Motion adopting findings related to the appeal of the approval of the Director of Planning, serving as the Planning Commission during last year's Planning emergency, of Conditional Use Application No. 2002.0736C (which authorized, subject to conditions, the installation of three antennas within a rooftop mounted cylinder radome, one GPS antenna mounted to the roof, and four associated equipment cabinets within the ground floor storage room of the one-story commercial building as part of the wireless telecommunications network operated by MetroPCS) within an NC-2 (Small-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District, pursuant to Section 711.83 of the Planning Code, on property located at 2444-2454 Noriega Street, north side between 31st and 32nd Streets (Lot 004F in Assessor's Block 2018).

The appellant, Ruby Chung, filed a timely appeal on November 15, 2002, pursuant to Section 711.83 of the Planning Code, protesting the approval by the Director of Planning, serving as the Planning Commission during last year's Planning emergency, of an application for a conditional use authorization (Conditional Use Application No. 2002.0736C, approved by Director of Planning Motion No. 16471 on October 17, 2002), to install, subject to certain conditions imposed by the Director of Planning, three antennas within a rooftop mounted cylinder radome, one GPS antenna mounted to the roof, and four associated equipment cabinets within the ground floor storage room of the one-story commercial building within an NC-2 (Small-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District, on property located at 2444-2454 Noriega Street, north side between 31st and 32nd Streets (Lot 004F in Assessor's Block 2018).
The San Francisco Planning Commission adopted 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 Guidelines establish location preferences for installation of WTS facilities throughout the City. The location preferences set forth seven categories, with location preference 1 being the most preferred sites and location preference 7 being the most disfavored sites. The property located at 2444-2454 Noriega Street falls within location preference 4, as it is a commercial structure within a NC-3 Zoning District.

On December 9, 2002, the Board of Supervisors conducted a duly noticed public hearing on the appeal from the Director of Planning's approval of a conditional use application referred to in the first paragraph of this motion. Following the conclusion of the public hearing on December 9, 2002, the Board continued the item until the next scheduled meeting of the Board in which all Members were present. During the meeting on January 13, 2003, with all Members present, the Board voted to disapprove the decision of the Director of Planning (Director of Planning Motion No. 16471) and denied the issuance of the requested Conditional Use Application No. 2002.0736C by a vote of ten to one.

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. Those Members of the Board who were present on January 13, 2003, but were not present during the December 9, 2002 public hearing, affirmatively stated that they had reviewed the written record and the videotape of the public hearing before voting on 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 Director of Planning in his Motion No. 16471,
dated October 17, 2002, except as indicated below; and be it

FURTHER MOVED, That the Board of Supervisors further took notice that the project
was categorically exempt from environmental review as a Class I exemption under 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 Director of Planning;
and, be it

FURTHER MOVED, That the Board of Supervisors finds that:

1. At the public hearing, the applicant asserted that the installation of the proposed
WTS facility is necessary to meet the applicant's service demands within the geographic
service area defined by the applicant. However, the applicant was unable to demonstrate
credibly that the proposed WTS facility is necessary.

2. Notwithstanding the information submitted by the applicant to the Director of
Planning, at the December 9, 2002 public hearing the appellant submitted to the Board a
coverage map distributed by the applicant to market its services. The coverage map showed
that the applicant had full mobile coverage in the geographic area of the proposed site. In
addition, the applicant admitted during the December 9, 2002 public hearing that its existing
WTS facilities provide adequate coverage for mobile users in the geographic area of the
proposed site and that applicant needs the proposed WTS facility only to provide reliable in-
building coverage in the geographic area of the proposed site.

3. Members of the public testified that at least six other wireless carriers provide
service in the geographic area of the proposed WTS facility and that these carriers offer rates
for wireless service that are competitive with applicant's rates. Accordingly, members of the
public testified, overwhelmingly, that there was not a need for an additional WTS facility in this
neighborhood. As a result, the Board determined that the written and oral information provided by the applicant was not persuasive or objectively verified, and did not establish that the proposed WTS facility is necessary to meet the community needs as required by Section 303(c)(1) of the Planning Code.

4. The public testimony at the public hearing, and the public documentation submitted in support of the appellant’s objections to the decision of the Director of Planning, overwhelmingly 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, because the proposed WTS facility will only be used to provide an unnecessary and redundant service in the geographic area 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 Director of Planning, overwhelmingly 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. Applicant did not design the proposed facility to minimize visual and industrial blight in the neighborhood, which is primarily a residential neighborhood with many single-family houses. In addition, applicant already has three existing WTS facilities in the vicinity of the proposed site and Sprint has a wireless facility one block from the proposed site.

6. The public testimony at the public hearing, and the public documentation submitted in support of the appellant’s objections to the decision of the Director of Planning, overwhelmingly supported the appellant’s position that the location of the proposed WTS facility is undesirable, contrary to the requirements of Section 303(c)(1) of the Planning Code. Forty percent of persons owning property within 300 feet of the proposed site have subscribed to the appeal. During the December 9, 2002 hearing before the Board, there was substantial
opposition to the proposed site from members of the public.

7. There is nothing in the record to suggest that the Board's decision to disapprove the decision of the Director of Planning in this case will unreasonably discriminate against the applicant in favor of providers of functionally equivalent services.

8. The applicant has failed to show that the proposed WTS facility will fill an existing need for wireless telecommunications services in the geographic area of the proposed site.

9. There is nothing in the record to suggest that the Board's decision to disapprove the decision of the Director of Planning in this case will limit or prohibit access to wireless telecommunications service 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 Director of Planning 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 carriers serving the City.

11. There is nothing in the record to suggest that the proposed WTS facility would be the least intrusive way to provide necessary wireless telecommunications services in the geographic area of the proposed site. While applicant previously considered a firehouse located at 1935 32nd Avenue, there is no evidence in the record that applicant exhausted its search for alternative sites for the proposed WTS facility.

12. During the public hearing on December 9, 2002, members of the public expressed concern that the radio frequency emissions from the proposed WTS facility would have adverse health effects on persons residing in the vicinity of the proposed site. 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 radio frequency emissions from the proposed WTS facility would comply with regulations promulgated by the Federal
Communications Commission. Thus, in disapproving the decision of the Director of Planning and denying the issuance of the requested conditional use application, the Board has not relied on the public testimony 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 Director of Planning was incorrect and without substantiation, and the Board finds that the installation of the proposed WTS facility is not necessary because it will only provide an unnecessary and redundant service in the neighborhood.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 10 made by the Director of Planning was incorrect and without substantiation, and the Board finds that the installation of the proposed WTS facility is not desirable for and compatible with the neighborhood or the community, because the proposed facility will result in an additional intrusion of unnecessary, noticeable equipment into a neighborhood that contains a high proportion of residential property and small businesses and which already has a number of WTS facilities in the vicinity of the proposed site; and because the placement of the proposed WTS facility is not so located, designed and treated architecturally as to minimize visibility from public places; and because the proposed facility intrudes into public vistas and disrupts the architectural design integrity of buildings in the neighborhood; and because the proposed facility is not in harmony with neighborhood character.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 12 made by the Director of Planning was incorrect and without substantiation, and 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 Director of Planning.

FURTHER MOVED, That based upon the findings made in the preceding paragraphs, the Board of Supervisors finds that Finding 13 made by the Director of Planning was incorrect and without substantiation, and the Board finds that the installation of the proposed WTS facility does not conform with the planning priorities 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 retail uses and preserve and enhance future opportunities for resident employment in and ownership of such businesses (see Section 101.1(b)(1)); (ii) will be detrimental to the 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) 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 (see Section 101.1(b)(5)); (v) 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)); (vi) 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 14 made by the Director of Planning 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.
FURTHER MOVED, That the Board of Supervisors, after carefully balancing the competing public and private interests, disapproved the decision of the Director of Planning by his Motion No. 16471, dated October 17, 2002, and denied the issuance of Conditional Use Application No. 2002.00736C.
Motion adopting findings related to the appeal of the approval of the Director of Planning, serving as the Planning Commission during last year's Planning emergency, of Conditional Use Application No. 2002.0736C (which authorized, subject to conditions, the installation of three antennas within a rooftop mounted cylinder radome, one GPS antenna mounted to the roof, and four associated equipment cabinets within the ground floor storage room of the one-story commercial building as part of the wireless telecommunications network operated by MetroPCS) within an NC-2 (Small-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District, pursuant to Section 711.83 of the Planning Code, on property located at 2444-2454 Noriega Street, north side between 31st and 32nd Streets (Lot 004F in Assessor's Block 2018).

January 15, 2003  Board of Supervisors — REFERRED: Board of Supervisors
January 21, 2003  Board of Supervisors — APPROVED
  Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Peskin, Sandoval
  Absent: 1 - Newsom
I hereby certify that the foregoing Motion was APPROVED on January 21, 2003 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board