

RESOLUTION NO. 2018-R _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA DENYING, WITHOUT PREJUDICE, A WIRELESS TELECOMMUNICATIONS FACILITY PERMIT APPLICATION FILED BY T-MOBILE WEST FOR THE INSTALLATION OF A WIRELESS FACILITY, INCLUDING ACCESSORY EQUIPMENT AND NEW FREE STANDING POLE, IN THE PUBLIC RIGHT-OF-WAY WEST OF 10876 CULVER BLVD.

WHEREAS, the City has the authority to regulate telecommunications infrastructure in the public right-of-way consistent with Public Utility Code Sections 7901, 7901.1 and 2902 and applicable federal law;

WHEREAS, Chapter 11.20 of Culver City Municipal Code (CCMC) governs the City's application, permit and decision-making process for wireless telecommunications facilities proposed to be installed in the City's public right-of-way;

WHEREAS, pursuant to Chapter 11.20, T-Mobile West submitted a permit application on September 29, 2017 and in response to that application submittal, the City issued a Notice of Incomplete (NOI) on October 28, 2017;

WHEREAS, T-Mobile responded to the City's NOI with a second submittal on January 17, 2018 and the City issued a second of NOI on March 6, 2018 identifying continued deficiencies and inaccuracies in T-Mobile's application documents;

WHEREAS, T-Mobile has not responded to City's NOI of March 6, 2018;

WHEREAS, in its application, T-Mobile proposes to install a new free standing pole, at a height of 30 feet, west of 10876 Culver Blvd, to accommodate the installation of a wireless telecommunications facility which will consist of 3 antennas within a radome, 2 ground-mounted cabinets and an electric meter to be used to provide voice and data services to its customers;

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2 WHEREAS, the proposed installation is subject to a "shot clock" for City action
3 pursuant to federal law, which the parties have mutually agreed will expire on or about
4 September 11, 2018;

5 WHEREAS, T-Mobile West did not respond to a City e-mail, sent on July 26,
6 2018, requesting that T-Mobile confirm by August 8, 2018 whether it was still interested
7 in pursuing this application;
8

9 WHEREAS, T-Mobile West's application, submitted over ten months ago,
10 remains largely incomplete and contains inconsistent information;

11 WHEREAS, the application deficiencies identified by the City have not been
12 addressed by the applicant, despite entering into a shot clock tolling agreement with the
13 City in May 2018 for that very purpose
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15 **NOW, THEREFORE,** the City Council of the City of Culver City, California,
16 **DOES HEREBY RESOLVE** as follows:

17 **SECTION 1.** The City Council has determined, based on the staff report and its
18 attachments, the foregoing recitals and the findings below, that the proposed
19 installation must be denied without prejudice.
20

21 **SECTION 2.** The City Council hereby makes the following findings:

- 22 A. T-Mobile West's wireless telecommunications facilities application has
23 inconsistent information and is incomplete, as identified in the City's
24 second NOI dated March 6, 2018.
- 25 B. The proposed installation is an area designated by the General Plan as
26 Open Space which was so designated in order to regulate, protect, and
27 preserve publicly accessible land that is well suited for active recreation,
28 amusement, relaxation, and/or scenic viewing. The project area is
surrounded by existing residential and commercial developments. The
public right-of-way has been developed consistent with the City's aesthetic

values, including decorative landscaping and hardscaping in and along the street.

- C. The proposed installation detracts and negatively impacts the linkage between the neighborhood's commercial, residential and park space by obstructing the visual continuity between the uses and small scale development in the immediate vicinity.
- D. The proposed installation is not compatible with the character of the landscaping, use and visual aesthetic of the parkways and streetscape.
- E. T-Mobile West's proposed installation of a new 30-foot free standing pole in the public right-of-way is inconsistent with the character of the surrounding area including public utilities and private developments.
- F. Based on the application documents, the applicant's attempt to stealth the wireless telecommunications facility by housing the antennas in a radome, intended to conceal the panels and cables, is insufficient because the large diameter of the radome makes it more visible than would be the case with a slimmer radome (such as a radome that was similar in diameter to the involved pole's diameter).
- G. The proposed installation of large equipment boxes above ground is visually obtrusive and would negatively impact the public right-of-way and the aesthetic quality of Culver Boulevard because the proposed large equipment would conflict with the carefully designed public right-of-way.
- H. The application documents failed to include, among other information, a noise study and structural integrity calculations that are necessary to fully consider the proposed wireless telecommunications facility's possible impacts on the convenience and safety of the general public.
- I. Because the applicant failed to provide the information requested in the wireless telecommunications facilities application, the City cannot readily determine whether the proposed installation should be granted an encroachment permit.
- J. It is unclear whether the applicant is claiming that a denial of the permit application would result in an "effective prohibition" of personal wireless service. Assuming such a claim is being made, such a claim must fail because the prerequisites have not been met. First, T-Mobile submitted conflicting evidence as to whether the proposed installation is needed to fill a "significant gap" in service. Second, T-Mobile proposed an obtrusive, new free-standing pole for its wireless telecommunications facility when there are existing utility poles and streetlights in the nearby area but, at the same time, failed to provide any meaningful rationale as to why street lights or utility poles in the nearby area cannot be used (although that

1 information was requested by the City's wireless telecommunications
2 facilities permit application). Thus, even assuming there were a significant
3 gap in service, given that applicant has not shown it considered other
possible locations or designs at the proposed site that would be less
intrusive, an effective prohibition finding is not warranted.

4 **SECTION 3.** For the foregoing reasons and based on the evidence and
5 findings, including those in the supporting staff report, the City Council hereby denies,
6 without prejudice, the wireless telecommunications facilities permit application pursuant
7 to the City's authority to protect the health, safety and convenience of the general public
8 and to protect the aesthetic values of the community.
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10 **SECTION 4.** In accordance with the California Environmental Quality Act
11 (CEQA) Guidelines, the proposed project is considered Statutorily Exempt from the
12 requirements of the CEQA Guidelines Section 15270 (Projects Which are Disapproved)
13 because the project is denied.
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16 APPROVED and ADOPTED this _____ day of _____, 2018
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19 THOMAS AUJERO SMALL, Mayor
City of Culver City, California
20

21 ATTEST:

APPROVED AS TO FORM:

22
23 JEREMY GREEN
24 City Clerk

25 CAROL A. SCHWAB
26 City Attorney
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