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24 25 [Adopting findings related to the conditional use appeal on property located at 3725 Buchanan Street (a.k.a. 3727 Buchanan Street.)]

Motion adopting findings related to the appeal of the Planning Commission's approval of Conditional Use Authorization No. 2002.0657C (which approved the installation of a total of eight panel antennas and related equipment on the roof of an existing commercial building as part of Verizon's wireless telecommunications network within an NC-2 (Small-Scale Neighborhood Commercial) Zoning District, Scenic SSD (Special Sign District) and a 40-X Height and Bulk District) on property located at 3725 Buchanan Street (a.k.a. 3727 Buchanan Street), on the west side between Beach and North Point Streets (Lot 004 in Assessor's Block 0445A).

The appellant, Erika Tarantino, filed a timely appeal on May 29, 2003, protesting the approval by the Planning Commission of an application for a conditional use authorization (Conditional Use Application No. 2002.0657C, approved by Planning Commission Motion No. 16571 dated May 1, 2003), pursuant to Planning Code Sections 711.83 and 790.80, to authorize the installation of a total of eight panel antennas and related equipment on the roof of an existing commercial building as part of Verizon's wireless telecommunications network within an NC-2 (Small-Scale Neighborhood Commercial) Zoning District, Scenic SSD (Special Sign District) and a 40-X Height and Bulk District on property located at 3725 Buchanan Street (a.k.a. 3727 Buchanan Street), on the west side between Beach and North Point Streets (Lot 004 in Assessor's Block 0445A).

The San Francisco Planning Commission adopted the Wireless Telecommunications Services ("WTS") Facilities Siting Guidelines in August of 1996 ("Guidelines") to assist the Planning Department in its consideration of applications for conditional use authorization to install WTS facilities. These Guidelines are not binding on the Board of Supervisors. The ong High Bakk Br

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Guidelines establish location preferences for installation of WTS facilities throughout the City. The location preferences set forth seven categories, with location preference one being the most preferred sites, and location preference seven being the most disfavored sites. The property located at 3725 Buchanan Street (a.k.a. 3727 Buchanan Street) falls within a location preference four because it is wholly commercial structure within an NC-2 Zoning District and the applicant will not remove any visual obstructions as part of the installation. The area immediately surrounding the commercial district on Buchanan Street where the property is located is entirely residential and falls with a location preference seven.

On July 22, 2003, the Board of Supervisors conducted a duly noticed public hearing on the appeal from the Planning Commission's approval of the conditional use authorization referred to in the first paragraph of this motion. Following the conclusion of the public hearing on July 22, 2003, the Board voted to disapprove the decision of the Planning Commission (Planning Commission Motion No. 16571 dated May 1, 2003) and denied the issuance of the requested Conditional Use Application No. 2002.0657C by a vote of eleven to zero.

In considering the appeal of the approval of the requested conditional use authorization, the Board reviewed and considered the written record before the Board and all of the public comments made in support of and in opposition to the appeal.

NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and County of San Francisco hereby adopts as its own and incorporates by reference herein, as though fully set forth, the findings made by the Planning Commission in its Motion No. 16571 dated May 1, 2003, except as indicated below.

FURTHER MOVED, That the Board of Supervisors further took notice that the project was categorically exempt from environmental review pursuant to exemption Classes 1, 3 and 11 of Title 14 of the California Administrative Code. The Board finds that there have been no substantial changes in project circumstances and no new information of substantial

importance that would change the determination of categorical exemption issued by the Planning Commission.

## FURTHER MOVED, That the Board of Supervisors finds that:

- 1. The written and oral information provided by the applicant to the Board was not persuasive or objectively verified, and the applicant was unable to demonstrate credibly that the proposed WTS facility is necessary for the neighborhood or the community, contrary to the requirements of Section 303(c)(1) of the Planning Code.
- 2. The public testimony at the public hearing and the public documentation submitted in support of the appellant's objections to the decision of the Planning Commission supported the appellant's position that there is no necessity for the proposed WTS facility to be approved and installed for residential or business purposes in the neighborhood or the community because the proposed WTS facility is not necessary to meet the applicant's present service demands within the geographic service area defined by the applicant.
- 3. The written and oral information provided by the applicant at the July 22, 2003, public hearing showed that, according to the applicant, the proposed WTS facility would provide additional capacity to meet its present needs and the growth in demand for its services in this part of the City, which the applicant contends is higher than in other parts of the City. According to the applicant, the proposed WTS facility would also improve the performance of the next generation of wireless voice and data network services offered by the applicant.
- 4. Notwithstanding this information submitted by the applicant, the written and oral information provided by the appellant and her supporters at the July 22, 2003, public hearing showed that the applicant presently had acceptable service in the geographic area of the proposed WTS facility from the applicant's existing WTS facilities in the vicinity of the proposed site.

- 5. The public testimony at the public hearing and the public documentation submitted in support of the appellant's objections to the decision of the Planning Commission supported the appellant's position that the location of the proposed WTS facility is incompatible with the existing character of the neighborhood, contrary to the requirements of Section 303(c)(1) of the Planning Code.
- 6. The written and oral information provided by the appellant and her supporters at the July 22, 2003, public hearing showed that: (i) the area surrounding the proposed site is predominately residential and is adjacent to parks, scenic shorelines and historically significant buildings; (ii) the proposed WTS facility consists of eight panel antennas and twelve equipment cabinets weighing over seven tons; (iii) the proposed WTS facility would add height to a building that is the tallest in the neighborhood and that already exceeds the height restriction for the zoning district; and (iv) equipment that would be installed on the roof as part of the proposed WTS facility is likely to be noisy.
- 7. The public testimony at the public hearing and the public documentation submitted in support of the appellant's objections to the decision of the Planning Commission supported the appellant's position that the location of the proposed WTS facility is undesirable for the neighborhood or the community, contrary to the requirements of Section 303(c)(1) of the Planning Code. Persons owning more than 49% of the properties within 300 feet of the proposed site have subscribed to the appeal. This figure includes 77% of the residential property owners. Many other persons living in the neighborhood signed petitions opposing the proposed WTS facility. In addition, members of the public expressed overwhelming opposition to the proposed WTS facility during the July 22, 2003 hearing before the Board.
- 8. There is nothing in the record to suggest that the Board's decision to disapprove the decision of the Planning Commission in this case will unreasonably discriminate against the applicant in favor of providers of functionally equivalent services.

- 9. There is nothing in the record to suggest that the Board's decision to disapprove the decision of the Planning Commission in this case will limit or prohibit access to wireless telecommunications services in the geographic area of the proposed site.
- 10. There is nothing in the record to suggest that the Board's decision to disapprove the decision of the Planning Commission in this case will prevent the filling of a significant gap in wireless telecommunications services provided to remote users of those services in the geographic area of the proposed site, whether those remote users obtain service from the applicant or from other wireless service providers serving the City.
- 11. There is nothing in the record to suggest that the applicant exhausted its search for alternative sites for the proposed WTS facility or that the proposed WTS facility would be the least intrusive means for the applicant to improve its service quality in the geographic area of the proposed site.
- 12. In the written and oral information provided at the July 22, 2003, public hearing, members of the public expressed concern that radio frequency emissions from the proposed WTS facility would have adverse health effects on persons residing in the vicinity. In making these statements, members of the public exercised their constitutional right to petition the government. However, there is evidence in the record that the proposed WTS facility would comply with Federal Communications Commission safety standards for radio frequency radiation exposure. Thus, in disapproving the decision of the Planning Commission and denying the issuance of the requested conditional use authorization, the Board has not relied on the public testimony or public documentation concerning this issue and the Board has not based its determination on such a ground.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 9 made by the Planning Commission was incorrect and without substantiation. The Board finds that the installation of the proposed WTS facility

is not necessary for the neighborhood or the community. The applicant is able to adequately provide service to the neighborhood and the community from its existing WTS facilities in the area of the proposed site.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 9 made by the Planning Commission was incorrect and without substantiation. The Board finds that the installation of the proposed WTS facility is not desirable for and compatible with the neighborhood or the community. The construction of the proposed WTS facility would result in an additional intrusion of unnecessary, noticeable equipment into a neighborhood that contains a high proportion of residential property and that is adjacent to parks, scenic shorelines and historically significant buildings. The proposed WTS facility is not so located, designed, and treated architecturally as to minimize visibility from public places. The proposed WTS facility is not generally in harmony with neighborhood character.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 10 made by the Planning Commission was incorrect and without substantiation. The Board finds that the installation of the proposed WTS facility is not in conformity with, and would not implement the policies of, the City's General Plan, in that the installation of the proposed WTS facility will not further any of the objectives referred to by the Planning Commission.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 11 made by the Planning was incorrect and without substantiation. The Board finds that the installation of the proposed WTS facility does not conform with the priority planning policies established by Section 101.1(b) of the Planning Code because the proposed WTS facility: (i) is not necessary to preserve and enhance existing neighborhood-serving retail uses and to preserve and enhance future opportunities

for resident employment in and ownership of such businesses (see Section 101.1(b)(1)); (iii) is not necessary to conserve and protect existing housing and neighborhood character (see Section 101.1(b)(2)); (iii) is not necessary to preserve and enhance the City's supply of affordable housing (see Section 101.1(b)(3)); (iv) may increase commuter traffic and impede and overburden the streets (see Section 101.1(b)(4)); (v) is not necessary to maintain a diverse economic base by protecting the City's industrial and service sectors from displacement due to commercial office development or to enhance future opportunities for resident employment and ownership in these sectors (see Section 101.1(b)(5)); (vi) is not necessary to add to the City's preparedness to protect against injury and loss of life in an earthquake (see Section 101.1(b)(6)); (vii) is not necessary to preserve any landmarks and historic buildings (see Section 101.1(b)(7)); and (vii) is not necessary to protect City parks and open space and their access to sunlight and vistas from development (see Section 101.1(b)(8)).

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 12 made by the Planning Commission was incorrect and without substantiation, and the Board finds that the conditional use authorization would not promote the health, safety and welfare of the City, and will only add an unnecessary and redundant service and will result in an additional intrusion of unnecessary, noticeable equipment into a neighborhood that contains a high proportion of residential property and that is adjacent to parks, scenic shorelines and historically significant buildings.

FURTHER MOVED, That the Board of Supervisors, after carefully balancing the competing public and private interests, disapproved the decision of the Planning Commission by its Motion No. 16571 dated May 1, 2003, and denied the issuance of Conditional Use Authorization No. 2002.0657C.



## City and County of San Francisco Tails

City Hall I Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

## Motion

File Number:

031377

Date Passed:

August 19, 2003

Motion adopting findings related to the appeal of the Planning Commission's approval of Conditional Use Authorization No. 2002.0657C (which approved the installation of a total of eight panel antennas and related equipment on the roof of an existing commercial building as part of Verizon's wireless telecommunications network within an NC-2 (Small-Scale Neighborhood Commercial) Zoning District, Scenic SSD (Special Sign District) and a 40-X Height and Bulk District) on property located at 3725 Buchanan Street (a.k.a. 3727 Buchanan Street), on the west side between Beach and North Point Streets (Lot 004 in Assessor's Block 0445A).

August 8, 2003 Board of Supervisors — REFERRED: Board of Supervisors

August 19, 2003 Board of Supervisors — APPROVED

Ayes: 8 - Ammiano, Dufty, Gonzalez, Hall, Ma, McGoldrick, Newsom, Peskin

Excused: 3 - Daly, Maxwell, Sandoval

File No. 031377

I hereby certify that the foregoing Motion was APPROVED on August 19, 2003 by the **Board of Supervisors of the City and County** of San Francisco.

Gloria L. Young Clerk of the Board