

RESOLUTION NO. 2019-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE APPEAL, OVERTURNING THE DECISION OF THE PLANNING COMMISSION AND DENYING ADMINISTRATIVE USE PERMIT NO. 19-27

APPLICANT: Crown Castle Fiber LLC / Cynthia-Denise Holmes

APPELLANT: Min Lee, Max Lee, Ian Piker Tom, Janine Peterson, and Ralph Liu James

LOCATION: Public Right-of-Way near 1689 Natalie Way

WHEREAS, there was filed with this City a verified application on forms prescribed in Chapter 26, Article VI of the Covina Municipal Code, requesting approval of an administrative use permit to:

Remove an existing light pole and install a new light pole with a Small Wireless Facility (SWF) consisting of shrouded antennas on top of the light poles and underground equipment

WHEREAS, the Planning Commission, upon giving the required notice, did on July 23, 2019, conduct a duly noticed public hearing to consider the subject application for an administrative use permit, at which time the Planning Commission adopted Resolution No. 19-5993 approving Administrative Use Permit No. 19-27; and

WHEREAS, on August 5, 2019, an appeal of the Planning Commission's decision was filed with the City; and

WHEREAS, the City Council upon giving the required notice, did on September 3, 2019, conduct a duly noticed public hearing to consider the appeal and administrative use permit application and continued the item to a date certain; and

WHEREAS, the City Council did on October 1, 2019, conduct a public hearing to consider the appeal and administrative use permit application, and voted 3:2 to approve the appeal, overturn decision of the Planning Commission, and deny the administrative use permit application with the understanding that the Resolution of denial would be considered by the City Council at its next regular meeting;

WHEREAS, studies and investigations made by the City Council and in its behalf reveal the following:

1. The applicant is requesting the approval of an administrative use permit to allow the removal of an existing light pole and installation of a new light pole with a Small Wireless Facility consisting of shrouded antennas on top of the light poles and underground equipment
2. Appropriate findings for approval of an administrative use permit for a Small Wireless Facility are as follows:

- a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or community.
 - b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
 - c. That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use to the land and uses in the neighborhood and make it compatible therewith.
 - d. That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed use and that street patterns of such a nature exist as to guarantee that such generations will not be channeled through residential areas on local residential streets.
 - e. That the granting of such administrative use permit will not adversely affect the general plan of the city, or any other adopted plan of the city.
3. The applicant confirmed on the record that the applicant does not have any gap in its own coverage, but that instead, the applicant seeks additional capacity to its network.
 4. There are dozens of alternate feasible locations in the city, including other locations in the city controlled right of way, that would have been less intrusive upon the city's aesthetic values.
 5. The City Council desires that the applicant re-apply for the installation of a new wireless facility, but with a superior location and/or design. The city council desires to facilitate the approval of wireless facilities which do not substantially affect the aesthetics of the community.
 6. Because the applicant has the right to apply to install a wireless facility in a different location and/or with a different design, and because city staff has already processed substantially similar applications, denying this particular application, and instead requiring the applicant to reapply for an alternate location or design, does not materially inhibit the deployment of wireless facilities. If the applicant proposes a reasonable alternative proposal, such new application would, at most, only delays the approval of a wireless facility by a few months; such a delay does not materially delay the installation of wireless facilities.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA CALIFORNIA, DOES RESOLVES AS FOLLOWS:

SECTION 1. On the basis of evidence presented, both oral and documentary, the City Council finds that the following required finding for an administrative use permit cannot be made, for the following independent reasons:

That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

- The small wireless facility’s appearance will be detrimental to the general welfare of the neighborhood. As proposed, the pole will be taller (as measured from grade to the top of the shroud) than the existing street light poles in the vicinity and will be noticeably dissimilar in appearance in comparison to the existing street light poles in the area. Therefore, the proposed small wireless facility, as designed, will not accomplish reasonable “stealth” that will allow the facility to be compatible with the surrounding residential setting.

SECTION 2. In sum, pursuant to all of the evidence presented, both oral and documentary, and further based on the findings above, the Planning Commission’s decision approving Administrative Use Permit No. 19-27 is overturned, and the application is denied.

SECTION 3. Nothing in this resolution is intended to prohibit the applicant from applying to the City for a wireless facility in an alternate location and/or design.


SECTION 4. The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED on October 15, 2019.




Lloyd Johnson
Mayor

APPROVED AS FORM



Thomas P. Duarte
City Attorney


ATTEST



Carrie Gallagher, CMC
Assistant City Clerk

I, CARRIE GALLAGHER, ASSISTANT CITY CLERK, custodian of the original records, which are public records which I maintain custody and control for the City of West Covina, California, do HEREBY CERTIFY, the foregoing resolution, being Resolution No. 19-67 was adopted at a Regular Meeting of the City Council on October 15, 2019, by the following roll call vote:

AYES: Castellanos, Lopez-Viado, Wu
NOES: Shewmaker, Johnson
ABSTAIN: None
ABSENT: None



Carrie Gallagher, CMC
Assistant City Clerk