


FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #19-0407 / FRANCHISE – NEW CINGULAR WIRELESS PCS		

TO

DATE:

The Honorable President and  
 Members of the City Council  
 City Hall, Room 400  
 100 North Holliday Street

October 10, 2019

At its regular meeting of October 3, 2019, the Planning Commission considered City Council Bill #19-0407, for the purpose of granting a franchise to New Cingular Wireless PCS, LLC, to construct, install, maintain, repair, operate, relocate, replace, and remove certain Communications Facilities in and across certain streets and Public Ways and Park Properties, subject to certain terms and conditions; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #19-0407 and adopted the following resolution; eight members being present (seven in favor, one recused):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #19-0407 be passed by the City Council.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

attachment

- cc: Mr. Nicholas Blendy, Mayor's Office  
 Mr. Matthew Stegman, Mayor's Office  
 Ms. Nina Themelis, Mayor's Office  
 The Honorable Edward Reisinger, Council Rep. to Planning Commission  
 Mr. Colin Tarbert, BDC  
 Mr. Derek Baumgardner, BMZA  
 Mr. Geoffrey Veale, Zoning Administration  
 Ms. Stephanie Murdock, DHCD  
 Ms. Elena DiPietro, Law Dept.  
 Mr. Francis Burnszynski, PABC  
 Mr. Liam Davis, DOT  
 Ms. Natawna Austin, Council Services  
 Mr. Dominic McAlily, Council Services



Bernard C. "Jack" Young  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman

### STAFF REPORT



Chris Ryer  
Director

October 3, 2019

**REQUEST:** City Council Bill #19-0407/ Franchise – New Cingular Wireless PCS:

For the purpose of granting a franchise to New Cingular Wireless PCS, LLC, to construct, install, maintain, repair, operate, relocate, replace, and remove certain Communications Facilities in and across certain streets and Public Ways and Park Properties, subject to certain terms and conditions; and providing for a special effective date.

**RECOMMENDATION:** Amendment and Approval

**STAFF:** Matthew DeSantis, AICP

**PETITIONER:** The Administration, on behalf of the Department of Transportation (DOT)

### HISTORY

- On June 11, 2015, the Planning Commission recommended amendment and approval of City Council Bill #15-0528, which was for a Franchise for Extenet Systems, Inc. That Ordinance has been enacted as of August 17, 2015 via Ordinance #15-400.
- On August 27, 2015, the Planning Commission recommended amendment and approval of City Council Bill #15-0551, which was for a Franchise for Crown Castle NG Atlantic, LLC. That Ordinance has been enacted as of November 6, 2015 via Ordinance #15-428.
- On March 28, 2019, the Planning Commission approved the Aesthetic and Design Standards for Small Cells on public rights-of-way.

### ANALYSIS

Background: In 2015 and 2016, the City granted franchise agreements to three third-party wireless telecommunications infrastructure providers: Crown Castle, Extenet, and Mobilitie/Technology MD. As wireless telecommunication technology has evolved, there has been a greater and greater need to provide additional "small cell" antennas in order to provide both wireless coverage and capacity. These small cell facilities are much smaller than traditional cell tower installations, emit at much lower power levels, and have a much smaller range. These three franchisees (though the vast majority belong to Crown Castle) have to-date installed close to 600 wireless telecommunication facilities throughout the City within the public right-of-way. The installations are most usually attachments to existing City light poles, consisting of an antenna at the top and associated radio equipment mounted on the pole or nearby on the ground.

Federal Law: The Federal Telecommunications Act of 1996 prohibits local governments from discriminating between different providers of personal wireless services and prohibits local jurisdictions from altogether banning the construction, modification, or placement of these kinds of facilities in a particular area. Additionally, an Order adopted by the FCC in September 2018

imposes additional restrictions on local governments regarding the deployment of wireless infrastructure and how fees may be collected.

Local government does, however, maintain the authority to regulate the time, place, and manner of specific wireless telecommunications facilities. The Planning Commission approved Aesthetic and Design Standards for Small Cells on March 28, 2019. This documents governs such aspects as general equipment design, compatibility with surrounding infrastructure, minimum distance separation from residential lots, and minimum distance separation from other wireless infrastructure. The Department of Planning currently reviews each location proposed for installation of a small cell facility and ensures that such location is posted for public notice purposes. All of these variables currently in place will continue to guide the deployment of additional wireless facilities by AT&T.

The Department of Planning recognizes the importance of Baltimore having access to modern, state-of-the-art telecommunications infrastructure that is high-speed, reliable, and deployed in an equitable manner throughout its various neighborhoods. It is important to residents, business owners, and visitors that the City stays competitive with other jurisdictions in providing this kind of vital utility that people have come to rely on.

Proposed Franchise: Unlike the current franchisees which provide the infrastructure and then lease space to wireless carriers, New Cingular Wireless PCS (i.e. AT&T) seeks the right to install and maintain its own equipment for the benefit of its customers. This request for a franchise will allow AT&T to attach small cell equipment to publically owned infrastructure, such as street light poles, within the public right-of-way as well as public park properties.

Staff understands that the Franchise will be for a ten-year period, with three five-year renewals. Each installation will require a separate attachment agreement, conduit lease agreement, and that all costs will be borne by AT&T (to include working directly with BGE for power).

Attachment Agreement: The franchise bill itself is a blanket agreement that will permit AT&T to utilize public ROW and park properties for the deployment of their infrastructure – the associated Attachment Agreement is what governs the actual attachments that will be used on City poles. The substance of the Attachment Agreement is not within CCB #2019-0407 but rather is a separate document. AT&T is proposing to deploy both 4G and 5G equipment as a part of the attachment agreement. The majority of their proposed installations consist of only 5G equipment and a minority will consist of both 5G and 4G equipment on a given pole.

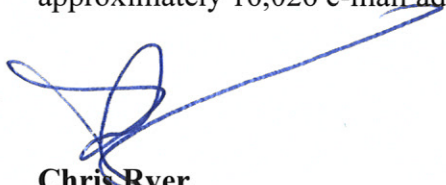
### **~~Proposed Amendment~~**

~~Staff recommends a minor text amendment in order to explicitly reference the Small Wireless Facilities: Aesthetic Requirements document that was previously approved by the Planning Commission:~~

- ~~- Section 11.1 New Poles: "...and shall comply with all applicable laws, including the Small Wireless Facilities: Aesthetic Requirements ("New Poles")."~~

A similar text amendment was included in a recent revision to Crown Castle's franchise agreement and it is fitting that this bill language should include the same for consistency.

Community Notification: Notice this Planning Commission hearing was delivered to approximately 16,026 e-mail addresses through the GovDelivery service.



**Chris Ryer**  
**Director**