



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 5

Section Name: {{section.name}}

Account Number:

File ID: {{item.tracking_number}}

TO: Sustainability and Infrastructure Commission

FROM: Brad Underwood

PREPARED BY: Public Works Department

MEETING DATE: December 13, 2023

SUBJECT:

Wireless Permit Approval at 535 Clark Drive (Permit# WC-2023-000219) - Appeal

RECOMMENDATION:

Hold a public hearing to consider an appeal from a resident within 500 feet of the proposed site of a wireless permit application that was approved by the Director of Public Works.

BACKGROUND:

On October 10, 2023, the City of San Mateo (“City”) staff received a Wireless Facilities Communications Permit Application (“Application”) from Crown Castle, working on behalf of Verizon for the installation of wireless communication facilities on an existing wood utility pole within the public right-of-way (Attachment 3). The location of the proposed wireless communications facility is in the San Mateo Park neighborhood approximately 60-feet east of the Clark Drive/Midway Avenue/ Edgewood Road intersection on an existing wood utility pole (PG&E ID# 110072203) within the public sidewalk. Attachment 1 shows the proposed facility’s location and photo simulation renderings.

As required by the San Mateo Municipal Code (“SMMC”) Chapter 17.10, “Wireless Communications Facilities in the Public Right-of-Way”, Crown Castle must meet all requirements and design standards as outlined in SMMC Sections 17.10.040 and 17.10.050. This includes, but is not limited to, a full permit application form and providing mailed notices to nearby residents within a 500-foot radius of the proposed project site of the proposed wireless small cell facility. Based on the review of all the submitted documents, staff determined that the application and proposed installation meet the required conditions of approval as outlined in SMMC Chapter 17.10.

After its review, the City conditionally approved the Application on November 16, 2023. As required by the SMMC Section 17.10.070, a decision notice was posted on November 16, 2023 on the City’s Small Cell Infrastructure website. The notice advised residents of the Director of Public Works’ (“Director”) decision and allowed a 5-day appeal period.

Approval Authority

The Director’s decision to approve this Wireless Facilities Communications permit application and the criteria the Sustainability and Infrastructure Commission (“Commission”) must evaluate in its determination of whether to grant or deny any appeal is based on SMMC Section 17.10.070(b)(1-4), which states in pertinent part:

Required Findings for Approval. The approval authority may approve or conditionally approve an application for a wireless permit submitted under this chapter when the approval authority finds all the following:

1. The applicant and the proposed wireless facility comply with all applicable requirements of this Chapter and the City Design Standards and Application Requirements (“Design Standards”); and
2. The application is deemed complete by the Director; and
3. The proposed wireless facility complies with all applicable federal, state and local laws, regulations, rules, restrictions and conditions, which includes without limitation, the California Building Standards Code or any local building codes; the Americans with Disabilities Act, and all applicable health and safety requirements, including Public Utilities Commission General Order 95, (and as these rules may be amended or superseded); General Plan and any applicable specific plan; the San Mateo Municipal Code; and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project; and
4. The applicant has demonstrated that its proposed wireless facility will be in compliance with all applicable FCC rules and regulations for human exposure to RF emissions.

Appeal to Wireless Permit

Pursuant to SMMC Section 17.10.070(g), the appellant on appeal has the burden of proof for establishing the basis for seeking the reversal of the permit approval.

On November 20, 2023, the City received an appeal from Linda San Felipe (“Appellant”), which included four items as basis for the appeal (“Basis Items”)(Attachment 2).

Therefore, the appropriate scope of appeal is as follows:

Basis 1: Site Location in Residential District

Basis 2: Property Values

Basis 3: Aesthetics

Basis 4: Pole Selection and Alternate Site #07

Pursuant to SMMC Section 17.10.070(g), the Commission shall hold a public hearing to consider and act on the appeal de novo and in accordance with the required findings by issuing a decision at the hearing.

Staff Review

Staff reviewed the wireless permit application for conformance to SMMC Section 17.10.070(b)(1-4).

Regarding **Basis 1, site location in residential district**, the applicant provided an Alternate Site Analysis, included in Attachment 3 on page 170-175, that assessed all poles within 500 feet of the proposed site. All poles within 500 feet are within the same R1B residential zoning, and there are no other alternative locations with more preferred zoning.

Regarding **Basis 2, property values**, the City’s Design Standards do not consider property values when reviewing wireless permit applications. Property values are speculative in nature, can be affected by a multitude of different reasons, and would be impractical for staff to assess.

Regarding **Basis 3, aesthetics**, the project design of a side-arm attachment with cylindrical shrouding was reviewed in compliance with the City’s Design Standards. Staff determined that the metal side-arm sufficiently shrouds the attachment and wiring, and the cylindrical shroud will provide a smoother and less obtrusive silhouette for the facility.

Regarding **Basis 4, pole selection and Alternate Site #07**, the appellant states that Alternate Site #07, located within the island at the intersection of Clark Drive/Midway Avenue/Edgewood Road, is a better location for siting the small cell facility that is farther away from homes. However, the Alternate Sites Analysis stated multiple reasons for why Site #07 would not be feasible:

1. Pole equipment spacing would not comply with General Order-95 clearance requirements as power and communication lines from three (3) different directions are connected to the pole, leaving insufficient spacing for the proposed devices. California Public Utility Commission General Order-95 establishes requirements and clearances for all overhead electrical supply and communications facilities.
2. Tree density and obstructions would affect the devices from meeting its coverage objective. Pruning of the tree to meet coverage objectives may be damaging or fatal to the island's heritage trees for which the San Mateo Park Neighborhood Association ("SMP-NA") has expressed a strong desire to protect.

Based on the review of the Crown Castle application and the above, staff believes Crown Castle has met the requirements of the Municipal Code and Design Standards. Based on the above, **staff recommends the Commission deny the appeal.**

BUDGET IMPACT:

The public hearing to consider resident appeals does not have a direct impact on the City's Budget other than costs associated with staff time which are paid for by the permit applicant.

ENVIRONMENTAL DETERMINATION:

This appeal is not a project subject to CEQA, because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines Section 15378(b)(5).)

NOTICE PROVIDED

All meeting noticing requirements were met.

ATTACHMENTS

- Att 1 – Location Map and Simulations
- Att 2 – Appeal Applications
- Att 3 – Wireless Permit Application Files

STAFF CONTACT

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