

RESOLUTION NO. R17-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, DENYING THE APPEAL AND AFFIRMING THE PLANNING COMMISSION APPROVAL OF WT-142-15; WIRELESS TELECOMMUNICATION FACILITIES APPLICATION WITHIN THE CITY RIGHT-OF-WAY IN THE CENTER MEDIAN OF PALOS VERDES DRIVE NORTH

The City Council of the City of Palos Verdes Estates does hereby find, order and resolve as follows:

Section 1. Recitals.

A. On October 16, 2016, Crown Castle NG West LLC submitted an application for Wireless Telecommunication Facilities application for the property located within the City right-of-way on the east side of Palos Verdes Drive North across from 3912 Palos Verdes Drive North in the City of Palos Verdes Estates, County of Los Angeles, State of California ("the Property"). The application sought approval of a new wireless telecommunications facility (the "Project").

B. On March 15, 2016, the Planning Commission conducted a hearing on the matter. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Planning Commission raised concerns with the height of the pole, the aesthetics, the location, and questioned the coverage in the area. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission directed the applicant to evaluate alternative sites and to provide additional coverage information on this location and continued the Project.

C. On May 17, 2016, the Planning Commission conducted a hearing on the matter. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Project included an alternative location at the southeast corner of Palos Verdes Drive North and Via Valmonte, which consisted of replacing an existing street name sign and bicycle law sign with a new pole with antennas on top. The applicant also provided coverage information that showed three locations out of six locations evaluated in the area that met the coverage objectives. The other alternative location was located in the center median of Palos Verdes Drive North at the intersection of Via Valmonte, which consisted of replacing an existing keep right traffic sign pole. The Planning Commission raised concerns with the aesthetics, the use of the City street name signs for a wireless facility, and the location of the Project. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission directed the applicant to continue evaluating alternative sites and continued the Project.

D. On October 5, 2016, the Planning Commission conducted a hearing on the matter. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Project included three locations for the Planning Commission to consider along with updated information on alternative sites and coverage. The Planning Commission raised concerns

with the proposed locations and potential impacts on adjacent properties. The Planning Commission directed the applicant to construct a mock up in center median before making a decision on the application to determine the impacts on adjacent properties. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission continued the Project.

E. On November 15, 2016, the Planning Commission conducted a hearing on the matter. At such hearing the Commission received and considered documentary evidence including, but not limited to, a staff report and site plans and received and considered oral testimony from the applicant and others. The Planning Commission considered an additional alternative location in the center median approximately 35 ft. to the north of the existing traffic pole at the edge of the center median. The proposal consisted of replacing an existing pole that includes a “no horses on pedestrian pathway sign” with a 14 ft. high steel pole with two antennas on top and a new ground mounted cabinet. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the Planning Commission approved WT-142-15 at this alternative location; Wireless Telecommunications Facilities application to replace an existing City pole in the center median of Palos Verdes Drive North approximately 35 ft. from the edge of the center median with a new 14 ft. high pole with antennas on top and a new ground mounted cabinet, subject to conditions of approval.

F. On November 30, 2016, an appeal was timely filed by Terri Tsuchida (“Appellant”), neighbors who live at 3865 Palos Verdes Drive North (“Appeal”). The basis for the Appeal outlined the following:

1. It is an eyesore.
2. It disrupts the appellant’s beautiful view of Palos Verdes Drive.
3. Past meetings notes showed this as an Option #2. Not the first option, which was in the park area. The appellant does not understand what transpired to make this the determined location.
4. The pole mock-up was in place for less than a month before the meeting. Not enough notice was given to neighbors to understand the impact.

G. On January 24, 2017, the City Council held a duly noticed public hearing on the Appeal. At the public hearing, the City Council received and considered the written staff report which included the Appeal, plans, and visual presentations; written and oral testimony of the Appellant, the applicant and others; and documentary evidence, including, but not limited to, a staff report and the minutes of the Planning Commission hearing. The City Council asked the applicant to explore an alternative location approximately 30 ft. north of the location in the center median that the Planning Commission approved. Following the conclusion of the public testimony and thorough deliberation of the subject matter, the City Council continued the Project.

H. On February 28, 2017, the City Council held a duly noticed public hearing on the Appeal. At the public hearing, the City Council received and considered the written staff report which included the Appeal, plans, and visual presentations; written and oral testimony of the Appellant, the applicant and others; and documentary evidence, including, but not limited to, a staff report and the minutes of the Planning Commission hearing. The City Council received and considered information regarding environmental review of the Project and the determination that the Project is categorically exempt from CEQA.

Section 2. Based on the evidence presented and in light of the whole record, the City Council hereby finds and determines as follows:

A. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to California Administrative Code Title 14, Chapter 3, Section 15303 (New construction or conversion of small structures). The project proposes the replacement of an existing City pole with a new steel pole with antennas on the top portion of the pole. The “no horses on pedestrian pathway” sign will be placed on the new pole and a new ground mounted multi-purpose cabinet will be installed adjacent to existing shrubbery.

B. As proposed, the evidence, including without limitation a number of photographs submitted for City Council review, photo simulations of the proposed project, and observation of the mock-up erected to evaluate the impacts, demonstrates that the Project (Option 2 noted in the City Council staff report) proposes the least intrusive design by proposing a replacement pole with antennas above and a multi-purpose cabinet. As conditioned, landscaping will be incorporated as part of the Project to help screen the pole within the center median. This conclusion was reached by the City Council after reviewing several alternative designs and locations for the new wireless facility and against criteria that make a site more desirable (distance from residences, view impacts from residences, integration with existing infrastructure and poles, proximity to other such facilities).

C. Crown Castle’s application has undergone a robust review by the City and the public. The Planning Commission held four duly noticed public hearings and the City Council held two duly noticed public hearings, afforded all interested parties a meaningful opportunity to address the Commission and Council in writing and at the hearing, and was benefitted by the participation of both project proponents and opponents. The process resulted in significant changes to the originally proposed design and also resulted in a least intrusive location.

Section 3. The City Council makes the additional following statutory findings with respect to the application for approval submitted for the Project:

WIRELESS TELECOMMUNICATION FACILITIES APPLICATION:

1. The application adequately mitigates the facility’s impact on the health, safety or welfare of the community including, but not limited to, aesthetic impacts arising from the proposed time, place, and manner of use of the public property. Based on a radio frequency report submitted by the applicant and reviewed by the City’s wireless consultant, the proposed project demonstrates planned compliance with the FCC rules. In addition, the proposed pole will replace an existing City sign pole and is designed to be disguised as a “no horses on pedestrian pathway” sign pole within the center median. The proposed cabinet will be placed adjacent to existing shrubbery.

2. The proposed facility meets the City design guidelines applicable to wireless telecommunications facilities, including without limitation (a) it is designed to be as visually unobtrusive as possible, having been both lowered from original proposal, moved from the original proposal, and making maximum use of existing poles; (b) the project utilizes innovative design methods to minimize visual impact; and (c) the project includes adequate landscaping and screening to minimize the visibility to the greatest extent possible. As conditioned, appropriate landscaping will be installed to screen the pole and ground mounted multi-purpose cabinet.

3. The application materials appropriately clarify the need for the facility to close a significant gap in coverage. Based on coverage maps and other documentation submitted by the applicant, the Project demonstrates a significant gap exists.

Section 4. The City Council hereby adopts the Planning Commission's findings and approves Application Number WT-142-15, subject to the following conditions:

1. This approval is granted for the land or land use as described in the application and any attachments thereto.
2. All buildings, fences, signs, roadways, parking areas, and other facilities or features shall be located and maintained as shown on the approved plans.
3. All structures and improvements shall be of the design as shown on the approved plans.
4. Compliance with and execution of all conditions listed herein shall be necessary prior to obtaining final building inspection clearance. Deviation from this requirement shall be only by written consent of the Director of Planning.
5. All requirements of any law, ordinance, or regulation of the State of California, City of Palos Verdes Estates, and any other governmental entity shall be complied with.
6. This approval is subject to the applicant paying all fees and assessments to the City of Palos Verdes Estates, as required by Ordinance.
7. In the event the City determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant shall be required to pay any and all cost of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amiably resolved, unless the City should otherwise agree with the applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.
8. The applicant shall defend, indemnify, and hold harmless the City and its officers, agents, and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void, or annul approval of this application. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense.
9. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Department of Building and Safety must be obtained prior to construction, enlargement, relocation, conversion, or demolition of any building or structure within the City
10. The nodes shall be removed from the pole and placed in a cabinet. The final cabinet location shall be subject to review and approval by City staff.

11. The steel pole and cabinet shall be automatically dedicated to the City by the applicant immediately upon building department approval of the actual installation, and the applicant shall enjoy no ownership rights or claims to the pole and whatsoever once so approved. The steel pole, as its primary function, is a City sign pole. Wireless use is only a secondary use of the sign pole.
12. The steel pole shall be burnished prior to painting. The pole and antennas must be painted a flat dark brown or other approved color determined in consultation with the Palos Verdes Homes Association, and maintained in the same condition thereafter.
13. The equipment cabinet shall be painted dark green or other color determined in consultation with the Palos Verdes Homes Association to blend in with the existing surrounding environment.
14. All cables interconnecting the antennas and all transmission equipment should run within the pole except as minimally required to connect to the antennas.
15. This authorization shall expire at 12:01 a.m. on the day following the tenth (10th) anniversary of the date the building permit for this site is issued. Unless this authorization is renewed prior to the expiration date, following whatever the applicable procedure is at that time, the wireless facility permitted herein (and the pole if requested by the City) shall be promptly removed at applicants sole cost and expense, and any damage to the land, pole and/or CISH shall be promptly repaired by applicant.
16. Permittee shall place its name on the lid of the proposed underground fiber vault.
17. Permittee shall install and at all times maintain in good condition an "RF Notice" and "Network Operations Center Information" sign on the steel pole at approximately 12 feet AGL.
18. Permittee shall ensure that all RF signage complies with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions.
19. A landscape plan shall be submitted to the City illustrating the proposed plant material, location, and size of the proposed landscaping for review prior to the issuance of any permit. The applicant shall install appropriate landscaping to screen the proposed cabinet and related equipment as determined by the Urban Forester and Director of Planning.
20. Installation, maintenance and replacement of landscaping shall be the responsibility of the applicant as deemed necessary by the City to provide adequate screening of the proposed cabinet and related equipment during the entire term of the permit. The applicant shall utilize a landscape maintenance contractor acceptable to City

Section 5. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 14th day of March, 2017.



JENNIFER L. KING, Mayor

ATTEST:



VICKIE KRONEBERGER, City Clerk

APPROVED AS TO FORM:



CHRISTI HUGIN, City Attorney

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

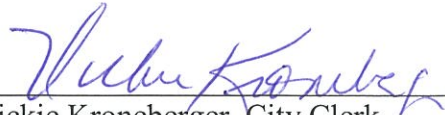
I, Vickie Kroneberger, City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R17-09** was duly and regularly approved and adopted by the City Council of the City of Palos Verdes Estates at its regular meeting of the City Council on the 14th day of March, 2017, by the following vote:

AYES: COUNCILMEMBERS: King, Vandever, Rea, Peterson

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

RECUSED: COUNCILMEMBER: Goodhart


Vickie Kroneberger, City Clerk