



**PUBLIC WORKS DEPARTMENT  
STATEMENT OF OFFICIAL ACTION**

**PROJECT OVERVIEW**

<b>City ID</b>	20WIR-0039	<b>Application Date</b>	May 3, 2020
<b>Applicant</b>	New Cingular Wireless PCS, LLC 1452 Edinger Ave Tustin, CA 92780	<b>Applicant ID</b>	SMCNC2-19A
<b>Carrier</b>	AT&T		
<b>Case Engineer</b>	Thomas Check, PE, Civil Engineering Associate		
<b>Request</b>	The applicant requests to install a personal wireless service facility in the public right-of-way at the location identified below.		

**LOCATION INFORMATION**

<b>Installation Medium</b>	The personal wireless service facility is proposed to be installed on a City-owned streetlight pole (City pole ID #8415).
<b>Nearest Legal Address</b>	1700 Ocean Avenue (Tongva Park)
<b>Installation street/alley</b>	Ocean Avenue  (See Attachment A for additional location information)

**CEQA STATUS**

The proposed small cell site is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303, which exempts replacement of existing utility structures and permits the installation of small new equipment and facilities in small structures.

**PUBLIC WORKS DEPARTMENT ACTION**

<b>Action</b>	Application Conditionally Approved
<b>Determination Date/Effective Date of Action</b>	May 3, 2020
<b>Deadline to Obtain Wireless Telecommunications Construction Permit</b>	October 30, 2020
<b>Expiration Date of this Permit</b>	May 3, 2020

**MASTER SMALL CELL LICENSE AGREEMENT**

This Statement of Official Action shall serve as a Wireless Site Permit as referenced in that certain Master Small Cell License Agreement between the City of Santa Monica and New Cingular Wireless PCS, LLC, a Delaware limited liability company d/b/a AT&T Mobility (Agreement). All of the terms and conditions of the Agreement are incorporated hereby reference and made a part hereof.

**See Special Condition of Approval 1 pertaining to payment of the Annual License Fee.**

Each and all of the findings and determinations are based on the competent and substantial evidence contained in the entire record relating to the application. All summaries of information contained herein or in the findings are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact. Each finding is independent of every other finding.

## **FINDINGS**

The proposed personal wireless service facility complies with all applicable requirements described in Santa Monica Municipal Code (SMMC) Chapter 7.70 and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations (Standards) published March 31, 2020. The proposed personal wireless service facility also complies with all other laws, including without limitation state and federal law.

### **Camouflage and Concealment Elements**

Chapter 12 of the Standards establishes camouflage and concealment requirements for all personal wireless service facilities in the City's public right-of-way. Pursuant to general requirement #3 in section 12.2 of the Standards, "The personal wireless service facility shall be of the least intrusive design possible and occupy the least amount of space in the right-of-way possible but in no event shall exceed the limits prescribed" in the Standards.

The streetlight pole proposed to support the personal wireless service facility is consistent with what is permitted in the Standards and represents the least intrusive pole design at the project location. The personal wireless service facility installation proposes the replacement of an existing City-owned streetlight pole at the project location with a new concrete streetlight pole and foundation that have been designed to structurally accommodate the personal wireless service facility. The replacement streetlight pole is spun prestressed concrete with a "black and white" color and an anti-graffiti finish.

The design of the proposed personal wireless service facility, including dimensions, meets the City's design standards and are collectively considered camouflage and concealment elements of the site. The proposed personal wireless service facility involves the installation of three below grade pull boxes. The facility also involves the installation of a cylindrical concealment shroud and cylindrical antenna on top of the replacement streetlight pole. The cylindrical antenna will attach to the top of the shroud. Together, the shroud and antenna create a singular, unified cylindrical body. Both the shroud and antenna are proposed to be colored to match the replacement pole. The maximum diameter of the shroud and antenna is 12 inches, and the total height of the shroud and antenna together is 66 inches. All above grade cabling, conduits, and wiring serving the personal wireless service facility are proposed to be concealed completely within the shroud and streetlight pole. No new at grade equipment is proposed or permitted.

Pursuant to Chapter 9 of the Standards, the applicant submitted photos of the project location and photosimulations of the proposed personal wireless service facility to demonstrate a "before and after" of the project location. The design as shown in the photosimulations demonstrate the camouflage and concealment elements of the site and meets the City's design standards.

### **Federal Communications Commission Radio Frequency Exposure Requirements**

Pursuant to SMMC 7.70.130(a)(b), the applicant is required to demonstrate that the proposed wireless facility will operate in compliance with the Federal Communications Commission (FCC) regulations concerning radio frequency exposure. The applicant submitted a site-specific radio frequency emissions report sealed and signed by a California licensed electrical engineer that

certifies and demonstrates that the proposed facility will comply with applicable FCC radio frequency exposure standards and exposure limits regarding uncontrolled/general population exposure. The report details modeled exposure levels as a percentage of maximum allowable values set by the FCC for the general population and includes color-coded exhibits showing the location and orientation of the transmitting antennas, nearby buildings and structures, and boundaries of areas with radio frequency electromagnetic energy exposures in excess of the uncontrolled/general population limit.

#### California Coastal Commission Authorization

The proposed installation location is located within the Coastal Zone as defined by the California Coastal Commission. As part of the application materials, the applicant submitted a letter from the Coastal Commission certifying that the proposed project was reviewed by Coastal Commission staff and determined that a Coastal Development Permit is not necessary.

#### Site Location Justification

Pursuant to SMMC 7.70.260(b) and Chapter 11 of the Standards, the applicant is required to furnish the City with adequate information to understand the basis for siting a personal wireless service facility at a particular location, and to assess whether other nearby locations may be more suitable for the facility. Personal wireless service facilities shall be sited in locations that are least intrusive to the surrounding community uses.

As part of the application materials, the applicant submitted propagation maps of the proposed installation location. These maps included existing coverage levels at the proposed installation location and vicinity and modeled coverage levels. This information satisfies the City's site location selection and justification requirements, and the proposed design at the proposed installation location is acceptable.

#### **STANDARD CONDITIONS OF APPROVAL**

1. Within thirty (30) days of transmittal of this Statement of Official Action, the project applicant shall sign a copy of this determination and return the document to the Public Works Department. Failure to return this Statement of Official Action within thirty (30) days shall constitute grounds for potential revocation of this determination.
2. This approval is for those construction documents bearing a stamp of approval from the City of Santa Monica dated **May 3, 2019**, inclusive of any exceptions noted thereon. Permittee shall build in strict compliance to the approved plans. No deviation from the approved plans shall be permitted without authorization from the City of Santa Monica.
3. This approval is issued for the specific design configuration, including camouflage and concealment elements, as described in the Findings section of this Statement of Official Action, as shown in the approved construction documents, and as shown in the approved photosimulations. In the event of a conflict between the Findings, construction documents, and photosimulations, the most restrictive requirement shall govern and be considered part of the camouflage and concealment elements of the site.
4. Permittee shall obtain a Wireless Telecommunications Construction Permit within one hundred eighty (180) days of the date of this Wireless Facility Permit or the permit shall automatically become null and void. Permittee shall provide the following information of the contractor performing the work prior to obtaining a Wireless Telecommunications Construction Permit:

- a. Point of contact, company, address, phone number, email
- b. California Contractor State License Board number
- c. Santa Monica business license number
- d. Certificate of insurance acceptable to the City's Risk Manager (see Exhibit A of the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations (Standards) for insurance requirements)

All licenses and certificates of insurance shall be valid through the duration of the Wireless Telecommunications Construction Permit.

- 5. Permittee shall comply with all Wireless Telecommunications Construction Permit inspection procedures established by the Public Works Department.
- 6. Permittee shall not connect the personal wireless service facility approved in this Wireless Facility Permit to a personal wireless service network (e.g., a wireless carrier's network) until receiving final inspection approval on the related Wireless Telecommunications Construction Permit from the Public Works Department.
- 7. Except in the case of emergencies, work, including maintenance, may only be performed on the personal wireless facility during the days and times stated below:

Monday to Friday	8 AM to 6 PM
Saturday	9 AM to 5 PM
Sunday and Holidays	No Work Permitted

NOTE: If work requires a Temporary Traffic Control Plan that prescribes more restrictive hours than those stated above, the more restrictive hours shall prevail.

- 8. The permittee shall submit as-built drawings within (90) days after installation of the facility. As-built drawings shall be in an electronic format acceptable to the City.
- 9. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator.
- 10. The permittee shall notify the City in writing at least ninety (90) days prior to any transfer or assignment of the permit. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The Public Works Director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the FCC.

11. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
12. If a nearby property owner registers a noise complaint, the City shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the permittee. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the City determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the City may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of Santa Monica Municipal Code Chapter 4.12. The matter shall be reviewed by the Public Works Director. If the Public Works Director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the Code, the Public Works Director may impose conditions on the project to achieve said objective.
13. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
14. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within thirty (30) days of being notified of the need for such repairs by the City, the City may revoke the permit pursuant to Santa Monica Municipal Code Section 7.70.160.
15. The permittee shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("Claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of any permit or regulatory approval authorized by City under Santa Monica Municipal Code Chapter 7.70; and (2) other Claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with the permit or the facility; provided, however, the permittee shall not be required to defend, indemnify, or hold harmless the City, agents, officers, officials, employees and volunteers due to the negligence, gross negligence, or willful misconduct of the City, agents, officers, officials, employees, and volunteers. In the event the City becomes aware any Claims, the City shall use best efforts to promptly notify the permittee and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property

owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

16. Permittee shall pay for and provide a performance bond or other form of security approved by the City Attorney's Office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and Santa Monica Municipal Code Chapter 7.70. The security instrument coverage shall include, but not be limited to, removal of the facility. The amount of the security instrument shall be calculated by the applicant prior to issuance of a Wireless Telecommunications Construction Permit in an amount rationally related to the obligations covered by the bond and be approved by the City Attorney's Office. Before issuance of any Wireless Telecommunications Construction Permit, permittee must submit said security instrument.
17. Permittee shall comply with the insurance requirements as set forth in Exhibit A of the Standards for the duration of the permit. Permittee shall furnish proof of insurance prior to issuance of a Wireless Telecommunications Construction Permit.
18. Permittee shall obtain all other required prior permits and other regulatory approvals from other City departments, and state and federal agencies prior to issuance of a Wireless Telecommunications Construction Permit to perform the work. This Wireless Facility Permit and any subsequent Wireless Telecommunications Construction Permit shall be subject to the conditions and/or other requirements in any other required prior permits or other regulatory approvals from other City departments, and state and federal agencies.
19. Within thirty (30) days of commencing operation of the personal wireless service facility approved in this Wireless Facility Permit, the permittee shall provide to the Public Works Director a post-installation certification confirming, under penalty of perjury, that the actual emissions from the personal wireless service facility do not exceed that disclosed in the pre-installation report submitted as part of the Wireless Facility Permit application.
20. Within thirty (30) days of the anniversary date of this Wireless Facility Permit, the permittee shall provide to the Public Works Director a post-installation certification confirming, under penalty of perjury, that the personal wireless service facility is compliant with FCC regulations concerning radio frequency emissions.
21. Within thirty (30) days of the anniversary date of this Wireless Facility Permit, the permittee shall routinely inspect the personal wireless service facility to ensure that it is maintained in good condition, including without limitation ensuring the facilities are reasonably free of: general dirt and grease; chipped, faded, peeling, and cracked paint; rust and corrosion; cracks, dents, and discoloration; missing discolored, or damaged camouflage; graffiti, bills, stickers, advertisements, litter, and debris; broken and misshapen structural parts; and any damage from any cause. Permittee shall obtain all necessary permits and regulatory approvals prior to performing any maintenance activity on the personal wireless service facility.
22. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the permit prior to permit issuance.

**SPECIAL CONDITIONS OF APPROVAL**

1. Pursuant to section 5 of the Agreement, the Annual License Fee for the initial year of this Site Permit (prorated through December 31 of this year) shall be immediately due upon the Determination Date of this Site Permit. Failure to pay said Annual License Fee within thirty (30) days shall constitute grounds for potential revocation of this determination.

**PUBLIC WORKS DIRECTOR CERTIFICATION**

I hereby certify that this Statement of Official Action accurately reflects the final determination of the Public Works Department of the City of Santa Monica.

  
\_\_\_\_\_  
Joshua Carvalho, PE for  
Susan Cline, Public Works Director

\_\_\_\_\_ 05/05/20  
Date

**ACKNOWLEDGEMENT BY PERMIT HOLDER**

I hereby agree to the above conditions of approval and acknowledge that failure to comply with such conditions shall constitute grounds for revocation of the permit approval.

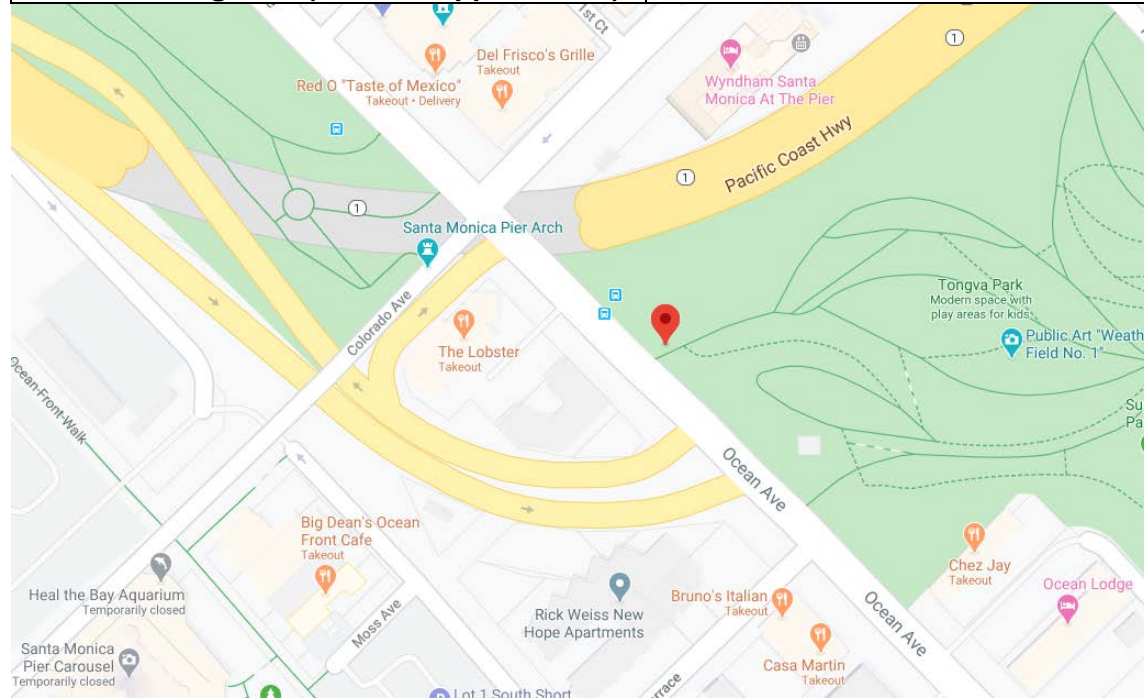
\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

**ATTACHMENT A: ADDITIONAL LOCATION INFORMATION**

Latitude, Longitude (NAD 83; approximate)	34.011047, -118.494309
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Vicinity map of proposed installation location (denoted by red pin; location is approximate)



Street view of proposed installation location (looking north on Ocean Avenue)