

RESOLUTION R17-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES, CALIFORNIA, DENYING, WITHOUT PREJUDICE, THE APPEAL AND AFFIRMING PLANNING COMMISSION DECISION TO DENY WT-136-15 FOR A WIRELESS TELECOMMUNICATIONS FACILITY WITHIN THE CITY RIGHT-OF-WAY AT DOLORES PLAZA.

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

A. On October 16, 2015, Crown Castle NG West, LLC, submitted an application to install new wireless equipment on the property located within the City right-of-way adjacent to 1121 Via Coronel in the City of Palos Verdes Estates, County of Los Angeles, State of California, (the "Property"). The application sought approval of Wireless Telecommunication Facilities application WT-136-15 (the "Project").

B. Following the initial submittal of the application, the applicant evaluated alternative locations for the proposed location of the wireless equipment and on June 2, 2017 submitted revised plans showing the proposed location in Dolores Plaza across from 1800 Via Estudillo. In addition, the applicant submitted radio frequency coverage information that illustrated that such coverage could be met at three locations in the surrounding area, which include the site in Dolores Plaza, adjacent to 1121 Via Coronel, and adjacent to 1112 Via Curva;

C. On June 20, 2017, the Planning Commission, at a properly noticed public hearing, considered the proposed location in Dolores Plaza across from 1800 Via Estudillo. At such hearing, the Commission received and considered documentary evidence including, but not limited to, staff reports and site plans and received and considered oral testimony from the applicant and oral and written testimony from City residents, among others. At that hearing, concerns were voiced by the public regarding the permanent negative aesthetic and noise impacts the pole and wireless equipment would have to adjacent neighbors and those using Dolores Plaza for recreational purposes. Questions were also raised by the public and Commission as to whether the installation of this wireless facility would eliminate the need for another potential wireless facility further north on the corner of Via Estudillo and Espinosa Circle. The Planning Commission directed the applicant to conduct additional testing at the Dolores Plaza primary site at different pole heights to determine whether the installation of this proposed facility would obviate the need for an additional pole further north on the corner of Via Estudillo and Espinosa Circle and continued the Project;

D. On July 18, 2017, the Planning Commission publicly further considered the Project at a properly noticed public hearing. At such hearing the Commission received and considered documentary evidence including, but not limited to, staff reports and site plans and received and considered oral testimony from the applicant, and oral and written testimony from City residents, among others. The Planning Commission raised concerns related to the visual impacts the facility will have on the surrounding neighbors and recommended alternative locations for the proposed facility be further explored. The applicant testified that the Project could be reduced from 21 ft. to 17 ft. in height. In response to public testimony received indicating the possibility of an alternative location on Via Zurita, the applicant responded that the location did not meet its coverage objectives. The Planning Commission

offered the applicant the opportunity to conduct and present additional studies to substantiate its claim that the Via Zurita alternative was not suitable, but the applicant declined, asking that the Planning Commission render a decision on the project as presented. Following the conclusion of the public testimony, and with consideration of the applicant's refusal to provide additional information to substantiate that Dolores Plaza is the least intrusive alternative location, and after thorough deliberation of the subject matter, the Planning Commission denied the Project by a vote of 5 to 0.

E. On August 15, 2017, an appeal was timely filed by the applicant, Crown Castle NG West, LLC ("Appellant").

F. On October 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 and others; and documentary evidence, including, but not limited to, a staff report of the Planning Commission hearing. The City Council received and considered the information regarding environmental review of the Project and the determination that the Project is categorically exempt from CEQA.

Section 1. Based on the substantial evidence presented and contained in the written administrative record, and in light of the whole record, the City Council hereby finds and determines as follows:

A. Each fact set forth in the recitals above is true and correct.

B. Each fact set forth in the memorandum from Planning staff for the June 20, 2017 hearing date, and for the July 18, 2017, hearing date, which were presented to the Planning Commission on said dates, is true and correct.

C. Each fact set forth in the memorandum for the October 24, 2017 hearing date, which was presented to the City Council on said date, is true and correct.

D. The City of Palos Verdes Estates was established as a carefully planned community and the public rights-of-way in the City were established as part of that comprehensive land use planning. They serve both a vital transportation function and add to the beauty and aesthetics of the community. The proper and consistent development and maintenance of the City rights-of-way are significant factors in maintaining the carefully planned and historically protected rural character of City neighborhoods, parks, and plazas.

E. Since its incorporation on December 20, 1939, the City has undertaken numerous actions to protect the aesthetic integrity of the community and the public rights-of-ways. These actions include prompt replacement and rehabilitation of right-of-way surfaces, extensive maintenance of street trees and parklands, strict limitation and regulation of permissible encroachments by private property owners, and the general restriction of facilities such as walls, pilasters and gates, trellises, large stones, and utility boxes in the public right-of-way. Where the City has in the past approved wireless telecommunication facilities in the City right-of-way, every effort has been made on a site-by-site basis to ensure that a particular project is minimally visible from nearby residences and is screened to the maximum extent feasible.

F. The Project is proposed to be located in the right-of-way that is improved as Dolores Plaza, a pocket park entirely surrounded by single-family homes on Via Coronel, Via Estudillo and Via Curva. Via Coronel and Dolores Plaza are fully improved public streets that surround the raised landscape median known as Dolores Plaza. Dolores Plaza historically has and continues to serve the community as a public park and is actively used by the surrounding community for active and passive recreational uses. Dolores Plaza is a focal point for the community and surrounding homes.

G. As proposed, the Project would consist of a 21-foot high pole with two visible antennas center-mounted at approximately 20 feet above ground level with related visible cables, mounting hardware, foundations, signage, and ground-mounted cabinets to house the power meter and related radio equipment to power the antennas. The equipment cabinet would be located above ground level to the east of the pole adjacent to existing vegetation. Both the pole and equipment cabinet would be painted dark green. Although the Applicant indicated to the Planning Commission that the overall project height might be reduced to a 17-foot high pole, the Appeal to the City Council did not incorporate any height revision to the Project. The Project is not the least intrusive design based upon testimony of the Appellant during the public hearing with the Planning Commission.

H. The location of the Project within close proximity to the park use and single family homes will be highly visible and disruptive. Furthermore, the proposed antenna and pole height and prominent cabinet will dominate the surrounding areas with elements not in character with this park site. The neighborhood has been designed with all utilities that are placed underground, including telephone utilities. The proposed installation and support equipment are not compatible with the park setting and surrounding residential area. The proposed equipment cabinet would be visually dominant and obtrusive and will add inconsistent visual clutter to this small pocket park. The public right-of-way that incorporates Dolores Plaza has been planned and constructed to achieve an attractive appearance that minimizes the number and appearance of regulatory street signs, utilities and related equipment. Accordingly, this Project will substantially and materially detract from the visual appearance of the streetscape and the pocket park, and the surrounding neighborhood.

I. The Applicant has not provided a meaningful alternative comparative analysis and the proposed Project is not found to be at an acceptable location, much less the least intrusive means to close a claimed gap in coverage for AT&T. The proposed facility can be located within other right-of-way locations, including but not limited to Via Coronel and Via Zurita, which are locations the City requested the applicant to consider, but which the applicant declined to effectively evaluate.

Section 2. The City Council makes the additional following statutory findings regarding the Applicant's Wireless Telecommunications Facility Application:

1. The Project as proposed is not the least intrusive means and does not adequately mitigate the facility's resulting aesthetic 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 with specific and permanent negative impacts to the surrounding residential properties and pocket park,. Additionally, there are feasible alternate locations or designs that would mitigate the project's aesthetic impacts, but which the applicant declined to prove could not be used in lieu of the Project as proposed;

2. The Project does not meet City design guidelines applicable to wireless telecommunications facilities, including without limitation, the following guidelines: (a) that the project

be designed to be as visually unobtrusive as possible; (b) that the project utilize innovative design methods to minimize visual impact; and (c) that the project include adequate landscaping and screening to minimize the visibility to the greatest extent possible.

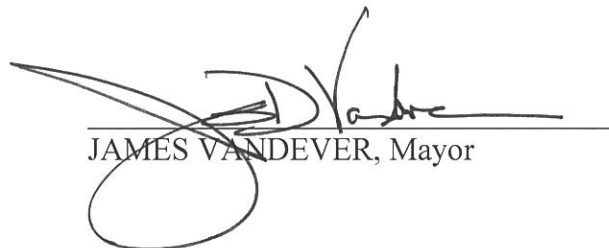
3. The City has independently determined and disclosed to the Planning Commission and City Council that the Project, if constructed as proposed, would fully comply with the FCC radio frequency emission safety standards at 47 C.F.R. § 1.1307 et seq. and FCC Office of Engineering and Technology Bulletin 65 thus the City Council's denial of the Project is not based in whole or in part on any public concerns regarding radio frequency emissions.

4. While the applicant has demonstrated a significant gap in AT&T's coverage, the proposed Project does not appear to satisfy the stated target coverage requirements, and is not the only location or means to serve AT&T. The applicant has failed to demonstrate that its proposed site at Dolores Park is the least intrusive means to provide service to AT&T. Based on the written administrative record and oral testimony taken at all levels for this Project, the City Council determines that the Project is not the least intrusive means to provide the coverage sought by the applicant.

Section 3. Pursuant to the foregoing recitations and findings, the City Council denies without prejudice the Applicant's appeal of the Planning Commission's determination and denies Wireless Telecommunication Facilities application WT-136-15 for a proposed wireless telecommunication facility at within the city right-of-way at Dolores Park.

Section 4. The City Clerk shall certify to the passage and adoption of this Resolution, and shall within one (1) business day provide the applicant with a true and complete copy of this Resolution, and City staff shall immediately provide applicant with access to the full administrative record in this proceeding.

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



JAMES VANDEVER, Mayor

ATTEST:



LAUREN PETTIT, Deputy City Clerk

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

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

I, Lauren Pettit, Deputy City Clerk for the City of Palos Verdes Estates, California, do hereby certify that the foregoing Resolution **R17-37** 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 November, 2017, by the following vote:

AYES: COUNCILMEMBERS: Vandever, Peterson, King, Davidson, Kao

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

RECUSED: COUNCILMEMBER: None



Lauren Pettit, Deputy City Clerk