

File No. 221229

Committee Item No. 9

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight

Date: January 19, 2023

Board of Supervisors Meeting:

Date: \_\_\_\_\_

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- Youth Commission Report
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- CEQA REFERRAL 011323
- CEQA Determination 011323
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: Stephanie Cabrera

Date: January 13, 2023

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Settlement of Lawsuit - New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility - \$0]

2  
3 **Ordinance authorizing settlement of the lawsuit filed by New Cingular Wireless PCS,**  
4 **LLC, d/b/a AT&T Mobility against the City and County of San Francisco for \$0; the**  
5 **lawsuit was filed on April 21, 2021, in United States District Court for the Northern**  
6 **District of California, Case No. 4:21-cv-02871-JST; entitled New Cingular Wireless PCS,**  
7 **LLC, d/b/a AT&T Mobility v. City and County of San Francisco, California; the lawsuit**  
8 **involves the denial of a Conditional Use Authorization to install a wireless**  
9 **telecommunications facility at 590-2nd Avenue; other material terms of the settlement**  
10 **are approval of the Planning Commission's Conditional Use Authorization based on a**  
11 **modification of the proposed facility's design which moves a screened equipment**  
12 **enclosure away from the building edge, rescission of Board of Supervisors Motions**  
13 **Nos. M21-052, M21-053, and M21-75 that disapproved that Conditional Use**  
14 **Authorization, directed the preparation of findings, and made findings pertaining to the**  
15 **same, dismissal of the lawsuit in its entirety with prejudice; and making environmental**  
16 **findings.**

17  
18 Be it ordained by the People of the City and County of San Francisco:

19  
20 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby  
21 authorizes the City Attorney to settle the action entitled New Cingular Wireless PCS, LLC,  
22 d/b/a AT&T Mobility v. City and County of San Francisco, California, United States District  
23 Court for the Northern District of California, Case No. 4:21-cv-02871-JST, with no monetary  
24 payment. The lawsuit involves the denial of New Cingular Wireless PCS, LLC, d/b/a AT&T  
25 Mobility's application for a Conditional Use Authorization to install a proposed wireless

1 telecommunications facility at 590 2nd Avenue. Other material terms of the settlement are  
2 approval of the Planning Commission's Conditional Use Authorization based on a modification  
3 of the proposed facility's design, rescission of Board of Supervisors motions Nos. M21-052,  
4 M21-053, and M21-75 that disapproved that Conditional Use Authorization, directed the  
5 preparation of findings, and made findings pertaining to the same, and dismissal of the lawsuit  
6 in its entirety with prejudice.

7 Section 2. The above-named action was filed in the United States District Court for the  
8 Northern District of California on April 21, 2021, and the following parties were named in the  
9 lawsuit: plaintiff New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility and defendant the  
10 City and County of San Francisco.

11 Section 3. Motions M21-052, M21-053, and M21-75 are hereby rescinded. The Clerk  
12 of the Board of Supervisors shall include in the posting on its website indicating passage of  
13 Motions M21-052, M21-053, and M21-75, a notation that those motions have been rescinded  
14 by this ordinance.

15 Section 4. As required by the settlement, the Planning Commission's approval on  
16 January 28, 2021, of a Conditional Use Authorization identified as Planning Case No. 2019-  
17 015984CUA, by its Motion No. 20849, to install a new rooftop AT&T mobility macro wireless  
18 telecommunications facility consisting of installation of 10 panel antennas, and ancillary  
19 equipment as part of the AT&T mobility telecommunications network; antenna and ancillary  
20 will be screened within two FRP enclosures, located within the RM-2 (Residential Mixed,  
21 Moderate Density) Zoning District and 40-X Height and Bulk District, for a proposed project  
22 located at 590 Second Avenue, Assessor's Parcel Block No. 1544, Lot No. 026, is hereby  
23 approved. The Board of Supervisors incorporates by reference the Planning Commission's  
24 findings of compliance with the General Plan, and Planning Code, Section 101.1, and adopts  
25 those findings as its own.

1 Section 5. The Planning Department has determined that the actions contemplated in  
2 this ordinance comply with the California Environmental Quality Act (Public Resources Code  
3 Section 21000 *et seq.*). Said determination is on file with the Clerk of the Board of  
4 Supervisors in File No. 221229, and is incorporated herein by reference.

5  
6  
7 APPROVED AS TO FORM AND  
RECOMMENDED:

8 DAVID CHIU  
9 City Attorney

10 \_\_\_\_\_  
11 /s/  
12 WAYNE SNODGRASS  
13 Team Leader, Government Litigation Team

RECOMMENDED:

PLANNING DEPARTMENT

14 \_\_\_\_\_  
15 /s/  
16 RICH HILLIS  
17 Planning Director

APPROVED:

18 \_\_\_\_\_  
19 /s/  
20 JONAS IONIN  
21 Secretary, Planning Commission

22  
23  
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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

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MEMORANDUM

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Date: January 13, 2023  
To: Lisa Gibson, Environmental Review Officer, Planning Department  
From: Stephanie Cabrera, Clerk of the Government Audit and Oversight Committee  
Subject: Board of Supervisors Legislation Referral - File No. 221229  
[Settlement of Lawsuit - New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility - \$0]

- 
- California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*)
    - Ordinance - Settlement of Lawsuit - New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility - \$0
    - Ballot Measure
  
  - Amendment to the Planning Code, including the following Findings:  
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
    - General Plan     Planning Code, Section 101.1     Planning Code, Section 302
  
  - Amendment to the Administrative Code, involving Land Use/Planning  
(*Board Rule 3.23: 30 days for possible Planning Department review*)
  
  - General Plan Referral for Non-Planning Code Amendments  
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)  
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
  
  - Historic Preservation Commission
    - Landmark (*Planning Code, Section 1004.3*)
    - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
    - Mills Act Contract (*Government Code, Section 50280*)
    - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department determination to Stephanie Cabrera at [Stephanie.Cabrera@sfgov.org](mailto:Stephanie.Cabrera@sfgov.org).

cc:

Devyani Jain, Planning Department  
Joy Navarrete, Planning Department

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

01/13/2023



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Planning Department Referral  
January 13, 2023

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cc:

Devyani Jain, Planning Department  
Joy Navarrete, Planning Department