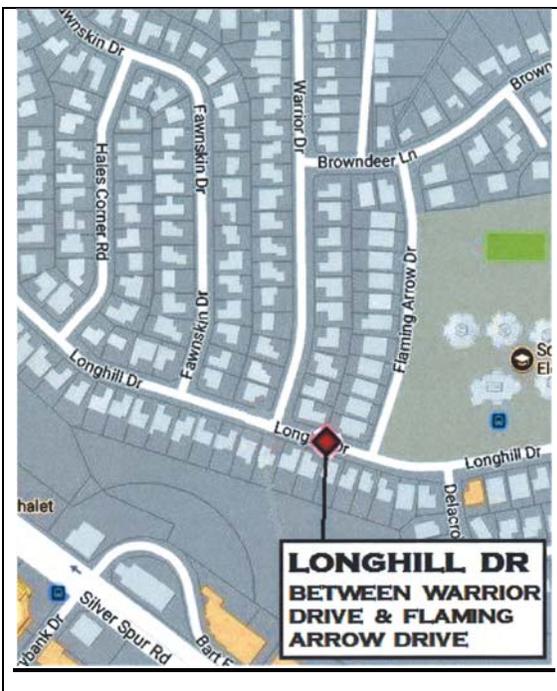


STAFF REPORT



TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION
FROM: ARA MIHRANIAN, DIRECTOR OF COMMUNITY DEVELOPMENT
DATE: FEBRUARY 27, 2018
SUBJECT: MAJOR WIRELESS TELECOMMUNICATIONS FACILITY PERMIT ASG NO. 25
PROJECT ADDRESS: NORTH SIDE OF LONGHILL DRIVE BETWEEN WARRIOR DRIVE AND FLAMING ARROW DRIVE
APPLICANT: STEPHEN GARCIA (CROWN CASTLE)
LANDOWNER: CITY OF RANCHO PALOS VERDES
STAFF COORDINATOR: ART BASHMAKIAN, CONTRACT PLANNER

REQUESTED ACTION: A REQUEST TO ALLOW THE INSTALLATION OF ANTENNAS ENCASED IN A CANISTER MEASURING 2' TALL AND 14.6" IN DIAMETER MOUNTED ON A 4' MAST ARM TO AN EXISTING 37'-5" TALL WOOD UTILITY POLE WITH VAULTED MECHANICAL EQUIPMENT FOR A WIRELESS TELECOMMUNICATION FACILITY ON THE NORTH SIDE OF LONGHILL DRIVE BETWEEN WARRIOR DRIVE AND FLAMING ARROW DRIVE.

RECOMMENDATION: 1) PROVIDE STAFF WITH DIRECTION ON THE APPLICANT'S NEW LOCATION AND DESIGN OPTIONS FOR THE PROPOSED WIRELESS TELECOMMUNICATION FACILITY, AND IF DEEMED ACCEPTABLE, DIRECT STAFF TO COME BACK WITH A RESOLUTION FOR ADOPTION AT THE MARCH 13, 2018 MEETING; AND,
 2) CONTINUE THE PUBLIC HEARING TO MARCH 13, 2018.

LAND USE: PUBLIC RIGHT-OF-WAY
CODE SECTION: RPVMC CHAPTERS 12.18 AND 17.02

ACTION DEADLINE: MARCH 30, 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 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 Major Wireless Telecommunications Facility ASG No. 25 in the public right-of-way (PROW) involving a replacement streetlight pole on the south side of Longhill Drive adjacent to 27659 Longhill Drive. The City notified Crown Castle that the application documents were incomplete after three resubmittals. Incomplete notices were sent to Crown Castle on August 3, 2016, December 21, 2016, and February 15, 2017. Ultimately, Crown Castle submitted requested documentation to process the application.

On June 13, 2017, Crown Castle received a Public Works Encroachment Permit to install a temporary mock-up of the proposed wireless telecommunications facility at the original site adjacent to 27659 Longhill Drive. On June 13, 2017 a notice was sent to property owners within a 500-foot radius announcing the installation of the mock-up. The temporary mock-up was installed on June 16, 2017.

On October 5, 2017, a public notice was published in the *Palos Verdes Peninsula News* announcing that a public hearing on the proposed wireless facility is scheduled to occur on Tuesday, October 24, 2017. Similarly, public notices were mailed to property owners within a 500' radius of the proposed site announcing the public hearing and inviting public comments on the proposed facility.

On October 24, 2017 the Planning Commission opened the public hearing, and after receiving public testimony and evidence introduced in the record, the public hearing was continued to November 28, 2017, at the request of the Applicant. The continuance was to allow the Applicant additional time to explore relocating the proposed wireless telecommunication facility onto an existing wood utility pole located on the north side of Longhill Drive between Warrior Drive and Flaming Arrow Drive which is now the revised proposed location. Staff recommended the wireless facility be moved from the original location on a replacement streetlight pole adjacent to the front entrance of a residence to an existing wood utility pole to be less intrusive to the residential neighborhood.

On November 28, 2017, after considering the Applicant's request to continue the public hearing to allow additional time to explore relocating the proposed wireless facility on an existing utility pole, the Planning Commission moved to deny, without prejudice, ASG No. 25, and directed Staff to come back with a denial resolution for adoption at its December 12, 2017 meeting, on the basis that the proposed installation failed to meet the least intrusive means test. The motion passed by a vote of 3-2 with Commissioner Leon and Vice Chairman James dissenting (Commissioner Emenhiser was absent and the Chair was vacant).

On December 12, 2017, the Planning Commission was presented with the denial resolution for adoption. Additionally, Staff provided the Commission with an alternative action to reject the adoption of the denial resolution and grant the Applicant's continuance. The Commission, after considering evidence presented that evening (and because at its November 30, 2017 special meeting, the City Council had referred the appeals of the Planning Commission's denial of five other wireless telecommunication facilities back to the Planning Commission), it was decided, on a vote of 5-1 with Commissioner Emenhiser dissenting (the Chair remained vacant), to grant the Applicant's request and continue the matter to date uncertain. The Commission concluded that it was likely that the Applicant would appeal the denial and that the City Council's action would be similar to the other appeals and the matter would be referred back to the Commission so it can consider the revised location and design option.

On January 2, 2018, the new required mock-up was installed. On February 6, 2018, a new public notice for the mock-up was issued. On February 8, 2018, a new public notice was published in the *Palos Verdes Peninsula News* and mailed to property owners within a 500' radius and to interested parties announcing the February 27, 2018 public hearing. Since the mock-up notice was not mailed until February 6, 2018, it was decided to take this opportunity to allow for public comments and input from the Planning Commission this evening, and continue the hearing to March 13, 2018 in order provide the public with adequate notification.

Pursuant to federal law, a decision on the project application must be made within 150 calendar days from application submittal. According to the City's files, the shot clock for ASG No. 25 was set to expire on September 27, 2017. Subsequently, the Applicant agreed to toll the shot clock until September 30, 2017, and then to October 31, 2017 then to November 30, 2017 and January 31, 2018, and finally to February 28, 2018. A new tolling agreement, (see attachment), dated February 22, 2018, now extends the shot clock to March 30, 2018.

PROJECT DESCRIPTION

Original Proposed Project

The original request involved a replacement of an existing 30'-8" tall streetlight pole with a 26' tall streetlight pole with two 21.4" side mounted panel antennas and related

mechanical equipment on the south side of Longhill Drive adjacent to 27659 Longhill Drive. As previously mentioned, Staff had a concern with the original location because its location was along the front facades of homes on Longhill Drive as depicted in the photos below.



Original Existing Site



Original Site Photo Simulation

Revised Proposed Project (Location and Design Options)

In response to Staff's concerns expressed at the October 24, 2017 meeting, the Applicant has relocated the proposed wireless facility onto an existing utility pole on the north side of Longhill Drive between Warrior Drive and Flaming Arrow Drive adjacent to mature pine trees. Additionally, the Applicant is presenting the following two design options for the Commission's consideration (both options utilize a 4' arm affixed to an existing 37'-5" tall wood utility pole with related mechanical equipment vaulted underground in the parkway):

- Option No. 1 consists of two panel antennas encased in a canister measuring 2' tall and 14.6" in diameter canister, which is approximately 10" smaller in diameter than the canister shroud the Commission considered at its October 24th meeting.
- Option No. 2, which is similar to the original proposal with exposed panel antennas affixed to the utility pole, utilizes smaller 20.5" tall panel antennas instead of 24" tall panel antennas.

Photo simulations of the two design options are shown on the next page:



Revised Existing Site



Revised – Canister Design



Revised – Panel Design

Revised – Panel Design Option

Based on the two options, Staff's preference is Option No. 1 because it results in a facility that is least intrusive to the neighborhood by concealing the panel antennas and associated wires within a canister measuring 14.6" in diameter. The canister before the Commission has been reduced in diameter by approximately 10" than the canister originally considered by the Planning Commission resulting in a slimmer profile. In comparison, Option No. 2 includes exposed antennas and wires, while the design of Option No. 1 aligns with the required findings cited in Section 12.18.090 of the RPVMC, including the general guidelines stated in Section 12.18.080 of the RPVMC, as summarized below:

- Employs screening with the canister shroud.
- Minimizes view and visual impacts with the panel antennas and related wires encased in a shroud with underground vaulted mechanical equipment.
- Avoids adverse impacts to traffic patterns including pedestrians and vehicles.
- Incorporates blending design techniques.
- Matches the material, color, and height of utility streetlight poles within the immediate neighborhood.
- Utilizes existing infrastructure thereby avoiding the installation of new above-ground infrastructure.
- Represents the least intrusive design as compared to alternative designs and locations.
- Meets the Applicant's coverage objective (see discussion below)

A detailed analysis of the required findings, based on Staff's preferred option, is discussed in the next section of this Staff Report.

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, 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 (WTF) in the PROW unless all of the following Findings are made (based on Staff’s preferred design option):

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 February 6, 2018, property owners within 500’ of the proposed facility were notified of the WTF mock-up which will occur at least 30 days in advance of the scheduled hearing date of March 13, 2018 any action on the Project. On February 8, 2018, a public notice announcing the February 27, 2018 public hearing was provided to property owners within 500’ of the proposed WTF and was published in the *Palos Verdes Peninsula News*. On February 22, 2018, the Applicant provided the City with a Shot Clock Tolling Agreement (See Attachment) establishing a new Shot Clock Expiration date of March 30, 2018. The Applicant has notified the City 20 days prior to the expiration of the shot clock for this application, which is now March 30, 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.

The WTF is proposed to be installed on an existing 37'-5" tall utility pole, with mast arm and multiple service arms that carry power lines along with cable lines. The antenna, based on Staff's recommendation, will be encased in a canister measuring 2' tall and 14.6" in diameter, minimizing its visual intrusion to the residential neighborhood. The canister would blend into the environment that consists of utility poles, power lines, cable lines, mast arms. The canister and mast arm would be the same color as the existing utility pole. The area also has existing foliage that would be replaced after the proposed facility is installed to soften its appearance from residences. The WTF would not dominate the surrounding area because of the existing vertical infrastructure and limited size of the proposed canister. The proposal places all of the related mechanical equipment underground in a vault.

The proposed installation will not have any significant view impairment to surrounding properties pursuant to Chapter 17.02.040 of the RPVMC and because the proposed WTF is not located in a view corridor identified in the City's General Plan or Coastal Specific Plan.

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 antenna, encased in a canister, is proposed to be installed on an existing 37'-5" tall utility pole, with a 4' mast arm and four existing service arms that carry power lines along with cable lines. The canister encasing the antenna and mast arm would be painted brown to match the pole and other utility poles in the area. The cylinder shaped shroud encasing the antenna and wires affixed to the utility pole is an appropriate technique that disguises and blends the facility into the environment blending with other poles in the area. According to the Applicant, the proposed canister is the slimmest design available for AT&T antenna panels, as such, it minimizes the facility's visual impacts and is more compatible with the surrounding environment in terms of size, proportion and color.

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.

The Project does not result in a significant view impairment to surrounding residences. The proposed WTF is not located in a view corridor identified in the City's General Plan or Coastal Specific Plan.

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 Project is designed to avoid adverse traffic impacts by placing the antenna within the canister shroud to an existing wood utility pole with the bottom of the antenna canister shroud measuring approximately 22'-10" from the ground. The related mechanical equipment will be vaulted underground in the parkway avoiding traffic safety impacts, including avoiding any impacts to the driveway serving 27662 Warrior Drive and any impacts along Longhill Drive.

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 canister shroud that would house the antenna and the associated mast arm would be painted with non-reflective mission brown paint that would match and blend with the existing utility pole.

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 Project is proposed to be installed on a mast arm attached to an existing 37'-5" tall utility pole, and four service arms that currently carry power lines along with cable lines. The antenna would be encased in a 2' tall and 14.6" in diameter canister shroud on a 4' mast arm, extending from the existing wood utility pole. The bottom of the antennas/canister would measure approximately 22'-10" above the ground level below. Locating the antennas on the mast arm would not preclude possible future collocation by other operators or carriers.

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 proposed WTF would be located in the PROW and would be pole mounted to an existing utility pole.

12.18.080(A)(6)(c): *Utility Poles. The maximum height of any antenna shall not exceed 48 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 24 feet above any drivable road surface.*

The proposed antennas would not exceed 48" above the existing height of the utility pole. The antennas are proposed below the maximum height of the 37'-5" tall utility pole approximately 22'-10" above the ground level to the bottom of the canister shroud housing the antennas. The proposed antenna encased in a canister shroud would not be 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 Project would be affixed to an existing wood utility pole, and the existing pole would not be replaced.

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

The pole mounted equipment, excluding antennas, would be limited to cable connecting the node to power and fiber optic backbone, connectors, brackets, and GPS. The pole mounted equipment, excluding antennas, would therefore not exceed six cubic feet in dimension. Furthermore, the related mechanical equipment would be vaulted underground.

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.*

Interior installation is infeasible as the WTF would utilize an existing wooden pole. All cables and wires will be installed within conduit, clipped and flush mounted and painted mission brown to match the pole.

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 WTF would be mounted to an existing wood utility pole. The placement of the antenna canister on the pole connected to a 4' arm would occupy limited air space above the right-of-way. The mechanical equipment would be undergrounded and the vault necessary to house the equipment measures approximately 43 square feet in area. This space is the least amount of space that is technically feasible for vaulted equipment owned by AT&T. The space that would be occupied is below the surface with minimum exhaust vents that would 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.*

The Project design, height and size, including the undergrounding of the mechanical equipment, would not cause an obstruction to the public's use of the PROW, does not constitute a safety hazard and/or does not interfere with the City-defined intersection visibility triangle because the bottom of the proposed antennas would be located 22'-10" above the ground level, not over the drivable portion of the street, and the related mechanical equipment would be undergrounded.

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.

The proposed installation, including the undergrounding of the mechanical equipment, would not interfere with fire hydrants, fire stations, water lines or any other public health or safety facilities. Furthermore, part of the plan check review process and site inspections, Public Works Staff would ensure that the Project would not interfere with any of the stated utilities.

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 would be undergrounded within the parkway.

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, would 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 would be proposed requiring the installation of landscaping within parkway to help soften, as well as screen, the appearance of the vault cover.

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 on the 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.

Alternative locations were identified in the application review process. The revised design, which includes the installation of antennas encased in a canister shroud measuring 2' tall and 14.6" in diameter mounted on a 4' mast arm, extending from the existing 37'-5" tall wood utility pole with the bottom of the antennas/canister measuring 22'-10" from the ground is the least intrusive means of those alternatives. There are alternative antennas available but, according to the Applicant, and as confirmed by the City's RF Consultant, would require a greater number of facilities throughout the community to provide equal coverage and capacity. This may require the introduction of new pole structures where there are no streetlights or utility poles and would likely require associated accessory equipment at every location. The supporting mechanical equipment would be vaulted underground resulting in meeting the objective of installing the least intrusive facility.

Other locations and designs, considered as part of the application process for purposes of filling the coverage gap claimed by the Applicant, were found to be more intrusive than the proposed Project for the reasons stated under Finding No. 3 of Section 12.18.190(B) of the Municipal Code, below.

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 would 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 would 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 25 would 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 "prima 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 other poles at the following 5 alternative locations based on the original primary location (see attachment):

- Location A. Replacement of an existing street light pole on the south side of Longhill Drive approximately 50 feet west of Warrior Drive (this was previously the primary location).
- Location B. Installation on an existing utility pole south side of Longhill Drive at the T intersection with Warrior Drive.
- Location C. Replacement of an existing street light pole approximately 100' west of the new Primary site on the south side of Longhill Drive.
- Location E. Colocation on an existing Wireless Telecommunication Facility on the west side of Warrior Drive on an existing utility pole.
- Location F. Replacement of a speed limit sign on the northwest corner of Longhill Drive and Warrior Drive.

Every alternative site meets 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 visible from fewer residences compared to all the other alternative sites which are located in densely developed residential neighborhoods. The WTF would better blend in with the existing pole because of the existing, power lines, cable lines, and mast arms. And while the proposed location is within 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 than 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 antennas in the gap area claimed by the Applicant and discussed by the City's RF Engineer (attached), as opposed to having one AT&T antennas in this area.
- Staff looked at other design options from other (non-AT&T) carriers. While some carriers offer antennas that may be smaller in overall size, such designs from other carriers are not engineered to carry the bandwidths owned by AT&T.

- Collocating on the existing utility pole on Warrior Drive is not feasible as this facility is in a dense residential neighborhood and any additional antennas on the pole will exacerbate the visual intrusion into the neighborhood.

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 would be installed on an existing wood utility pole that would match other utility poles in the immediate area. The proposed canister housing the antenna would be painted brown to match the existing pole. 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 regard 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 February 20, 2018, has set to expired on March 30, 2018. (See Attachment)

Public Comments

Attached are the public comments received including comments opposing and supporting the proposed wireless facility, as well as a petition signed by residents requesting the proposed facility be relocated Beechgate and Silver Spur (see attachment). According to the Applicant, since there is a considerable grade difference between this intersection and the coverage objective area, the pole supporting the wireless facility would have to be approximately 200' in height to achieve a signal in the coverage area.

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 January 2, 2018 and the notice was issued on February 6, 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.

CONCLUSION

Provide Staff with direction on the Applicant's revised location and design options for the proposed wireless telecommunication facility, and continue the public hearing to March 13, 2018.

ATTACHMENTS

- Revised Project Plans and Visual Simulations
- Updated Coverage Maps and Supporting Document from the Applicant
- Updated Technical information from the City's RF Consultant
- City's View Assessment Memo
- Tolling Agreement
- Public Comments