



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 2

Section Name: {{section.name}}

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TO: Sustainability and Infrastructure Commission

FROM: Brad Underwood

PREPARED BY: Public Works Department

MEETING DATE: October 11, 2023

SUBJECT:

Wireless Permit Approval at 2317 Armada Way (Permit# WC-2023-000136) - Appeals

RECOMMENDATION:

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

BACKGROUND:

On May 9, 2023, the City of San Mateo ("City") staff received a Wireless Facilities Communications Permit Application (Attachment 3) from Crown Castle, working on behalf of Verizon for the installation of wireless communication facilities on an existing streetlight within the public right-of-way. The location of the proposed wireless communications facility is in the Mariner's Island neighborhood at the intersection of Armada Way and Shoal Drive within the landscaped center median on an existing streetlight (#1014A). Attachment 1 shows the proposed facility's location and photo simulation renderings.

As required by the San Mateo Municipal Code ("SMMC") 17.10, "Wireless Communications Facilities in the Public Right-of-Way," Crown Castle must meet all requirements and design standards as outlined in SMMC 17.10.40. 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 site of the proposed wireless small cell facility. Based on review of all the submitted documents, staff determined that the application and proposed installation meet the required conditions of approval as outlined in SMMC.17.10.070.

Staff issued conditional approval of the application on September 6, 2023. As required by the SMMC 17.10.070, a decision notice was posted on September 6, 2023 on the City's Small Cell Infrastructure website. The notice advised residents of the Public Works Director's ("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 must evaluate in its determination of whether to approve or deny any appeal is based on SMMC 17.10.070(a)(1-4), which states:

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; 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

The Federal Communications Commission (“FCC”) and SMMC 17.10.070(g) do not allow appeals when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines.

Furthermore, per SMMC 17.10.070(g), an appellant shall have the burden of proof for establishing the basis for seeking the reversal of the Wireless Permit approval.

The City received two appeals (Attachment 2) within the 5-day appeal period from residents with 500-ft of the proposed project site. The following are the appellants and their bases of appeal:

Appellant #1: Mary Komatsu & Kiyoshi Komatsu

Basis: Pole selection for aesthetics

Appellant #2: Hiliary Cutsinger

Basis: Adverse effect on property value

Per SMMC 17.10.070(g), the Sustainability and Infrastructure Commission shall hold a public hearing to consider and act on the appeals 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 17.10.070(a)(1-4).

Regarding the pole selection, there are 23 alternate locations within the 500-ft radius of the proposed site, as shown on the Alternative Sites Analysis (PDF page 184) of Attachment 3. Crown Castle determined 20 of the 23 were unacceptable by reason of (1) failure to meet the targeted coverage and capacity relief, and/or (2) unable to comply with City or PG&E standards. Crown Castle determined ALT 11, ALT 12, and ALT 13 to be acceptable locations; however, ALT 12 and ALT 13 were within a residential property’s frontage and closer to residential structures, and ALT 11 did not meet the RF coverage and capacity objectives to the extent the proposed site does. The City cannot regulate site selection based on RF coverage and capacity objectives, per FCC Order 18-133 and SMMC 17.10.010(b)(1).

Regarding property values, the City’s Design Standards do not consider property value when reviewing wireless permit applications. Property value is speculative in nature, can be affected by a multitude of different reasons, and would be

impractical for staff to assess.

Based on the review of Crown Castle application, staff believes Crown Castle has met the requirements of the Municipal Code and recommends the Sustainability and Infrastructure Commission approve the permit application and deny the appeal.

BUDGET IMPACT:

This public hearing to consider resident appeals does not have a direct impact on the City's Budget.

ENVIRONMENTAL DETERMINATION:

Hearing these appeals 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

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