

RESOLUTION NO. R 03- 14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PALOS VERDES ESTATES, CALIFORNIA, DENYING  
AN APPEAL OF A DECISION OF THE PLANNING COMMISSION  
TO DENY AN APPLICATION TO INSTALL A PERSONAL  
WIRELESS SERVICE FACILITY IN THE PUBLIC  
RIGHT-OF-WAY ADJACENT TO 4312 VIA AZALEA

The City Council of the City of Palos Verdes Estates does resolve as follows:

SECTION 1. An application was submitted by Sprint PCS ("Applicant") for permission to install personal wireless service facilities (the "Facilities") on public property, being the right-of-way adjacent to 4312 Via Azalea, Palos Verdes Estates, County of Los Angeles, State of California (the "Application").

SECTION 2. On October 22, 2002, the City's Public Works Director determined to deny the Application, upon finding that the Facilities were not designed to be as visually unobtrusive as possible, nor sited to avoid or minimize obstruction of views from adjacent properties.

SECTION 3. On November 26, 2002, City staff met with the Applicant to discuss the denial. At that time, the Applicant stated that there were possible alternative locations for the Facilities. Subsequently, however, the Applicant appealed the Public Work Director's determination without investigating such alternatives.

SECTION 4. On December 17, 2002, the Planning Commission reviewed the appeal. It continued that hearing. The Applicant then revised the plans, by relocating a utility box which was to be pole-mounted across the street from the pole and adjacent to another utility pedestal (the Application as revised is hereinafter the "Amended Application"). The Planning Commission considered the appeal of the Amended Application on January 22, 2003, and voted to deny the appeal.

SECTION 5. On February 6, 2003, an appeal of the Planning Commission's denial of the appeal was filed by the Applicant.

SECTION 6. On February 25, 2003, the City Council opened the public hearing on the matter, which was duly and properly noticed, and continued it to March 25, 2003, at the request of the Applicant. On March 25, 2003, the City Council again continued the hearing at the request of the Applicant.

SECTION 7. On April 22, 2003, the City Council held its hearing on the matter. At such hearing, the City Council received and considered the following writings and documentary evidence, among others: a written staff report which included the appeal, site plans, visual presentations by

both City staff and the Applicant, and minutes of the Planning Commission meeting. The City Council further received and considered an oral staff report as well as oral testimony from the Applicant and others. The City Council further received information and considered information regarding environmental review of the Amended Application and the determination that the project is categorically exempt from the California Environmental Quality Act.

SECTION 8. Based upon the evidence presented, the City Council hereby finds and determines as follows:

- a. Each fact set forth in Section 1 through 7 above is true and correct.
- b. Each fact set forth in the memorandum for Agenda Item No. 8.c., Meeting Date 4/22/03, from Allan Rigg to James B. Hendrickson, presented to the City Council on said date, is true and correct.
- c. The City of Palos Verdes Estates was established as a planned community, and the public rights-of-way in the City were established as part of that comprehensive land use planning. They comprise 761 acres (approximately 25%) of the land within the City boundaries, and are used as streets, medians, and parkways which serve not only a vital transportation function, but are situated and developed to add to the beauty and aesthetics of the community. The proper development and maintenance of the rights-of-way are significant factors in maintaining the high property values for properties in the City.
- d. For many years the City has undertaken actions to protect the aesthetic integrity of the rights-of-way. These actions include prompt replacement and rehabilitation of right-of-way surfaces, extensive maintenance of street trees, control of the species of trees permitted to be planted by private property owners, strict regulation of permissible encroachments by private property owners including but not limited to the establishment and enforcement of policies pertaining to driveways, mailboxes, and other facilities commonly found in the public right-of-way, and the general prohibition of facilities such as walls, pilasters and gates, trellises, large stones, and utility boxes in the public rights-of-way.
- e. The Amended Application seeks to locate the antenna portion of the Facilities on a pole in Via Azalea. Via Azalea is one of the narrowest streets in the City, and the presence of large structures adjacent to the street has a greater aesthetic detriment than would be true for a wider street. The existing utility pole is located only three (3) feet from the curb.
- f. The antennas are proposed to be attached to double-wide, eight (8) foot long mast arms supported by braces. The orientation of the mast arms is parallel to the main

view corridor of the properties on the south side of Via Azalea, cutting directly across that view.

- g. Because the utility pole is located so close to the curb, the antennas appear to loom over the roadway, creating a crowded, industrial appearance, adversely affecting the residential character of the neighborhood.
- h. Cellular telephone service is currently available in the area surrounding the proposed site of the project, not only from Sprint, but also from AT&T and Nextel. The Applicant's claim that there will be no service if the Application is not granted is not presently true, but is apparently based upon the Applicant's intent to remove its existing facilities which provide service and to substitute the facilities proposed by the Application. Even if the Applicant removes the existing facilities and does not replace them, however, there will be wireless telecommunication service available from other providers.
- i. The Applicant provided no information as to why its existing facilities need to be removed at this time. Nor has the Applicant provided any information as to when it plans to remove the existing facilities.
- j. At the request of City staff, the Applicant analyzed the potential to place the Facilities in another location as part of its appeal. The Applicant analyzed only three (3) possible locations, all being existing utility poles approximately fifty (50) feet from the proposed site. The Applicant did not provide any review or analysis of the potential for a new pole which could be installed in a less visible portion of the public right-of-way, nor did it conduct any review or analysis of the potential for the Facilities to be located on private property.

SECTION 9. Based upon the findings set forth herein, the City Council finds that the Amended Application and the Facilities proposed therein:

- a. Have not been designed to be as visually unobtrusive as possible, in that no attempt has been made to reduce the size of the antennas nor to screen or hide them;
- b. Have not been designed to avoid or minimize obstruction of views from adjacent property, as the masts and antennas are oriented in the view corridor of adjoining properties;
- c. Have not been finished in a color to neutralize or blend with the sky and surrounding improvements;
- d. Will significantly increase the adverse aesthetic impact of a utility pole which already has some adverse effect;

- e. Has not been proved by the Applicant to be necessary to provide mobile telecommunication service within the area; and
- f. Has not been proved by the Applicant to be in the only possible location for the Facilities.

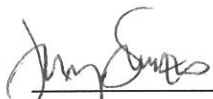
SECTION 10. Based upon the findings and determinations set forth herein, as supported by the evidence considered in connection therewith, the City Council finds and determines that the use of the public right-of-way in the time, place, and manner proposed in the Amended Application would incommode the public use of such right-of-way. The City Council further finds and determines that the Amended Application does not comply with the requirements of Palos Verdes Estates Municipal Code Chapter 18.55. Therefore, the City Council finds and determines that the Applicant's appeal of the Planning Commission's denial of the Amended Application is denied, and the Amended Application shall not be approved. The City Council hereby finds that each finding in Section 9 above would, alone, be sufficient to support its determination in this matter to deny the appeal, and that it would have made the same determination had only one of such findings been present in this situation.

SECTION 11. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 13<sup>th</sup> day of   MAY  , 2003.

  
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FRED W. MACKENBACH, Mayor

ATTEST:

  
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JUDY SMITH, City Clerk

APPROVED AS TO FORM:

  
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STEPHANIE R. SCHER, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF PALOS VERDES ESTATES )

I, Vickie Kroneberger, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R03-14** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 13th day of May, 2003, by the following vote:

AYES: COUNCILMEMBERS: Mackenbach, Sherwood, Flood  
Humphrey, and Abbott

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

  
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Vickie Kroneberger, Deputy City Clerk