City of Culver City

Mike Balkman Council Chambers
9770 Culver Blvd.
Culver City, CA 90232

Staff Report Details (With Text)

File #:	24-718	**Version:**	1	**Name:**	Appeal Wireless Telecomm Facility 5587 Sepulveda Blvd
Type:	Public Hearing			**Status:**	Public Hearing
File created:	2/5/2024			**In control:**	City Council Meeting Agenda
On agenda:	2/26/2024			**Final action:**	
Title:	CC - PUBLIC HEARING ITEM: Appeal of the Administrative Approval of Wireless Telecommunication Facility Encroachment Permit to Crown Castle for 5587 Sepulveda Boulevard, Culver City Permit Number U23-0274.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. 2024-02-26_ATT1 Notice of Application Approval_5587 Sepulveda Blvd.pdf, 2. 2024-02-26_ATT2 Appeal_5587 Sepulveda blvd.pdf, 3. 2024-02-26_ATT3 RF Emissions Compliance Report 5587 Sepulveda Blvd.pdf, 4. 2024-02-26_ATT4 Photosims 5587 Sepulveda Blvd.pdf, 5. 2024_02-26 ATT5 Standard Conditions of Approval.pdf, 6. 2024_02-26 ATT6 Supplemental Conditions of Approval.pdf				

Date	Ver.	Action By	Action	Result
2/26/2024	1	City Council Meeting Agenda		
2/26/2024	1	City Council Meeting Agenda		
2/26/2024	1	City Council Meeting Agenda		
2/26/2024	1	City Council Meeting Agenda		

CC - PUBLIC HEARING ITEM: Appeal of the Administrative Approval of Wireless Telecommunication Facility Encroachment Permit to Crown Castle for 5587 Sepulveda Boulevard, Culver City Permit Number U23-0274.

Meeting Date: February 26, 2024

Contact /Dept: Sammy Romo/Public Works -Engineering

Phone Number: 310-253-5619

Fiscal Impact: Yes [ ] No [X] **General Fund:** Yes [ ] No [X]

Attachments: Yes [ ] No [X]

Public Notification: (E-Mail) Meetings and Agendas - City Council (02/20/2024); E-mail: Ron Peled, Appellant (02/02/2024); Brad Ladua, Crown Castle, Applicant (02/02/2024); Mail: All residents within 500 feet of the subject Wireless Telecommunications Facility (02/15/2024)

Department Approval: Yanni Demitri, Public Works Director/City Engineer (02/06/2024)

RECOMMENDATION

Staff recommends the City Council consider the appeal by Ron Peled (the "Appellant") of staff's approval of Crown Castle's wireless telecommunications facility encroachment permit application for a small wireless facility to be located in the public right-of-way in proximity to 5587 Sepulveda Boulevard, permit number U23-274, and render a decision by either:

1. (***Staff Recommendation***) Denying the appeal and approving the wireless encroachment permit application with the same conditions and/or findings as the staff approval or with modified conditions and/or findings, and adopting a finding that the approval is categorically exempt from CEQA pursuant to CEQA Guidelines §15303(e); **OR**

2. Granting the appeal and denying the wireless encroachment permit application based on the findings specified by the City Council.

PROCEDURES

1. Mayor calls on staff for staff report and City Council Members pose questions to staff as desired.
2. Mayor opens the Public Hearing, providing the Appellant the first opportunity to speak, followed by the Applicant and then the general public.
3. Applicant and Appellant are given one final opportunity to provide rebuttal comments.
4. Mayor seeks a motion to close the Public Hearing after all testimony has been presented.
5. City Council discusses the matter and arrives at its decision.

BACKGROUND

The City regulates the placement of small cell wireless facilities in public rights-of-way pursuant to Culver City Municipal Code Section 11.20.065 and the "Design and Development Standards for Wireless Facilities in the Public Rights-of-Way," adopted by the City Council on February 28, 2022, by Resolution 2022-R019.

On August 28, 2023, Crown Castle submitted a wireless encroachment permit application for the installation of small cell equipment on a city-owned streetlight in the public right-of-way fronting 5587 Sepulveda Boulevard. Crown Castle proposes to replace the existing streetlight with a stealth-integrated pole design. Per the City's requirements, Crown Castle submitted site plans, equipment diagrams, integrated street light replacement specifications, and analyses related to visual impact, noise impact, and structural calculations. Crown Castle also submitted a Radio Frequency ("RF") emission report, prepared and signed by an independent California-registered electrical engineer, demonstrating that the RF emissions from the wireless facility comply with the FCC guidelines that limit exposure to RF emissions.

Initially, staff determined the application was incomplete. However, through the submittal and resubmittal-with-changes process, Crown Castle eventually responded with a submittal that was deemed complete. Per the City's requirements, Crown Castle mailed notification letters via U.S. Post to all property persons within 500 feet of the proposed locations and affixed posters upon the existing

streetlight poles of the proposed small cell sites announcing their proposal to install a wireless facility. In response to the public notifications, one property owner near the subject location voiced concern about the proposed wireless facility.

Staff's evaluation of the subject application now under appeal concluded that Crown Castle complied with all of the City's requirements contained in Culver City Municipal Code ("CCMC") Section 11.20.065 to obtain a wireless encroachment permit, and without exception, adhered to all of the City's applicable design and development standards. On September 20, 2023, staff approved the application and notified the applicant and all persons who submitted written comments on the application, which included the Appellant (Attachment 1). The Appellant submitted, in writing, a timely appeal of the approval pursuant to CCMC Section 11.20.065.D.3 (Attachment 2) (the "Appeal").

DISCUSSION

Section 11.20.065.D.3(a) of the CCMC states:

> *Any person adversely affected by the decision of the Public Works Director/City Engineer pursuant to this Section may appeal the decision to the City Council, which may decide the issues de novo, and whose written decision will be the final decision of the City. Any appeal shall be conducted so that a timely written decision may be issued in compliance with any legally-required deadline.*

The Appeal:

Claim:

The Appellant filed a timely request appealing the granting of this wireless permit. While Appellant's request for appeal of the granting of this wireless permit did not clearly articulate a basis for this appeal, Appellant's prior contacts with city staff have articulated concerns that the permitted small cell facility will have negative health effects, due to RF emissions.

Response:

The FCC is the sole regulatory agency that establishes RF guidelines nationwide to limit public exposure to emissions, and the City refers to those guidelines when evaluating RF emission reports submitted by applicants. As mentioned above, Crown Castle submitted a report for the proposed facility that was evaluated by staff and determined to show compliance with FCC guidelines (Attachment 3).

In addition, this application proposes a facility that is similar to other facilities Crown Castle has installed elsewhere in the City. Staff recently performed a "post-construction" analysis of a random small cell wireless site placed by Crown Castle a few years ago to evaluate RF emissions. Crown Castle was not made aware of this testing beforehand. The analysis showed the greatest amount of RF emissions was 0.7% of the maximum permissible exposure allowed by the FCC.

FINDINGS REQUIRED FOR APPROVAL

CCMC Section 11.20.065(G)(1) provides the following findings are required for approval of a wireless encroachment permit application for a small cell wireless facility:

1. Findings required for approval

a. … the Public Works Director/City Engineer or City Council, as the case may be, shall approve an application if, on the basis of the application and other materials or evidence provided in review thereof, it finds the following:
   i. The facility is not detrimental to the public health, safety, and welfare;
   ii. The facility complies with this Section and all applicable design and development standards; and
   iii. The facility meets applicable requirement and standards of State and Federal law.

All of the above required findings are supported by the administrative record and, therefore, justified. The Appellant has not, to-date, submitted any evidence to contradict these findings; therefore, staff recommends the City Council deny the appeal and approve the wireless encroachment permit with the same conditions and/or findings as the staff approval.

FEDERAL REQUIREMENTS RELATED TO DENIAL OF WIRELESS PERMIT APPLICATIONS

Federal law requires that if a wireless facility application is denied, the denial decision must be "in writing and supported by substantial evidence contained in a written record." 47 U.S.C. Section 332 (c)(7)(B)(iii). The law also requires that the denial and the reasons for denial be issued essentially contemporaneously. *T-Mobile South, LLC v. City of Roswell, Ga., 574 U.S. 293 (2015).* Thus, if the City Council determines that the appeal should be granted, thereby denying Crown Castle's permit application, the City Council should explain its denial of such permit application by specifically indicating which finding(s) for approval cannot be made and the reasons such finding(s) cannot be made.

FISCAL ANALYSIS

There is no fiscal impact associated with denying or granting the Appeal.

ATTACHMENTS

- 2024-02-26_ATT1 Notice of Application Approval 5587 Sepulveda Blvd
- 2024-02-26_ATT2 Appeal 5587 Sepulveda Blvd
- 2024-02-26_ATT3 RF Emissions Compliance Report 5587 Sepulveda Blvd
- 2024-02-26_ATT4 Photo Sims 5587 Sepulveda Blvd
- 2024-02-26_ATT5 Standard Conditions of Approval
- 2024-02-26_ATT6 Supplemental Conditions of Approval

MOTIONS

That the City Council:

1.A. (***Staff Recommendation***) Deny the appeal and approve Crown Castle's wireless encroachment permit application for 5587 Sepulveda Boulevard, Culver City Permit Number U23-0274, based on the findings set forth in the September 20, 2023 Notice of Application Approval (Attachment 1) and subject to the conditions of approval set forth in Attachments 5 and 6 of the report; and adopt a finding that the approval is categorically exempt from CEQA pursuant to CEQA Guidelines §15303(e). (*Note: If the City Council determines to modify or supplement the conditions of approval, those should be articulated in the record.)*

OR

If the Council intends to deny the application:

(*Note: If the City Council decides to deny the application, the motion for denial should specifically indicate which finding(s) for approval cannot be made and the reasons such finding(s) cannot be made, based on substantial evidence in the record.)*

1.B. Grant the appeal and deny Crown Castle's wireless encroachment permit application for 5587 Sepulveda Boulevard, Culver City Permit Number U23-0274, because of the following findings for approval cannot be made for the following reasons: [*insert as applicable*]

AND

2. Direct Public Works staff to prepare and issue, pursuant to CCMC Section 11.20.065.G.2, a written Notice of Decision, signed by the Mayor, consistent with the City Council's findings and decision set forth in the February 26, 2024 record. The Notice shall be issued no later than February 28, 2024.