 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.

PUBLIC WORKS DEPARTMENT

Improvement Plan Requirements

28. Applicant/Developer shall submit a revised site plan for review and approval by the Public Works Engineering, Planning and Building and Safety Departments to include the following:
 - a. Note: The maintenance of the parkway landscaping is the responsibility of the property owner, as required by the City's Municipal Code Section 46-496.
 - b. Note: It is the owner's and the contractors 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.
 - c. Note: Undergrounding of all proposed utility lines is required as per City of Pomona Municipal Code Section 62-31(b)(1). No overhead electrical or telco lines are allowed.
 - d. The demolition or relocation of all public improvements 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.
29. The applicant and the contractor are responsible for the implementation of the storm water pollution prevention Best Management Practices (BMPs) applicable to construction activities, as reflected in the City of Pomona Construction Site BMP Guidelines. The Water Quality Compliance Statement included on page 15 of the Guidelines must be signed and returned to the Public Works Department. In addition, the applicant shall implement Good Housekeeping BMPs for the site to ensure that pollutants are not discharged to the municipal storm drain system during the site maintenance and operation activities and throughout occupancy.
30. 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.

31. All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of the Public Works Department.
- a. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
- i. Commercial General Liability;
 - ii. Automobile Liability; and
 - iii. 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.

- b. Permittee shall pay fees associated with the possess a City of Pomona Business License
32. 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 the 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 23rd DAY OF AUGUST, 2017.

CAROLYN HEMMING
PLANNING COMMISSION CHAIRPERSON

ATTEST:

MARK LAZZARETTO
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
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 Sec. 1094.6 C.C.P."