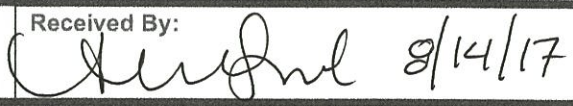


CITY OF MERCER ISLAND DEVELOPMENT SERVICES GROUP 9611SE 36TH STREET MERCER ISLAND, WA 98040 PHONE: 206.275.7605 www.mercergov.org	CITY USE ONLY		
	PROJECT #	RECEIPT #	Fee
	1701-130		915.67
	MIN05		\$ 915.67
	Date Received: <u>APL17-007</u>		
APPEAL	Received By: <u></u> 8/14/17		
<input type="checkbox"/> Building Appeal		<input type="checkbox"/> Land Use Appeal	
		<input checked="" type="checkbox"/> Right-of-Way Appeal	

Name: WA-CLEC LLC
 Address: 1505 Westlake Avenue North, Suite 800, Seattle, WA 98109
 Phone: (206) 336-3229
 Email: Chelsea.watson@crowncastle.com

Counsel for Appellant: Richard J. Busch
 Address: 25025 SE Klahanie Blvd, F203, Issaquah, WA 98029
 Phone: (425) 458-3940
 Email: rich.busch@wirelesscounsel.com

What is the decision that you are appealing? Include any applicable project file number.

Appeal of the City's denial of Appellant's Small Cell ROW Use Permit Application, under City File Number 1701-130 (MIN05).

What are your reasons for appealing this decision?

(You must indicate specifically that there were substantial errors, the decision is unsupported by the facts presented, the decision is in conflict with the standards for review of the action or there were irregularities in the procedure. Attachments or supporting information may be included.)


The City staff's denial of the Application is not consistent with the record before the City. The reasons for the appeal include but are not limited to: (1) The Application and supplemental responses demonstrate that the proposed small cell node meets the requirements of the Franchise Agreement. (2) The alternative locations suggested by the staff are either too far away from the proposed node location, are on private property, or have an equal impact on the appearance from existing adjacent residential structures and are therefore not eligible alternative locations. (3) The additional information requested by the City staff exceeds the amount and type of information that is required by the Franchise Agreement and the staff's denial based on the lack of additional information is unreasonable. (4) The denial is inconsistent with the requirements of the Telecommunications Act of 1996, as amended, 47 USC Section 151 et seq., including, but not limited to, the following:

- 47 U.S.C. Section 253 (a): the denial is based on local regulations that have the effect of prohibiting the ability of WA-CLEC LLC to provide telecommunications services.
- 47 U.S.C. Section 332(c)(7)(B)(iii): The denial was not based on substantial evidence, as required by 47 U.S.C. section 332(c)(7)(B)(iii).
- 47 U.S.C. Section 332(c)(7)(B)(i)(II): The denial results in a prohibition of service and therefore is prohibited by 47 U.S.C. Section 332(c)(7)(B)(i)(II).

(5) The denial conflicts with state law, including, but not limited to, ch. 35.99 of the Washington Revised Statutes.

What is the outcome or changes in the decision that you are seeking?

Applicant seeks an order granting the requested permit.

Signature: 

Date: 8/14/17

DUPLICATE DUPLICATE DUPLICATE DUPLICATE
CITY OF MERCER ISLAND
CITY HALL
9611 SE 36TH STREET
MERCER ISLAND, WA 98040
206-275-7600

Reg# #/Rcpt#: 001-00159450 [DH]
Accounting Date: Mon, Aug 14, 2017
Date/Time: Mon, Aug 14, 2017 2:13 PM

LAND USE ACTIONS
GENERAL
ACCT #: DS0000-99999
REF #: APL17-007

FEE AMOUNT: \$ 915.67

RECEIPT TOTAL \$ 915.67

Payment Data:

Pmt# :1

Payer: CROWN CASTLE USA INC
METHOD: CK \$ 915.67
Ref#: 2238555

RECEIPT SUMMARY

TOTAL TENDERED \$ 915.67
RECEIPT TOTAL \$ 915.67

CHANGE DUE \$ 0.00

HAVE A NICE DAY!

DUPLICATE DUPLICATE DUPLICATE DUPLICATE
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