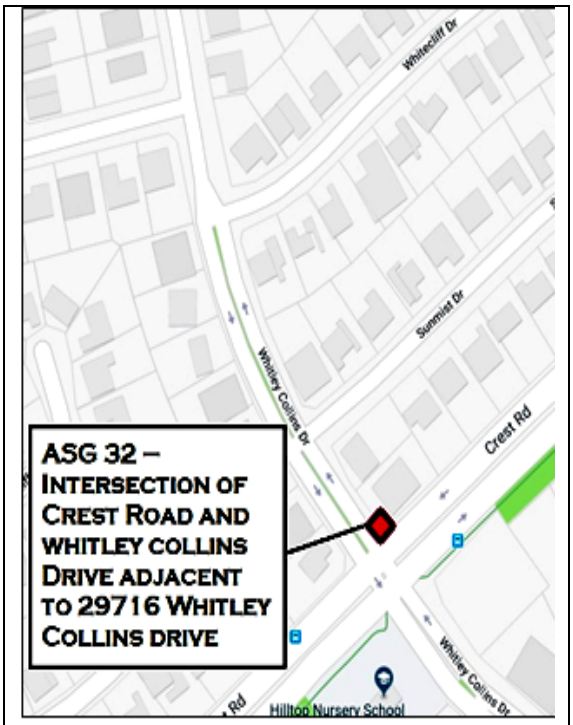
CITY OF RANCHO PALOS VERDES

STAFF REPORT



TO:	**CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION**
FROM:	**ARA MIHRANIAN, DIRECTOR OF COMMUNITY DEVELOPMENT**
DATE:	**JANUARY 30, 2018**
SUBJECT:	**MAJOR WIRELESS TELECOMMUNICATIONS FACILITY PERMIT ASG NO. 32**
PROJECT ADDRESS:	**ADJACENT TO 29716 WHITLEY COLLINS DRIVE**
APPLICANT:	**AARON SNYDER (CROWN CASTLE)**
LANDOWNER:	**CITY OF RANCHO PALOS VERDES**
STAFF COORDINATOR:	**ART BASHMAKIAN, CONTRACT PLANNER**

REQUESTED ACTION: **A REQUEST TO REPLACE AN EXISTING 29'-9" TALL OCTAGONAL CONCRETE STREETLIGHT POLE WITH A 29'-9" TALL STEEL CONCRETE TEXTURED STREETLIGHT POLE WITH TWO 21.4" SIDE-MOUNTED PANEL ANTENNAS FOR A WIRELESS TELECOMMUNICATION FACILITY WITH RELATED MECHANICAL EQUIPMENT.**

RECOMMENDATION: **1) REVIEW THE APPLICANT'S NEW LOCATION AND DESIGN OPTIONS FOR THE PROPOSED WIRELESS TELECOMMUNICATION FACILITY PRESENTED TO THE CITY COUNCIL ON NOVEMBER 30, 2017; AND,**

2) ADOPT P.C. RESOLUTION NO. 2018-__ RECOMMENDING TO THE CITY COUNCIL APPROVAL, WITH CONDITIONS, WIRELESS TELECOMMUNICATIONS FACILITY ASG NO. 32 TO ALLOW THE REPLACEMENT OF AN EXISTING STREETLIGHT POLE WITH THE INSTALLATION OF A NEW 29'-9" TALL STREETLIGHT POLE WITH TWO

21.4" SIDE-MOUNTED PANEL ANTENNAS AND RELATED VAULTED MECHANICAL EQUIPMENT.

LAND USE: **PUBLIC RIGHT-OF-WAY**

CODE SECTION: **RPVMC CHAPTERS 12.18 AND 17.02**

ACTION DEADLINE: **FEBRUARY 28, 2018 (SHOT CLOCK)**

PLANNING COMMISSION MEMBERS RESIDING WITHIN 500' OF SUBJECT PROPERTY: NONE

PRE-COMMISSION DISCLOSURES: ***PRIOR TO THE TAKING OF PUBLIC COMMENT ON THIS ITEM*****, ANY PLANNING COMMISSIONERS THAT CONDUCTED ON-SITE INSPECTIONS OR ENGAGED IN EXTRA-HEARING DISCUSSIONS RELATING TO THIS ITEM SHOULD DISCLOSE SUCH EXTRA-HEARING EVIDENCE AS PART OF THE HEARING RECORD.**

BACKGROUND

The Applicant, Crown Castle, has proposed to install 26 antennas to service AT&T customers throughout the City of Rancho Palos Verdes. Crown Castle is a tower company hired by wireless companies for the purposes of acquiring sites for the construction and deployment of wireless telecommunications antennas throughout local jurisdictions.

On July 7, 2016, Crown Castle submitted an application, proposing to install Wireless Telecommunications Facility ASG No. 32 in the public right-of-way (PROW) at Scotwood Drive adjacent to 29504 Whitley Collins Drive. The City notified Crown Castle that the application documents were incomplete after three resubmittals. Notices were sent to Crown Castle on August 5, 2016, January 3, 2017 and February 6, 2017. Crown Castle submitted documentation to obtain a mock-up permit. The mock-up of the proposed installation was constructed on June 2, 2017 and on May 25, 2017, a notice was sent to property owners within a 500-foot radius announcing the installation of the mock-up.

On July 20, 2017, a public notice was mailed to property owners within a 500' radius of the proposed site and published in the *Peninsula News* announcing that a public hearing on the proposed facility is scheduled to occur on August 8, 2017.

On August 8, 2017, as recommended by Staff, the Planning Commission continued, without discussion, this item to its August 30, 2017 meeting to allow Staff additional time to complete its analysis.

On August 30, 2017, the Planning Commission conducted a public hearing to consider the Applicant's request. At this meeting, after considering evidence introduced in the record including public testimony from the Applicant, neighbors, Staff, and the City's RF consultant, the Planning Commission adopted P.C. Resolution No. 2017-27 denying, without prejudice, the project on a vote of 4-0 (Commissioners Leon and Tomblin, and Vice-Chair James were absent) The Commission's denial was based on the following findings:

- The overall appearance of the antennas on the new streetlight replacement pole at the proposed location would be a dominant feature which would be out-of-character with the surrounding neighborhood.
- The antenna design is of a size and shape that would be a dominant feature on the residential street and would not blend with the surrounding environment particularly as the antenna shroud is much wider than the street light pole at the point of attachment. In particular, the replacement streetlight pole would be approximately 3' taller than the existing streetlight pole.
- The wireless telecommunication facility would not visually blend with the surrounding environment and the "industrial-utility" looking style of the facility would not be compatible with the style and quality of the surrounding residential neighborhood.
- The incremental changes to the improvements in the right-of-way will lead to the deterioration of the City's well-maintained streetscapes
- The wireless telecommunication facility would draw attention and would reduce the desirability, including the potential to reduce property values, of the surrounding residential neighborhood
- The wireless telecommunication facility covers a relatively small portion of the technical service objective and will not provide service to a significant number of uses.
- There was no significant gap in coverage that would necessitate the proposed facility since the wireless service area to be served by the proposed facility only encompassed approximately 40-55 homes. Furthermore, the facility is not located upon a major highway or thoroughfare serving many in-vehicle users. To the extent any dead zone or dropped-call area was found to exist, such area was found to be very small.

During the August 30th meeting, the Planning Commission requested the Applicant explore relocating the proposed wireless facility from an existing streetlight located on a residential street onto an existing streetlight pole on Crest Road, a defined arterial street in the City's General Plan.

On September 14, 2017, the Applicant filed a timely appeal of the Planning Commission's denial of Major Wireless Telecommunication Facility Permit ASG No. 32 contending that the denial and the reasons for the denial effectively prohibits or has the effect of prohibiting the provisions of personal wireless services (see attached appeal letter).

In response to the Commission's feedback, after filing the appeal of the Commission's denial, the Applicant explored relocating the wireless facility onto an existing streetlight pole on Crest Road. The Applicant reassessed the coverage objective within the intersection of Crest Road and Whitley Collins, and decided to install the proposed wireless facility on an existing streetlight pole at the intersection of Crest Road and Whitley Collins (the site that is now before the Planning Commission).

On November 30, 2017, the City Council held a special, duly noticed, public hearing on the appeal filed by the Applicant (also the Appellant). At this meeting, the Applicant proposed relocating this wireless facility (ASG No. 32) to a new location at the intersection of Crest Road and Whitley Collins Drive (adjacent to 29716 Whitley Collins Drive). In light of this, after taking public testimony, the City Council voted to refer the project to the Planning Commission for reconsideration while maintaining its jurisdiction. Specifically, the Council referred the project back to the Planning Commission because the new location and design options had not been considered by the Commission, and to allow adequate public notification for the new location to be given. The attached November 30, 2017 City Council Staff Report contains details on the revised pole designs.

SITE DESCRIPTION

The revised proposed site is located entirely within the PROW, at the northeast intersection of Whitley Collins Drive and Crest Road adjacent to 29716 Whitley Collins Drive. High power transmission lines traverse on the north side of Crest Road. Existing streetlight poles located along Whitley Collins Drive alternate between both side of the road at approximately 150-feet intervals.

PROJECT DESCRIPTION

The proposed project is to remove an existing 29'-9" tall streetlight pole and replace it with a 29'-9" tall streetlight pole with two 21.4" panel antennas that will be flush-mounted to the side of the streetlight pole with vaulted accessory equipment. The photo simulation below depicts the Applicant's flush-mounted panel antenna proposal:

Existing Site

Photo Simulation

Canister Design Option

In addition to the proposed project described above, as an alternative, the Applicant is proposing for the Commission's consideration a design option that encases the two panel antennas in a canister shroud measuring 2' tall and 14.6" in diameter (compared to 24" in diameter considered previously by the Commission) with a 2' tall shroud sleeve. Below are photo simulations of the canister design option.

Because the canister design option will effectively raise the overall height of the pole by approximately 3' when measured to the top of the canister, Staff's preferred design is the flush-mounted panel antennas that will be affixed to the side of the streetlight pole. As presented by the Applicant, Staff believes this is the least intrusive design as described in the finding analysis below.

CODE CONSIDERATION AND ANALYSIS

In accordance with Chapter 12.18 of the Rancho Palos Verdes Municipal Code (RPVMC), the Planning Commission may approve, or conditionally approve, (in this case it's a recommendation to the City Council), an application only after it makes the Findings required in Section 12.18.090. Because the Applicant is proposing to install the facility in PROW of a local street as identified in the General Plan and within a residential zone, the subject application is also subject to Location Restrictions of Section 12.18.200. As such, the Planning Commission shall not grant any exception unless the Applicant "demonstrates with clear and convincing evidence" responses to Finding Nos. 1 through 4 of Section 12.18.190(B).

FINDINGS OF FACT

Pursuant to Section 12.18.090 of the RPVMC, no permit shall be granted for a Wireless Telecommunications Facility in the PROW unless all of the following Findings are made:

A. All notices required for the proposed installation have been given.

Crown Castle and the City have provided all notices required by the RPVMC. On January 5, 2018, property owners within 500 feet of the proposed facility were notified of the WTF mock-up which will occur at least 30 days in advance of the final City Council public hearing. On January 11, 2018, a public notice announcing the January 30, 2018 public hearing was provided to property owners within 500 feet of the proposed WTF and was published in the Peninsula News. On December 1, 2017, the Applicant provided the City with a Shot Clock Tolling Agreement (See Attachment) establishing a new Shot Clock Expiration date of February 28, 2018. The Applicant has notified the City 20 days prior to the expiration of the shot clock for this application, which is now February 28, 2018. Accordingly, all notice requirements have been met.

B. The proposed facility has been designed and located in compliance with all applicable provisions of this chapter.

Chapter 12.18 of the RPVMC has detailed requirements for wireless telecommunications facilities in the PROW. Specifically, Section 12.18.080(A) lists the design and development standards for these installations. The applicable sections which have not been clearly or substantially complied with are listed and evaluated below (*italics* text is the code requirement followed by Staff's analysis).

12.18.080(A)(1)(a): *The applicant shall employ screening, undergrounding and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually screened as possible, to prevent the facility from dominating the surrounding area and to minimize significant view impacts from surrounding properties all in a manner that achieves compatibility with the community and in compliance with Section 17.02.040 (View Preservation and Restoration) of this code*.

As proposed, the project employs screening and a camouflage design with the use of a 21.4" panel antennas that will be flush mounted to the side of the replacement streetlight pole. The replacement streetlight pole with the flush mounted panel antennas will not exceed a height of 29'-9" as measured from grade to the top of the pole (not including the luminaire and arm), and a total height of 27'-6" to the top of the panel antennas, as measured from grade. Further, the site is conditioned such that all cabling will be obscured by the use of clips.

The light standard is designed to match the existing light standard being replaced and other light standards in the immediate area. Furthermore, the proposal places all of the related mechanical equipment underground in three vaults measuring a total of 43 square feet consisting of the following:

- Radio vault - 32 sq. ft.
- WTR vault - 5 sq. ft.
- Fiber vault - 6 sq. ft.

As further detailed below, a view analysis was conducted on January 19, 2018, and City staff determined that the proposed installation of panel antennas that will be flush and side-mounted to the streetlight pole will not have any significant view impairment to surrounding properties pursuant to Chapter 17.02.040 of the RPVMC. City-defined viewing areas, such as living rooms, family rooms, dining rooms and outside rear patios, are typically located on the ground floor areas of a residences.

12.18.080(A)(1)(b): *Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality*.

The proposed antennas will be flush and side-mounted to a replacement streetlight pole that matches other streetlight poles in the area, and the replacement streetlight pole will utilize similar color, size, proportion, style, and quality to other street poles in the area. The antennas will be painted to match the light pole with a concrete color. The proposal is conditioned so that the antenna panels are snug to the pole and does not exceed 1” from the side of the pole, and is attached using a 90-degree connector bracket with no downtilt brackets. All cables and wires will be routed directly into the pole with no loops or exposed cables, with all cables clipped-up at the antenna. Having the two flush-mounted antenna panels and wires on the side of the streetlight pole is an appropriate technique that disguises and blends the facility into the environment (blending with the replacement pole and other poles in the area).

12.18.080(A)(1)(c): *Facilities shall be located such that views from a residential structure are not significantly impaired. Facilities shall also be located in a manner that protects public views over city view corridors, as defined in the city's general plan, so that no significant view impairment results in accordance with this code including Section 17.02.040 (View Preservation and Restoration). This provision shall be applied consistent with local, state and federal law*.

In terms of views, on January 19, 2018, Staff conducted a view analysis for the new site. The project with flush and side-mounted panel antennas will not result in a significant view impairment to surrounding residences. However, based on a view assessment of the neighborhood, Staff determined that the proposed canister design option that encases the panel antennas in a canister shroud with a tapered sleeve will result in a significant view impairment of Catalina Island from the residential viewing areas located at 5684 and 5678 Whitecliff Drive, as defined in Rancho Palos

Verdes Development Code Section 17.02.040 (View Preservation and Restoration Code). This is because the canister shroud increases the height of the streetlight pole and introduces new improvements in the view frame. City-defined viewing areas, such as living rooms, family rooms, dining rooms and outside rear patios, are typically located on the ground floor areas of a residence. Many, if not all, of the defined viewing areas for residences within the vicinity of the proposed WTF are located on the ground floor.

In terms of cumulative visual or view impacts, Staff does not believe that, in this location of the City, if other streetlight poles were replaced to accommodate similar panel antennas that are flush and side-mounted to a streetlight pole that a significant view impairment would occur.

12.18.080(A)(3): *Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts to traffic safety.*

The proposed Project involves a replacement streetlight pole with the installation of two 21.4" panel antennas that will be flush and side-mounted the pole at approximately 26' above the drivable road. Additionally, the related mechanical equipment will be vaulted underground to avoid traffic safety impacts.

12.18.080(A)(4): *Blending Methods. All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.*

The proposed street light pole will consist of colors and materials that are subdued and non-reflective. Further, they are the same as the existing light pole and other light poles in the immediate area.

12.18.080(A)(5): *Equipment. The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted, to the extent feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Unless otherwise provided in this section, antennas shall be situated as close to the ground as possible.*

The Applicant's Project proposes the installation of two 21.4" tall panel antennas measuring 27'-6" above the ground to the top of the antenna on a 29'-9" tall replacement streetlight pole with mechanical equipment that will be vaulted within the street. As proposed, the design would be visible, but it presents a slim side view with cables obscured from view with the use of clips or the like. Recognizing the panel antenna will be exposed, with the recommended conditions, the design meets the overarching objective of the finding to use the least visible equipment.

In regards to collocation, in order to accommodate additional antennas, the height of the street pole would have to be increased by approximately 5' to accommodate collocation because of the size of the panel antennas combined with there being a need to provide a separation of at least 1' between antenna panels for functionality purposes. The design does not preclude the possibility of collocation by the same or other operators or carriers but it should be noted that collection is does not always minimize visual impact. In fact, it will require the street pole to either be increased in height or to support additional canisters that will detract from the overall appearance.

12.18.080(A)(6)(a): *Facilities shall be located consistent with Section 12.18.200 (Location Restrictions) unless an exception pursuant to Section 12.18.190 (Exceptions) is granted*.

The proposed location is within the PROW of local residential street as identified in the City's General Plan. As such, an exception must be approved by the Planning Commission. The findings necessary to grant an Exception are detailed further below.

12.18.080(A)(6)(b): *Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole. (For exceptions see subparagraph (6)(h) below and sections 12.18.190 (Exceptions) and 12.18.220 (State or Federal Law).)*

The proposal meets this finding because it involves a replacement streetlight pole with mounted antenna panels within the right-of-way. No new pole is proposed that does not replace the existing pole.

12.18.080(A)(6)(d): *Light Poles*. *The maximum height of any antenna shall not exceed four feet above the existing height of a light pole. Any portion of the antenna or equipment mounted on a pole shall be no less than 16½ feet above any drivable road surface.*

The replacement pole will be the same height as the existing (29'-9") streetlight pole and the panel antennas will be below that height. No portion of the antenna or equipment is less than 16½' above the drivable road surface.

12.18.080(A)(6)(e): *Replacement Poles. If an applicant proposes to replace a pole in order to accommodate a proposed facility, the pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.*

The proposed replacement streetlight pole will match the appearance, in terms of color, height, size and dimensions of the existing pole and all other streetlight poles in the immediate area. The replacement streetlight pole and related equipment will consist of a Marbelite finish and painted in a concrete color to match the existing streetlight poles in the area. A smaller antenna technology is possible, but smaller antennas will require the installation of more poles in the neighborhood to achieve the same coverage and capacity.

12.18.080(A)(6)(f): *Pole mounted equipment, exclusive of antennas, shall not exceed six cubic feet in dimension.*

There will not be pole mounted equipment, excluding antennas. The related mechanical equipment will be vaulted.

12.18.080(A)(6)(i): *All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the pole and shall be camouflaged or hidden to the fullest extent feasible.*

All cables and wires are required to be short and directly routed to the pole in order to be hidden from view with no loops, exposed cables, splitters or unsightly wires.

12.18.080(A)(7): *Space. Each facility shall be designed to occupy the least amount of space in the right-of-way that is technically feasible*.

The replacement streetlight pole is similar in dimension to the existing streetlight pole. The placement of the antennas on the side of the pole will occupy limited air space above the right-of-way. The supporting mechanical equipment will be undergrounded and the vault necessary to house the equipment measures approximately 43 square feet of total surface area. This space is the least amount of space that is technically feasible for equipment owned by AT&T. Furthermore, the space that will be occupied is below the surface with minimum exhaust vents that will be flush to the surrounding ground.

12.18.080(A)(8): *Wind Loads. Each facility shall be properly engineered to withstand wind loads as required by this code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing facility*.

Based on the information submitted by the Applicant and as confirmed by the City Staff, Staff finds that the proposed installation complies with all building codes related to wind loads.

12.18.080(A)(9): *Obstructions. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or safety hazards to pedestrians and motorists and in compliance with Section 17.48.070 (Intersection Visibility) so as not to obstruct the intersection visibility triangle.*

Pursuant to the application documents submitted to the City including the design, height and size, the proposed installation including the undergrounding of the mechanical equipment will not cause an obstruction to the public's use of the PROW, constitute a safety hazard and/or does not interfere with the City-defined intersection visibility triangle. Specifically, the proposed replacement pole, provides the same lighting, height and setback parameters applicable to other streetlights. The proposed mechanical equipment will be vaulted under the existing parkway, and conditions are proposed to ensure the vents do not physically obstruct the safe use of the parkway.

12.18.080(A)(10): *Public Facilities. A facility shall not be located within any portion of the public right-of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.*

Pursuant to the application documents submitted to the City, the proposed installation, including the undergrounding of the mechanical equipment, will not interfere with any public health or safety facilities including interfering with fire hydrants, fire stations, water lines, or other infrastructure.

12.18.080(A)(11): *Screening. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least 18 inches from the curb and gutter flow line.*

The Project does not have pole-mounted equipment, excluding the antennas. The related mechanical equipment will be undergrounded. Therefore, the Project will be consistent with this finding.

12.18.080(A)(12): *Accessory Equipment. Accessory Equipment. Not including the electric meter, all accessory equipment shall be located underground, except as provided below.*

The related accessory equipment, including the meter, will be located underground.

12.18.080(A)(13): *Landscaping. Where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and*

maintained by applicant where such landscaping is deemed necessary by the city to provide screening or to conceal the facility.

Conditions have been added requiring the installation of landscaping within parkway to help soften, as well as screen, the appearance of the Project.

12.18.080(A)(14) *Signage. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.*

The facility does not include any signs or advertising devices other than certification, warning or other signage required by law.

12.18.080(A)(15)(a-e) *Lighting*.

The facility does not include any such lighting other than the luminaire on the light pole.

C. If applicable, the applicant has demonstrated its inability to locate on existing infrastructure.

Not applicable, as the proposed WTF antennas are proposed to be installed on existing infrastructure.

D. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way.

The Applicant has submitted to the City a Right of Way Use Agreement (RUA) entered into with the City in 2011, which allows the Applicant to install wireless antennas in the PROW. Further, the Applicant has submitted a Certificate of Public Convenience and Necessity (CPCN) issued by the California Public Utilities Commission (CPUC) which provides that the Applicant has been authorized to install wireless telecommunications infrastructure in the PROW.

E. The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible and supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not available.

Other locations and designs considered for purposes of filling the coverage gap claimed by the Applicant and discussed by the City's RF Consultant (attached) presented the following intrusions, which Staff determined to be more intrusive then the proposed project as revised:

- Staff finds locations that utilize an existing or replacement streetlight pole to be preferable to a whole new pole.
- A smaller or lower pole could be utilized, but it would require a multiplicity of wireless poles in the gap area claimed by the Applicant and discussed by the City's RF Consultant (attached), as opposed to having one AT&T pole in this area.
- Alternate antenna designs, such as the canister shroud with a tapered sleeve, were found by Staff to be bulkier in appearance and less streamlined than the vertical slim-line flush and side-mounted panel antennas proposed.
- The other pole options are significantly wider (14" and 16") and therefore negate the objective of utilizing the least visible design option. Staff looked at other design options from other (non-AT&T) carriers. While some carriers offer antenna panels that may be smaller in overall size, such designs from other carriers are not engineered to carry the bandwidths owned by AT&T.

FINDINGS FOR EXCEPTIONS

Section 12.18.190 of the RPVMC states "Exceptions" provide:

"The city council recognizes that federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services and the applicant proposes the least intrusive means to provide such services. The city council finds that, due to wide variation among wireless facilities, technical service objectives and changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. The city council further finds that circumstances in which an effective prohibition may occur are extremely difficult to discern, and that specified findings to guide the analysis promotes clarity and the city's legitimate interest in well-planned wireless facilities deployment. Therefore, in the event that any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed personal wireless services facility, would effectively prohibit the provision of personal wireless services, the planning commission may grant a limited, one-time exemption from strict compliance subject to the provisions in this section."

Section 12.18.190(B) requires that the following "exception' findings be made by the Commission and be supported by clear and convincing evidence (Finding shown in **bold text** followed by Staff's analysis):

1. The proposed wireless facility qualifies as a "personal wireless services facility" as defined in United States Code, Title 47, section 332(c)(7)(C)(ii).

The Applicant has provided sufficient information to establish that the WTF meets the definition of “personal wireless services facility” as defined by the United States Code.

2. The applicant has provided the city with a clearly defined technical service objective and a clearly defined potential site search area.

The “technical service objective” identified by the Applicant in all application documents is the coverage of a “significant gap” in service. This application information was provided to the City’s RF Consultant who reviewed the information, as well as conducted both on-site walkouts of the area and a computerized terrain study to determine if the proposed site will address a coverage gap as identified in the application. Based on the terrain profile characteristics and the field measurement data provided by Crown Castle, the City’s consultant concluded that the proposal as provided will address coverage deficiencies within the target area. Furthermore, according to the City’s consultant, the Applicant has provided engineering details related to the wireless bands that will be used for the DAS deployment, including identifying transmitting equipment, power levels for each band and specifics regarding the radiation patterns of the antennas to be installed. However, information provided about existing and proposed coverage in the service area for each of the three AT&T licensed wireless bands (700 MHz, PCS and AWS) are less clearly defined; this is due to the varied terrain associated with the surrounding landscape.

The City’s consultant also concluded that from an engineering perspective, Crown Castle has provided engineering measurement data defining gaps in AT&T coverage in small pocketed areas. This has been independently examined by the City’s consultant who determined that the signal levels are lower than industry recommended levels to support modern 3G/4G customer needs. Further, the engineering design provided by Crown Castle supports that, if constructed, DAS site ASG 32 will provide ample signal intensity (signal level in excess of -95 dBm) to support AT&T’s 3G/4G wireless services.

While the City’s RF Consultant found evidence of a gap in signal levels, the question of whether such gap constitutes a “significant” gap lies within the discretionary purview of the Planning Commission, subject to limitation that Applicant evidence must be considered as “primae facie” evidence that can be rebutted with site-specific, non-speculative, and non-generalized objective analyses. Courts have made clear that this is a fact-based judgment. “[T]he existing case law amply demonstrates that ‘significant gap’ determinations are extremely fact-specific inquiries that defy any bright-line legal rule.” (*MetroPCS, Inc. v. City and County of San Francisco* (9th Cir. 2005) 400 F.3d 715, 733.) There is a wide range of context-specific factors in

assessing the significance of alleged gaps. (*See, e.g., Cellular Tel. Co. v. Zoning Bd. of Adjustment of the Borough of Ho–Ho–Kus* (3d Cir.1999) 197 F.3d 64, 70 n. 2 [whether gap affected significant commuter highway or railway]; *Powertel/Atlanta, Inc. v. City of Clarkston* (N.D.Ga. Aug.3, 2007) No. 1:05–CV–3068, 2007 WL 2258720, at *6 [assessing the "nature and character of that area or the number of potential users in that area who may be affected by the alleged lack of service"]; *Voice Stream PCS I, LLC v. City of Hillsboro* (D.Or. 2004) 301 F.Supp.2d 1251, 1261 [whether facilities were needed to improve weak signals or to fill a complete void in coverage]; *Nextel Partners, Inc. v. Town of Amherst* (W.D.N.Y.2003) 251 F.Supp.2d 1187, 1196 [gap covers well traveled roads on which customers lack roaming capabilities]; *Am. Cellular Network Co., LLC v. Upper Dublin Twp*. (E.D.Pa.2002) 203 F.Supp.2d 383, 390–91 [considering "drive tests"]; *Sprint Spectrum, L.P. v. Town of Ogunquit* (D.Me. 2001) 175 F.Supp.2d 77, 90 [whether gap affects commercial district]; *APT Minneapolis, Inc. v. Stillwater Twp*. (D.Minn. June 22, 2001) No. 00–2500, 2001 WL 1640069, at *2–3 [whether gap poses public safety risk].)

3. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the city or otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available.

The Applicant has proposed similar antennas on streetlight poles at the following 4 alternative locations based on the original primary location (see attachment):

- Replacement of an existing street light pole on the west side of Whitley Collins, approximately 190 feet to the northwest of the original Primary.
- Street stop sign replacement located approximately 45 feet north of the original Primary on the opposite side of Scotwood Dr.
- Replacement of an existing street light pole approximately 100' west of the original Primary site on the west side of Whitley Collins.
- Replacement of an existing street light pole on Whitley Collins at the intersection of Crest Road.

Every alternative sites meet the RF coverage objective as confirmed by the City's RF Consultant. The alternative site analysis submitted by the Applicant demonstrates that the project, as currently proposed, is likely the least intrusive location for the wireless telecommunications facility in the immediate area. The proposed location is at the intersection of Whitley Collins (residential) and Crest Road (an arterial) compared to the original location which was in densely developed residential neighborhood. The WTF is also being proposed to be installed on a replacement streetlight pole that replaces existing infrastructure. And while the proposed location is adjacent to a residential zone, the proposed location does not interfere with any public or residential views. Furthermore, because of the limited commercially zoned areas in the City and limited collector or arterial streets,

in order to provide coverage to the residential areas of the City, it's necessary to locate within the right-of-way of local streets. The City's technical consultants have reviewed the Applicant's documents and support this conclusion.

Further, other locations and designs were found to be more intrusive then the proposed project as revised:

- As noted above, Staff finds locations that utilize an existing or replacement pole to be preferable to a whole new pole.
- A smaller or lower pole could be utilized, but it would require a multiplicity of wireless poles in the gap area claimed by the Applicant and discussed by the City's RF Engineer (attached), as opposed to having one AT&T pole in this area.
- Alternate antenna designs, such as the canister shroud with a tapered sleeve, were found by Staff to be bulkier in appearance and less streamlined than the vertical slim-line flush and side-mounted panel antennas proposed.
- Staff looked at other design options from other (non-AT&T) carriers. While some carriers offer antenna panels that may be smaller in overall size, such designs from other carriers are not engineered to carry the bandwidths owned by AT&T.

4. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant location and design necessary to reasonably achieve the applicant's reasonable technical service objectives.

See discussion immediately above. Further, the proposed WTF installation will be installed on a replacement streetlight pole that will match other streetlight poles in the immediate area. The 29'-9" tall light streetlight pole will match the height of the existing streetlight poles. The location is necessary to meet the Applicant's service objective, as affirmed by the City's RF Consultant. As stated in the previous Finding, the limited commercially zoned areas and limited number of collector or arterial streets require the use of local residential streets in order to provide proper coverage and capacity to various portions of the City. Thus, there are no commercial zones within the signal reach of the identified gap.

It should be noted that RPVMC Section 12.18.190(C) provides that the Commission "shall limit its exemption to the extent to which the Applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The Planning Commission may adopt Conditions of Approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare."

ADDITIONAL INFORMATION

Radio Frequency (RF) Emissions

In compliance with RPVMC Section 12.18.050, the Applicant provided the City with "an RF exposure compliance report prepared and certified by an RF Consultant acceptable to the City that certifies that the proposed facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits."

With regards to RF cumulative impact concerns, there is no additional impacts simply from the installation of wireless facilities throughout the City as shown in the Applicant's plans. As long as the antennas are 13.9' or more above ground and the 8' public exclusion zone directly in front and at the same elevation as the antenna is observed, there is no cumulative impacts associated with RF exposure. Unlike cumulative traffic impacts from additional urban development, there is no equivalent cumulative impacts. In other words, the degree of RF does not increase in neighborhoods where it can impact the general population just from having multiple wireless facilities in a neighborhood.

Importantly, beyond the fact that Applicant complied with this submittal requirement, any consideration of RF Emissions by the Planning Commission, or the health effects thereof, are beyond the Commission's authority to the extent the emissions conform to the applicable FCC regulations. Under the Telecom Act, the FCC completely occupies the field with respect to RF emissions regulation, and established comprehensive rules for maximum permissible exposure levels (the "FCC Guidelines"). State and local governments cannot (1) regulate wireless facilities based on environmental effects from RF emissions when the emissions conform to the applicable FCC regulations or (2) establish their own RF exposure standards—whether more strict, more lenient or even the same. (47 U.S.C. § 332(c)(7)(B)(iv).) As the emissions conform to the FCC regulations, the City cannot impose its own emission standards or ignore the FCC standards.

Shot Clock

State and federal laws, and a FCC ruling, provide that a local jurisdiction must act on an application for certain wireless facilities antennas within the following certain strict timeframes:

(1) a 150-day shot clock for new facilities;
(2) a 90-day shot clock for modifications resulting in a substantial change; or
(3) a 60-day shot clock for modifications that do not result in a substantial change.

If a local government fails to approve or deny a facilities request within the applicable time period, the request will be "deemed granted" upon written notification from the Applicant to the local government stating that the request is considered approved.

The Project application proposes a new facility subject to the 150-day shot clock. The application was submitted on July 7, 2016. The shot clock has been tolled several times and the latest agreement, dated December 1, 2017, has set to expired on February 28, 2018. (See Attachment)

As a point of clarification, the Planning Commission's action on the Project is to recommend City Council either approve or deny the project.

Public Comments

Attached are the public comments received (see attachment).

Mock-Up Notice Issues

On December 21, 2017, the Applicant (Crown Castle) received a Public Works Encroachment Permit to install a Mock-Up of the revised wireless telecommunications facility. The temporary mock-up was installed on or after December 22, 2017 and the notice was issued on January 5, 2018. This is a required step in the Wireless Telecommunications Facilities Application for all proposed wireless facility installations. Chapter 12.18 of the Rancho Palos Verdes Municipal Code states that the Planning Commission is to review these specific proposed installations for, among other things, design assessment and location.

The temporary mock-up installation remains in-place as a matter of public notice up-to and during Planning Commission deliberations, and any appeal to the City Council if applicable.

Mock-Up Display

The Applicant has installed a mockup of "replacement pole" design examples for supporting the proposed telecommunication panel antennas. The mockups are located adjacent to the City's maintenance yard at the City Hall site for City Council, Planning Commission, and public viewing.

February 15th City Council Meeting

The City Council is scheduled to conduct a special meeting on Thursday, February 15th at 5:00 p.m. to consider the Planning Commission's recommendations on the subject appeal.

CONCLUSION

Based on the foregoing, Staff recommends that the proposed WTF be conditionally approved as provided in the attached P.C. Resolution conditionally approving the project.

ALTERNATIVES

The following alternatives are available for the Planning Commission's consideration:

1. Recommend denial of ASG No. 32 or,

2. Identify any issues of concern with the proposed project, provide Staff and/or the applicant with direction in modifying the project and request that the applicant redesign and resubmit for consideration at the at the February 13, 2018 meeting. If the Commission continues this application the City Council will not be able to consider this applications at it special meeting on February 15th.

ATTACHMENTS

- P.C. Resolution No. 2018-__ including Conditions of Approval
- Revised Project Plans and Visual Simulations
- Updated Coverage Maps and Supporting Document from the Applicant
- Updated Technical information form the City's RF Engineer
- November 30, 2017 City Council Staff Report
    - P.C. Resolution No. 2017-27 denying without prejudice Planning Commission Staff Report with Attachments
- Tolling Agreement
- Public Comments