

RESOLUTION NO. 17-0148

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING A TELECOM PERMIT AND COASTAL DEVELOPMENT PERMIT CA-16-41 FOR THE CONSTRUCTION AND OPERATION OF A WIRELESS FACILITY PROPOSED TO BE LOCATED AT MANHATTAN AVENUE AND 35th AND 36TH STREET

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. Pursuant to Manhattan Beach Municipal Code (Municipal Code) Section 13.02.030, New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (Applicant) submitted an application for the subject telecommunications facility at Manhattan Avenue and 35th/36th Street (35th/36th Street Facility). Concurrently, the Applicant submitted 15 other applications for wireless telecommunications facilities at other locations in the City of Manhattan Beach (City). Pursuant to Local Coastal Program (LCP) Chapter A.96, applications for a Coastal Development Permit within the Coastal Zone Appealable Area require a public hearing before the City Council.

SECTION 2. On November 16, 2017, the City Council conducted a public hearing to consider the application. The Council considered all evidence, both written and oral, presented during the public hearing. The Applicant's representatives spoke in favor of the application. After providing an opportunity to all interested parties to speak, the Mayor provided an opportunity for rebuttal to the Applicant. The Applicant's representatives responded to questions posed by the public and by Councilmembers.

SECTION 3. The record of the public hearing indicates the following:

A. The 35th/36th Street Facility is proposed in a high density residential district and includes an antenna mounted on a replacement light pole and a cabinet mounted to a pedestrian crossing sign.

B. Municipal Code Chapter 13.02.030 regulates the issuance of telecommunications permits in the public right-of-way. Pursuant to Municipal Code Section 13.02.100, the City must approve a telecommunications permit unless it makes the following findings:

1. That installation of the facility will have significant negative impacts to the extent that it substantially interferes with the use of other properties;

2. That a feasible alternative non-residential site is available for the proposed facility;

3. That denial of the proposed facility will not result in a competitive disadvantage to the applicant;

4. That the denial does not discriminate against the applicant in favor of similarly situated competitors; and

5. That the denial shall not preclude the applicant from proposing an alternate location for the facility.

C. The 35th/36th Street Facility is proposed in the appealable area of the Coastal Zone. Accordingly, a Coastal Development Permit (CDP) is required. Pursuant to LCP Section A.96.150(A), the following findings are required to approve a CDP:

1. That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program; and

2. If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976.

D. Pursuant to Municipal Code Section 13.02.030.G, the City must impose specified mandatory conditions when approving a telecom permit and may impose additional conditions as appropriate.

E. Pursuant to Section 332(c)(7) of the federal Telecommunications Act, local governments retain their authority over decisions regarding the placement, construction, and modification of personal wireless service facilities.

SECTION 4. Based upon substantial evidence in the record, including the evidence presented at the public hearing, the staff report and presentation, the attachments to the staff report, and all testimony at the public hearing, the City Council hereby finds:

A. The 35th/36th Street Facility does not satisfy the five conditions for denial under Municipal Code Section 3.02.100. The facility is located in a high density residential area where an alternative location on commercial or City-owned property is not available. Further, the proposed design will not result in significant aesthetic impacts and will be less intrusive than other possible designs or locations in the area. By mounting the cabinet on an existing pedestrian crossing sign, the facility will cause less infrastructure bulk in the pedestrian right-of-way.

B. The project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program. Pursuant to Chapter A.01, the purposes of the LCP include ensuring that service demands of new development will not exceed the capacities of existing streets, utilities, or public services, and to conserve and enhance Manhattan Beach's coastal setting, including its low-

profile character. The 35th/36th Street Facility would improve wireless service coverage and capacity in the western, coastal section of the City by installing an antenna on an existing light pole and a cabinet on an existing pedestrian crossing sign. The proposed design is relatively inconspicuous, retains the neighborhood's low-profile character, and improves wireless service for residents and beach visitors. Further, consistent with the purposes of the Residential District under Chapter A.12, the design avoids the increased visual bulk that could result from ground-mounted cabinets, congested pole installations, or large macro cell sites.

C. The project is not located between the first public road and the sea and, therefore, the finding regarding conformity with the public access and recreation policies are not applicable.

SECTION 5. The 35th/36th Street Facility is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) and 15303 (Class 3, New Construction of Small Structures). The 35th/36th Street Facility presents no unusual circumstances and there are no environmental resources of hazardous or critical concern.

SECTION 6. The City Council's decision is based upon each independent and separate grounds stated herein.

SECTION 7. The City Council hereby approves the telecom permit and Coastal Development Permit CA-16-41 for the 35th/36th Street Facility, subject to the conditions set forth in Exhibit A.

SECTION 8. The City Clerk shall mail by first class mail, postage prepaid, a certified copy of this Resolution and a copy of the affidavit or certificate of mailing to the Applicant and any other persons or entities requesting notice of the decision.

SECTION 9. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED December 5, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

AMY HOWORTH
Mayor

LIZA TAMURA
City Clerk