

RESOLUTION NO. 17-0150

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING A TELECOM PERMIT AND COASTAL DEVELOPMENT PERMIT CA-16-47 FOR THE CONSTRUCTION AND OPERATION OF WIRELESS FACILITY PROPOSED TO BE LOCATED AT MORNINGSIDE DRIVE AND 2ND 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 Morningside Drive and 2nd Street (Morningside Drive Facility). Concurrently, the Applicant submitted 15 other applications for wireless telecommunications facilities at other locations in the City of Manhattan Beach.

SECTION 2. Pursuant to Municipal Code Chapter 13.02, the Morningside Drive Facility, as a “non-standard facility,” is reviewed by the Director of Community Development and is subject to final review by the City Council. The Director conditionally approved the application. On October 17, 2017, two members of the City Council requested review of the Director’s decision.

SECTION 3. 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 4. The record of the public hearing indicates the following:

A. The Morningside Drive Facility is proposed in a residential district, and it includes an antenna and cabinet mounted on an existing utility pole.

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 can deny a telecommunications permit only if 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 Morningside Drive Facility is proposed in 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 5. 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 Morningside Drive Facility does not satisfy the five conditions for denial under Municipal Code Section 3.02.100. The facility is located in a residential area where an alternative location on commercial or City-owned property is not available. Further, the proposed design and location will be less intrusive than other possible designs or locations in the area. At the public hearing, the City Council and Applicant specifically considered relocating the facility to a nearby light pole, but determined that this alternative would have similar or greater aesthetic impacts. No other locations or designs were identified at the hearing.

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 Morningside Drive Facility would improve wireless service coverage and capacity in the western, coastal section of the City by installing a low-profile antenna and cabinet to an existing utility pole. The proposed design 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 6. The Morningside Drive 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 Morningside Drive Facility presents no unusual circumstances, and there are no environmental resources of hazardous or critical concern.

SECTION 7. The City Council's decision is based upon each independent and separate grounds stated herein.

SECTION 8. The City Council hereby approves the telecom permit and Coastal Development Permit CA-16-47 for the Morningside Drive Facility, subject to the conditions set forth in Exhibit A.

SECTION 9. 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 10. 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