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Title: Telecommunications and Coastal Permits for AT&T Telecom Sites in the Public Right of Way on Light, Utility and Banner Poles, Including Four in the Appealable Area of the Coastal Zone, City Council Review of Twelve Administrative Telecom Sites and Proposed Master License Agreement (Community Development Director McIntosh).
AFTER CONDUCTING PUBLIC HEARING AND DELIBERATIONS: DIRECT STAFF TO PREPARE RESOLUTIONS (A) CONDITIONALLY APPROVING OR (B) DENYING REQUESTS; AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE MASTER LICENSE AGREEMENT IN SUBSTANTIALLY THE FORM ATTACHED TO THE REPORT

Sponsors:

Indexes:

Code sections:

Attachments: 1. List of 16 Proposed AT&T Sites, 2. Directors Decision Letter, Findings and Conditions on 12 Administrative Sites Dated October 19, 2017 and Proposed Revisions, 3. Citywide Cell Sites Map, 4. Existing AT&T Coverage Map, 5. Proposed AT&T Coverage Map, 6. Ocean Drive & 18th Street (MBCH15) CA 16-42, 7. Manhattan Avenue & 5th Place (MBCH08) CA 16-39, 8. Manhattan Avenue & 35th/36th Streets (MBCH01) CA 16-41, 9. Manhattan Avenue & 29th Street (MBCH03) CA 16-40, 10. N. Valley Drive & 9th Place (MBCH16), 11. Morningside Drive & 2nd Street (MBCH13) CA 16-47, 12. Alma Avenue & 28th Street/Place (MBCH14) CA 16-44, 13. Highland Avenue & 19th Street/Place (MBCH06) CA 16-43, 14. Marine Avenue & Bayview Drive (MBCH05) CA 16-45, 15. Manhattan Avenue & 11th Street (MBCH07) CA 16-48, 16. Highland Avenue & 32nd Place/33rd Street (MBCH02) CA 16-49, 17. Bayview Drive & 26th Street (MBC04) CA 16-46, 18. 2nd Street & North Ardmore Avenue (MBCH17), 19. Ingleside Drive & 5th Place (MBCH09), 20. Church Street & 13th Street/14th Street (MBCH18), 21. Valley Drive & Pacific Avenue (MBCH20), 22. Draft Master Licence Agreement, 23. AT&T Letter - November 7, 2017, 24. Public Comments Received Since August 15, 2017, 25. August 15, 2017 - City Council Report and Attachments (Web-Link Provided), 26. October 17, 2017 - City Council Report and Attachments (Web-Link Provided)

Date	Ver.	Action By	Action	Result
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Pass
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Pass
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Fail
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Pass
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Pass
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Pass
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Pass
11/16/2017	1	City Council Adjourned Regular Meeting	approved	Fail

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Anne McIntosh, Community Development Director
Laurie B. Jester, Planning Manager
Jason Masters, Assistant Planner

SUBJECT:

Telecommunications and Coastal Permits for AT&T Telecom Sites in the Public Right of Way on Light, Utility and Banner Poles, Including Four in the Appealable Area of the Coastal Zone, City Council Review of Twelve Administrative Telecom Sites and Proposed Master License Agreement (Community Development Director McIntosh).

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RECOMMENDATION:

Staff recommends that:

1. The Mayor open the public hearing;
2. take public testimony;
3. close the public hearing;
4. approve the four sites within the Coastal appealable area, and the eleven other Telecommunications and Coastal Development Permits with conditions,
5. direct staff to prepare Resolutions for the December 5, 2017 City Council meeting for final action; and
6. authorize the City Manager and City Attorney to negotiate and approve the proposed Master License Agreement with AT&T Wireless in substantial conformance with the attached Draft Agreement. The telecommunication facilities will not be installed until after approval of the Agreement and City purchase of the Southern California Edison light poles.

EXECUTIVE SUMMARY:

AT&T is proposing a 16-Node oDAS system to enhance cellular telephone coverage particularly in the Coastal Zone and adjacent areas where coverage is currently marginal or non-existent. Four of the 16 Nodes are within the Coastal Zone Appealable area (decisions appealable to the California Coastal Commission), as discussed on August 15, 2017, and are therefore subject to a public hearing and City Council action. Eleven of the remaining twelve Nodes have been approved by the Community Development Director, and one location at Valley Drive and 9th Place has been denied by the Director. At the City Council meeting on October 17, 2017, the Council called up for review the twelve administrative applications, and continued the four Coastal Zone Appealable applications to the meeting of November 16, 2017.

All of the sixteen Nodes are proposed to be attached to utility poles, a city-owned banner pole, and street lights which the City is in the process of acquiring from Southern California Edison. All of the street lights and the banner pole and one of the utility poles will be removed and replaced by AT&T in

the same location, at the same height, and with same or similar design, but with an antenna on top of or attached to each pole. Each site except for the Valley Drive and Pacific Avenue location, which is an amendment to an existing site, will also have an underground equipment vault and an above-ground equipment cabinet or pole mounted equipment in the public right of way installed by AT&T. Attachment 1 provides a list of all the proposed 16 sites.

Should the City Council approve any or all of the proposed locations, the Council must also approve a Master License Agreement which will be applicable to all approved and future facilities in the City right of way. At the August 15, 2017 City Council meeting, the Council requested to review the Master License Agreement at the same time as the proposed Nodes. None of the proposed Nodes will be installed until the Master License Agreement is approved by the City Council.

The City created a webpage several months ago with information on Telecommunications including the existing sites in the City, proposed sites, the Community Workshop and local and federal regulations. On September 26, 2017, the City conducted a Telecommunications Workshop to help educate residents, business owners, and interested individuals about the Telecommunication Facilities process. This included discussion on the different types of facilities; City, State and Federal regulations, and the City's permitting process. The Telecommunications information and Workshop material, including a PowerPoint presentation, is provided on the City's website at: <http://www.citymb.info/Home/Components/News/News/3315/43>.

FISCAL IMPLICATIONS:

Costs will be incurred as the Master License Agreement is negotiated. If approved, the City will receive revenue through the Master License Agreement.

BACKGROUND AND DISCUSSION:

Project Description

The AT&T Wireless network is fairly well established throughout the City, particularly along and east of Sepulveda Boulevard, but is weak in the beach area and adjacent areas (see Attachments 3 and 4 for maps of city-wide cell sites and AT&T existing coverage). As indicated on the attached color diagram (Attachment 5), the proposed facilities significantly enhance coverage from the beach to throughout the coastal area and particularly in the area immediately adjacent to Manhattan and Highland Avenues. In these particular areas, without the proposed oDAS system, AT&T coverage is either non-existent or marginal.

Staff has worked with the applicant to ensure that the cabinet locations result in no impacts. Staff from Public Works, Information Technology, and Community Development have worked with the project applicants over the past three years to identify potential locations that minimize impacts to residents and existing on street parking, do not decrease existing sidewalk accessibility, meet the minimum ten foot residential separation requirement, do not impact driveway or right of way visibility, sidewalk and ADA access, and interference with underground utilities, while still meeting AT&T's efforts to provide increased service coverage and capacity to currently underserved areas.

Staff has received hundreds of public comments in response to the thousands of public notices sent out for the all of the proposed sites. Staff has worked with the applicant over the past two months to identify alternatives to mitigate concerns noted in the public comments. Staffs analysis has included the size and location of equipment cabinets, location of underground vaults, the location of poles, and

the location of the antennas on the poles. The proposed below grade vault locations have been identified to avoid interference with existing underground utilities. The proposed antenna locations were identified to minimize potential view obstruction and other aesthetic impacts. AT&T also provided a letter that addresses the comments that they have heard over the past several months. (Attachment 23)

Revisions that have been made to all of the sites provide for the width of the equipment cabinets for all Nodes, to be reduced by half from about 5 feet high, 1-foot deep and 3 feet wide to only 1 ½ foot wide. Additionally, as a condition of approval on all sites the applicant is required to place decorative screening around, paint or wrap the proposed cabinets to the Community Development Director's satisfaction to improve the aesthetics. Application materials for all 16 sites are provided as Attachments 6-21, and include for each site: a site plan, GIS location map with surrounding addresses, existing coverage map, proposed coverage map, approved photo simulations, and original photo simulations. Staff will provide a presentation at the public hearing which will include the information, graphics and visual presentations as provided in the attachments to this report. The powerpoint presentation will be available prior to the hearing.

Regarding the four Nodes within the Coastal Zone Appealable area, the two Nodes located at Ocean Drive and 18th Street and Manhattan Avenue and 5th Place, remain as originally proposed, although on all sites the equipment cabinets will be reduced in size as discussed above. The other two Nodes in the Appealable area were revised as follows and staff also recommends approval of these locations. The Node at Manhattan Avenue and 35th / 36th Street has been revised to move the proposed equipment cabinet from the sidewalk on 36th Street, to behind a traffic sign on Manhattan Avenue near 35th Street. The Node at Manhattan Avenue and 29th Street has also been revised to move the proposed equipment cabinet from out of the right of way to avoid visibility issues for the adjacent resident's driveway, and the cabinet will now be mounted on the same pole as the flush mounted antennas behind a traffic sign.

In addition to the other applications, AT&T applied for a permit for a location at Valley Drive and 9th Place. The Director denied the permit. AT&T is considering its options for alternative locations which would require a new Telecom Permit application. Attachment 2 provides the findings and conditions for all of the twelve sites that the Director took action on.

Regarding the other eleven administrative sites, the location at Morningside Drive and 2nd Street has been revised to move the proposed equipment cabinet out of the right of way to avoid visibility issues for the adjacent resident's driveway, and will now be located on the utility pole. Also, the antennas have been relocated lower down the pole to minimize potential view impacts. The location at Alma Avenue and 28th Street/Place has been revised to move the antennas to the top of the light pole to reduce aesthetic impacts, and the equipment cabinet is now proposed in the right of way at the corner of Alma Avenue and 28th Place. The location at Highland Avenue and 19th Street/Place has been revised to relocate the proposed cabinet to the corner of Highland Avenue and 19th Place. Finally, the location at Marine Avenue and Bayview Drive has been revised to locate the proposed cabinet just west of the southwestern corner of Highland Avenue and Marine Avenue. The other seven Nodes approved by the Director remain as originally proposed with the revisions and conditions as identified above. Note that the appeal period for the eleven Nodes approved and the one Node denied by the Director expired on November 2nd, and no appeals were filed.

Staff met with the applicant to discuss the conditions of approval for the 11 administrative approved sites and three minor revisions were requested. Proposed revisions to site specific condition #4 and

to standard conditions #6 and #14 are included as part of Attachment 2, and staff is in agreement with these revisions.

Telecommunications Regulations

The 16 applications are subject to a 150-day shot clock, as regulated by the Federal Communications Commission. The City and AT&T have agreed to Tolling Agreements that extend the shot clock through November 22, 2017, after which applications not approved or denied could be deemed approved. Accordingly, staff recommends that the Council provide direction to staff on all 16 Nodes tonight. Based on Council's direction, Resolutions will be prepared for adoption on December 5, 2017.

In addition, staff recommends that the Council discuss the draft Master License Agreement, which is being negotiated by City staff. (Attachment 22) None of the proposed Nodes will be installed until the Master License Agreement is approved by the City Council. Any comments from the applicant on the Master License Agreement will be forwarded to the Council prior to the meeting.

Local discretion to deny wireless telecom facilities is limited by the Federal Telecommunications Act. This law prohibits cities from denying a wireless facility based on potential health or environmental impacts of radio frequency emissions. Additionally, cities cannot unreasonably discriminate among similar carriers or impose regulations and deny a facility if the denial precludes a carrier from addressing a significant gap in its wireless coverage.

Municipal Code Findings

Pursuant to MBMC Section 13.02.100 (Denial of Telecommunications Permit), the City Council shall grant a telecom permit unless the decision maker can make the following findings:

- A. That installation of the facility will have significant negative impacts to the extent that it substantially interferes with the use of other properties;
- B. That a feasible alternative non-residential site is available for the proposed facility;
- C. That denial of the proposed facility will not result in a competitive disadvantage to the applicant;
- D. That the denial does not discriminate against the applicant in favor of similarly situated competitors; and
- E. That the denial shall not preclude the applicant from proposing an alternate location for the facility.

AT&T and City staff will be available at the hearing to provide further information and technical details for each application. All of the proposed facilities are located in residential zones, with the exception of Manhattan Avenue and 11th Street and Highland Avenue and 32nd Place/Street which are commercially zoned, and Bayview Drive and 26th Street which is zoned open space. Additionally, the cabinet for Marine Avenue and Bayview Drive is in a commercial zone, while the antenna is located approximately 150 feet west in a residential zone. Due to topographical and technical constraints, staff believes that no feasible non-residential alternatives exist to extend adequate coverage to these residential areas.

MBMC Section 13.02.030.G imposes mandatory conditions on telecom permits and allows the Director or City Council to impose additional conditions deemed necessary or advisable. The conditions of approval that were imposed on the Director-approved permits are provided in

Attachment 2. Staff would recommend that similar conditions be required of the four sites in the Coastal Zone Appealable area.

Local Coastal Program (LCP) Findings

Pursuant to LCP Section A.96.150(A), all decisions on Coastal Development Permits require the following written findings:

- A. 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
- B. 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 (Commencing with Section 30200 of the Public Resources Code).

PUBLIC OUTREACH/INTEREST:

A public notice for the project was mailed to property owners within 500 feet and residents within 100 feet of the site, interested parties, and the California Coastal Commission and a ¼ page ad was published in the Beach Reporter newspaper, as required by Coastal and Telecommunication regulations. Written comments received since the last City Council report in August are included as Attachment 24. Additionally, as previously stated, a Telecommunications Workshop was held on September 26th to further increase public outreach.

ENVIRONMENTAL REVIEW

The City has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 3 categorical exemption pursuant to Section 15303(d) of the State CEQA Guidelines since the proposed project requires installation of small new equipment and facilities and the conversion of existing light poles where only minor modifications are made in the exterior of the structure. Thus, no further environmental review is necessary.

LEGAL REVIEW

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

Attachments:

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- 2. Directors Decision Letter, Findings and Conditions on 12 Administrative Sites Dated October 19, 2017 and Proposed Revisions
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- 9. Manhattan Avenue & 29th Street (MBCH03) CA 16-40
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- 13. Highland Avenue & 19th Street/Place (MBCH06) CA 16-43

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