



TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: December 3, 2013

TITLE: Appeal of City Engineer's Denial of Right-of-Way Permits Application by
Crown Castle.

Recommendation

It is recommended that the City Commission conduct a public meeting to consider an appeal of the City Engineer's denial of the applications for right-of-way permits to install cabinets and utility poles at the twelve locations and adopt a resolution upholding the City Engineers denial of the right-of-way permit application.

Background

In May 2013, the Appellant, Crown Castle, submitted applications to install antennas at twelve locations within the public rights-of-way of residential neighborhoods in the City of Fort Lauderdale. Appellant is in the business of providing additional capacity to wireless voice and data companies such as AT&T through a Distributed Antenna System (DAS) network. A DAS installation typically consists of a pole-mounted antenna and a six-foot high cabinet that are connected to a communications hub through an underground fiber optic network.

On August 27, 2013, a designee of the City Engineer issued a letter formally denying the applications (denial letter attached as **Exhibit 3**). In that the City has adopted policies and goals that promote walkability, utilization of multi-modal transportations systems and connectivity, the denial is based upon the City's anticipation that sidewalks will be installed in these locations at some point in the future.

Pursuant to Section 25-100.2(a) of the City Code of Ordinances the Appellant has requested an appeal of the City Engineer's decision. A copy of their September 25, 2013 letter requesting the appeal is attached (**Exhibit 1**). Code Sections 25-100.1 provides the regulatory framework for the placement of communications service facilities within the City's rights-of-way (**Exhibit 4**).

Pursuant to Section 25-100.2(a) of the City Code the City Commission shall hold a public meeting to review the record compiled by the department or city engineer and the

registrant in the application and decision by the department or city engineer and shall determine if: a. there was a departure from the essential requirements of the law or b. competent substantial evidence does not exist to support the decision.

If the Commission finds either of the two conditions, then the Commission shall conduct a de novo hearing, which may be held immediately or set by resolution no later than thirty (30) days from the date of the adoption of the resolution. If the City Commission finds that neither condition exists, then a resolution upholding the decision of the City Engineer should be approved. **(Exhibit 5)**

Should the Commission grant a de novo hearing, the application for a right-of-way permit shall be reviewed for compliance with Section 25.100.1 of the City Code of Ordinance. At the conclusion of the hearing the City Commission may reject, approve or amend the decision of the City Engineer or remand the decision to the department for further proceedings.

Resource Impact

There is no fiscal impact to the City.

Strategic Connections

This item is a Press Play Fort Lauderdale Strategic Plan 2018 initiative, included in the **Neighborhood Enhancement Cylinder of Excellence**, specifically advancing

- **Goal 5:** Be a community of strong, beautiful, and healthy neighborhoods.
- **Objective 2:** Enhance the beauty, aesthetics, and environmental quality of neighborhoods.

*This item advances the Fast Forward Fort Lauderdale Vision Plan 2035: **We are Community***

Attachments: Exhibit 1 – Appeal Letter

- Exhibit 2 – Right-of-Way Permit Application 1960 SE 10 Ave
- Exhibit 3 – Right-of-Way Permit Application 2315 SE 4 Avenue
- Exhibit 4 – Right-of-Way Permit Application 550 SE 21 Street
- Exhibit 5 – Right-of-Way Permit Application 717 NW 15 Avenue
- Exhibit 6 – Right-of-Way Permit Application 539 NW 17 Avenue
- Exhibit 7 – Right-of-Way Permit Application 934 NW 16 Avenue
- Exhibit 8 – Right-of-Way Permit Application 923 NW 13 Street
- Exhibit 9 – Right-of-Way Permit Application 804 NW 15 Street
- Exhibit 10 – Right-of-Way Permit Application 1027 NW 10 Place
- Exhibit 11 – Right-of-Way Permit Application 774 NW 11 Street
- Exhibit 12 – Right-of-Way Permit Application 1237 NW 1 Avenue
- Exhibit 13 – Right-of-Way Permit Application 421 NW 12 Street
- Exhibit 14 - Denial Letter
- Exhibit 15 – Code Sections 25-100.1 & 25-100.2
- Exhibit 16 – Resolution Upholding Decision
- Exhibit 17 – Resolution Set De Novo Hearing

Prepared by: Dennis Girisgen, P.E., Assistant City Engineer

Department Director: Greg Brewton, Department of Sustainable Development