



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#15-0160

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

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

DATE: February 3, 2015

TITLE: Quasi-Judicial Rescheduled De Novo Hearing for Appeal of City Engineer's
Denial of Crown Castle NG East LLC's Right of way Permit Applications in
eight (8) locations

Recommendation

It is recommended that the City Commission conduct a public meeting to review the record compiled and uphold the City Engineer's denial of the right of way permit applications submitted by Crown Castle NG East LLC in eight (8) locations.

Background

On May 21, 2014, the Appellant, Crown Castle NG East LLC, submitted applications to install antennas and ground-mounted cabinets at eight (8) locations mostly within the public rights of way of the City of Fort Lauderdale (included as Exhibits 2-9). The Appellant is in the business of providing additional capacity to wireless voice and data companies through a Distributed Antenna System (DAS) network. A DAS installation typically consists of a pole-mounted antenna approximately forty (40) feet high and an above ground cabinet which varies in height from four (4) to six (6) feet, depending on location. This above ground cabinet is connected to a communications hub through an underground fiber optic network.

On August 18, 2014, a designee of the City Engineer issued a letter formally denying the applications (denial letter included as Exhibit 10). Sections 25-100.1 of the Code of Ordinances of the City of Fort Lauderdale provide the regulatory framework for the placement of communications service facilities within city rights of way (copy Section 25-100.1, Code of Ordinances of the City of Fort Lauderdale included as Exhibit 19). The denial letter cited multiple deficiencies in meeting Section 25-100.1, Code of Ordinances of the City of Fort Lauderdale at each location. It is important to note, denial of any right of way permit should be sustained if the Application fails to meet merely one single subsection of Section 25-100.1, Code of Ordinances of the City of Fort Lauderdale.

Pursuant to Section 25-100.2(a), Code of Ordinances of the City of Fort Lauderdale, the Appellant is appealing the City Engineer's decision to the City Commission. An outline of the Procedure for Appeal of Denial of Right of way Permit is attached as Exhibit 1.

Copies of the September 17, 2014 appeal request letters from for each location are included in Exhibits 11-18.

City staff has reviewed the Appellant's appeal letters submitted on September 17, 2014 for each location. A response with details for each application's denial, and an explanation of the outcome of the review of each exemption and denial is included in Exhibits 11-18.

Pursuant to Section 25-100.2(a), Code of Ordinances of the City of Fort Lauderdale (copy included as Exhibit 19), *Appeal* the Commission shall review the record compiled by the department or city engineer and decision by the department or city engineer and upon review thereof shall initially determine if:

- a. There was a departure from the essential requirements of the law in the proceedings appealed; 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 (included as Exhibit 20).

Should the Commission grant a de novo hearing by resolution, the application for a right of way permit shall be reviewed for compliance with Section 25.100.1, Code of Ordinances of the City of Fort Lauderdale. 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 associated with this action.

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 – Procedure For Appeal Of Denial Of Right of way Permit
Exhibit 2 – Permit Application 1 – 13-01 Node 60-1 – 1001 SE 20th Street

Exhibit 3 – Permit Application 2 – 13-04 Node 61-1 – 1510 NW 7th Street
Exhibit 4 – Permit Application 3 – 13-05 Node 61-2 – 539 NW 17th Avenue
Exhibit 5 – Permit Application 4 – 13-06 Node 61-3 – 934 NW 16th Avenue
Exhibit 6 – Permit Application 5 – 13-07 Node 62-1 – 891 NW 12th Street
Exhibit 7 – Permit Application 6 – 13-09 Node 62-3 – 1027 NW 10th Place
Exhibit 8 – Permit Application 7 – 13-11 Node 63-1 – 50 NE 13th Street
Exhibit 9 – Permit Application 8 – 13-12 Node 63-2 – 421 NW 12th Street
Exhibit 10 – Right of way Permit Denial Letter
Exhibit 11 – Appeal & Response to Application 1 – 13-01 Node 60-1
Exhibit 12 – Appeal & Response to Application 2 – 13-04 Node 61-1
Exhibit 13 – Appeal & Response to Application 3 – 13-05 Node 61-2
Exhibit 14 – Appeal & Response to Application 4 – 13-06 Node 61-3
Exhibit 15 – Appeal & Response to Application 5 – 13-07 Node 62-1
Exhibit 16 – Appeal & Response to Application 6 – 13-09 Node 62-3
Exhibit 17 – Appeal & Response to Application 7 – 13-11 Node 63-1
Exhibit 18 – Appeal & Response to Application 8 – 13-12 Node 63-2
Exhibit 19 – Code of Ordinances Sections 25-100.1 & 25-100.2
Exhibit 20 – Resolution Upholding City Engineer Denial

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