

PC RESOLUTION NO. 18-041

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA, APPROVING MAJOR WIRELESS COMMUNICATION FACILITY PERMIT (WIRE 10534-2018) TO ALLOW THE ESTABLISHMENT OF A NEW FREESTANDING WIRELESS COMMUNICATION FACILITY DESIGNED AS A EUCALYPTUS TREE IN THE PARKING LOT OF A PROPERTY LOCATED AT 2005 WEST HOLT AVENUE IN THE DOWNTOWN GATEWAY SEGMENT OF THE POMONA CORRIDORS SPECIFIC PLAN.

WHEREAS, APC Towers LLC and Jim Heinrich of Plancom Inc. on behalf of T-Mobile, has submitted an application for a Major Wireless Communication Facility Permit (WIRE 10534-2018) to allow the installation of a new freestanding 65-foot high wireless communication facility designed as a eucalyptus tree in the parking lot of a commercial development located at 2005 West Holt Avenue (Assessor's Parcel Number 8355-016-027) in the Downtown 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, Section .5809-15 of the City Zoning Ordinance requires a Major Wireless Communications Facility Permit for new freestanding concealed wireless communication facilities in the Downtown 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 24, 2018, concerning the requested Major Wireless Communications Facility Permit (WIRE 10534-2018); 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 (WCF 14-005). 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 T-Mobile's purposes. The location of the proposed facility was selected for providing supportive coverage for T-Mobile's services for this region. There are no existing co-locatable facilities that will serve to meet T-Mobile'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 in the parking lot of a commercial office building. The project does not propose the removal of any required landscaping or parking stalls 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 structure designed as a eucalyptus tree. The facility is located within a parking lot area and will not affect traffic circulation within the site. Furthermore, the facility is located in a way as to not adversely impact onsite uses, parking areas, or the surrounding area or neighborhood. The proposed wireless communication facility will have a distance of two-hundred and forty (240) feet from residential uses in residential zones where the required distance is two-hundred and fifty (250) feet. The wireless communication facility is designed in a manner as to eliminate the possibility of any adverse visual impacts on the neighboring uses. This exception has been determined to be acceptable based on project location, placement and 240 foot distance from residential uses in residential zones.

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 screened from public view and to reduce any possibility of adverse visual impacts. The antennas will be screened by the faux foliage and exterior camouflage associated with the eucalyptus tree design. 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 (WCF 10534-2018) 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 October 24, 2018. 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 10534-2018) 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 (October 24, 2019). 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 place all approved resolutions related to the project 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:
 - a. They have read and understand all the conditions of approval applicable to their project;
 - b. That they are familiar with the daily operations of the use; and
 - c. 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 fifteen (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 screened.
20. 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.
21. The antennas, mounting arms and microwave dish along with the brackets shall be painted to match the matte color of the eucalyptus tree foliage.
22. The mounting arms and panel brackets shall painted in a color to match color of the eucalyptus tree foliage.
23. There shall be no unpainted metal on the eucalyptus mono-tree facility.
24. Aesthetic eucalyptus sleeves to conceal the proposed antenna panels and mounting arms shall be provided for the proposed antennas and future carrier's antennas as well as tower mounted equipment.
25. The eucalyptus tree support poles 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 eucalyptus tree. The synthetic bark shall be installed starting from the base (finished grade) to 5-feet above the first row of branches. The remainder of the pole above that shall be painted in a color to match the synthetic bark. The final design specifications shall resemble a eucalyptus tree with a three prong design and appear more realistic similar to the example provided in the staff report and presentation, subject to review and approval by the Development Services Director or designee.
26. The minimum height to the bottom the proposed eucalyptus mono-tree foliage branches shall be minimum 15-feet 6-inches from finished grade.

27. Before finalization of building permits, the applicant shall ensure that the eucalyptus 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 Development Services Manager.
28. 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 eucalyptus mono-tree as required by the Development Services Manager.
29. The applicant/WCF operator shall routinely maintain the wireless communication facility's (eucalyptus mono-tree) trunk, branches, and eucalyptus foliage should it deteriorate or accumulate dust.
30. A minimum of 3.3 branches per lineal foot shall be installed on the eucalyptus mono-tree.
31. The top of the highest antenna needs to be 2-feet below the top of the pole to ensure that branches extend beyond the top of the antennas a minimum of 2-feet, but no higher than 68 feet in height, subject to review and approval by the Development Services Director or Designee.
32. The equipment enclosure shall be constructed utilizing split-face decorative block wall with decorative caps.
33. 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.

BUILDING & SAFETY DIVISION:

34. The undergrounding of utility facilities is required. (PMC 62-31)
35. The design must be reviewed and stamped by an architect or engineer licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1)
36. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.

37. Building Department comments and conditions are subject to plan check.
Comments are based on information provided.

PUBLIC WORKS DEPARTMENT:

Improvement Plan Requirements

38. Prior to the issuance of the building permit, Applicant/Developer shall submit for review and approval a revised Site Plan to include the following items and shall be responsible for the construction thereof:
- a. Removal and reconstruction of the easterly driveway approach in compliance with the City standards and ADA requirements.
 - b. Unobstructed visibility shall be ensured at all intersections and driveways along the project boundaries and a note to this effect shall be added to the site plan.
 - c. Undergrounding of all existing and proposed utility lines is required as per City of Pomona Municipal Code Section 62-31(b) and a note to this effect shall be added to the site plan.
 - 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 and a note to this effect shall be added to the site plan.
 - e. It is the owner's responsibility to maintain the parkway landscaped area along the property frontage as required by the City's Municipal Code Section 46-496 and a note to this effect shall be added to the site plan.
39. The demolition or relocation of any/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.
40. 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.
41. 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.

42. The plans shall be submitted on 24" x 36" sheet size and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities, utility easements, and the public right-of-way areas with dimensions.

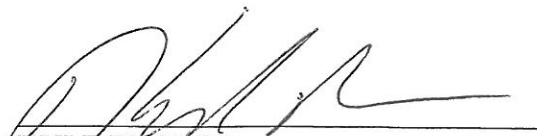
Public Works Improvements Permit

43. All work in the public right-of-way and City easements 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 driveway approach removal and reconstruction.
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;

Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.
46. Permittee shall pay fees associated with and possess the City of Pomona Business License.
47. 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 24th DAY OF OCTOBER, 2018.

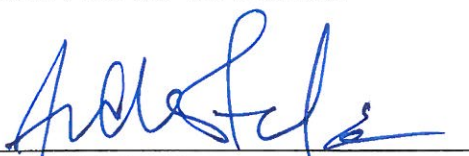

KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:



MARIO SUAREZ, AICP
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:



ANDREW JARED
ASSISTANT CITY ATTORNEY

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

AYES: Hemming, Arias, Kercheval, and Brown.

NOES: Juarez.

ABSTAIN: None.

ABSENT: Grajeda and Ursua.

"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."