

1 [Adopting findings related to the conditional use appeal on property located at 5200 Geary
2 Boulevard.]

3 **Motion adopting findings related to the appeal of the Planning Commission’s approval**
4 **of Conditional use Application No. 2002.0057C (which authorized, subject to certain**
5 **conditions, the mounting of six panel antennas to an existing light pole on the upper**
6 **deck of the three-level Geary Mall Parking Garage as part of a wireless**
7 **telecommunications network) within an NC-3 (Moderate Scale Neighborhood**
8 **Commercial) Zoning District and a 40-X Height and Bulk District, pursuant to Section**
9 **712.83 of the Planning Code for the proposed project located at 5200 Geary Boulevard,**
10 **north side between 16 and 17th Avenues (Lot 045 in Assessor’s Block 1448).**

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12 The appellant, Robert Blum, filed a timely appeal on May 20, 2002, protesting the
13 approval by the Planning Commission of an application for a conditional use authorization
14 (Conditional Use Application No. 2002.0057C, approved by Planning Commission Motion No.
15 16382 on April 18, 2002) to mount, subject to certain conditions imposed by the Planning
16 Commission, a total of six panel antennas to an existing light pole on the upper deck of the
17 three-level Geary Mall Parking Garage, within an NC-3 (Moderate Scale Neighborhood
18 Commercial) Zoning District and a 40-X Height and Bulk District, pursuant to Section 712.83
19 of the Planning Code for the proposed project located at 5200 Geary Boulevard, north side
20 between 16th and 17th Avenues (Lot 045 in Assessor’s Block 1448).

21 The San Francisco Planning Department adopted Wireless Telecommunications
22 Services (“WTS”) Facilities Siting Guidelines in August of 1996 (“Guidelines”) to assist the
23 Department in its consideration of applications for conditional use authorization to install WTS
24 facilities. These Guidelines are not binding on the Board of Supervisors. The Guidelines
25 establish location preferences for installation of WTS facilities throughout the City. The

1 location preferences set forth seven location categories, with category 1 being the most
2 preferred sites and category 7 being the most disfavored sites. The property located at 5200
3 Geary Boulevard falls within category 4, as it is a wholly commercial structure within a NC-3
4 Zoning District. This site was previously considered by the applicant (Metro PCS) to be an
5 alternate site to the applicant's preferred site at 4715 Geary Boulevard, but it was rejected as
6 "not technically feasible" to provide the necessary coverage. Other proposed sites for location
7 of the proposed antennas were considered by the applicant.

8 The public hearing before the Board of Supervisors on said appeal was scheduled to
9 be heard on June 17, 2002. On June 17, 2002, the Board conducted a duly noticed hearing
10 on the appeal from the Planning Commission's approval referred to in the first paragraph of
11 this motion. Following the conclusion of the public hearing, the Board disapproved the
12 decision of the Planning Commission (Planning Commission No. 16382), and denied the
13 issuance of requested Conditional Use Application No. 2002.0057C.

14 In reviewing the appeal of the approval of the requested conditional use authorization,
15 this Board reviewed and considered the written record before the Board and all of the public
16 comments made in support of and opposed to the appeal.

17 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and
18 County of San Francisco hereby adopts as its own and incorporates by reference herein, as
19 though fully set forth, the findings made by the Planning Commission in its Motion No. 16382,
20 dated April 18, 2002, except as indicated below; and, be it

21 FURTHER MOVED, That the Board of Supervisors further took notice that the project
22 was categorically exempt from environmental review as a Class I, 3 and 11 exemption under
23 Title 14 of the California Administrative Code. The Board finds that there have been no
24 substantial changes in project circumstances, and no new information of substantial
25 importance that would change the determination of categorical exemption issued by the

1 Planning Department; and, be it

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

3 1. At the public hearing, and in documents submitted by the applicant, the applicant
4 stated that the installation of these proposed antennas is necessary to meet the applicant's
5 service demands within the geographic service area defined by the applicant. At the public
6 hearing, however, the applicant was unable to demonstrate credibly that the proposed
7 facilities are necessary. No members of the public testified that there was a need for further
8 wireless service in this neighborhood. Many members of the public testified that there was no
9 need for further wireless services in the neighborhood. Following further questions of the
10 applicant's representatives by members of the Board of Supervisors, the Board determined
11 that the written and oral information provided by the applicant was not persuasive or
12 objectively verified, and did not establish that the proposed site is necessary to meet the
13 community needs. Consistent with this finding, and based on the evidence presented and
14 information contained in the application, the Board further determined that disapproving the
15 decision of the Planning Commission by its Motion 16382, dated April 18, 2002, would not
16 prohibit, or have the effect of prohibiting, the provision of personal wireless services in the
17 area proximate to 522 Geary Boulevard.

18 2. The public testimony at the public hearing, and the public documentation submitted
19 in support of the appellant's objections to the Planning Commission decision overwhelmingly
20 supported appellant's position that there is no necessity for the proposed six panel antennas
21 to be approved and installed for residential or business purposes in the neighborhood.

22 3. The public testimony at the public hearing, and the public documentation submitted
23 in support of the appellant's objections to the Planning Commission decision overwhelmingly
24 supported appellant's position that the location of the proposed six panel antennas at the
25 proposed site will constitute a visual and industrial blight for the neighborhood.

1 4. Nothing in the record suggests that the Board's decision to disapprove the Planning
2 Commission's decision in this case unreasonably discriminates against the applicant, and the
3 Board, therefore, determined that disapproving the decision of the Planning Commission
4 would not unreasonably discriminate in favor of providers of functionally equivalent services.

5 5. Nothing in the record suggests that the Board's decision to disapprove the Planning
6 Commission's decision in this case limits, or prohibits, access to WTS service in the area
7 proximate to 5200 Geary Boulevard.

8 6. Nothing in the record suggests that the area proximate to 5200 Geary Boulevard is
9 not already served by at least one other wireless service provider. Nothing in the record
10 suggest that the Board's decision to disapprove the Planning Commission's decision in this
11 case will limit or prohibit the filling of a significant gap in WTS services either in the form of
12 limited access to network facilities by wireless users in the neighborhood, or interrupted
13 communications of wireless users in the neighborhood.

14 7. The applicant has failed to show that the proposed antennas will fill an existing need
15 for WTS services in the neighborhood, or that their proposal would be the least intrusive way
16 to provide necessary services.

17 FURTHER MOVED, That based upon the findings made in the preceding paragraph,
18 the Board of Supervisors finds that Finding 9 made by the Planning Commission was incorrect
19 and without substantiation, and finds that the installation of the proposed antennas is not
20 necessary or desirable for and compatible with the neighborhood or the community, and will
21 only add an unnecessary and redundant service that will result in an additional intrusion of
22 unnecessary, noticeable equipment into a neighborhood which includes a high proportion of
23 residential property and small businesses, that the placement of the antennas is not so
24 located, designed and treated architecturally as to minimize their visibility from public places,
25 that they intrude into public vistas and disrupt the architectural design integrity of buildings in

1 the neighborhood, and that they are not in harmony with neighborhood character.

2 FURTHER MOVED, That the Board of Supervisors finds that Finding 10 made by the
3 Planning Commission was incorrect and without substantiation, and finds that the installation
4 of the proposed antennas is not in conformity with, and would not implement the policies of
5 the City's General Plan, in that the installation of the proposed antennas will not further any of
6 the objectives referred to by the Planning Commission.

7 FURTHER MOVED, That the Board of Supervisors finds that Finding 11 made by the
8 Planning Commission was incorrect and without substantiation, and finds that the installation
9 of the proposed antennas: is not necessary to preserve and enhance existing neighborhood
10 retail uses and preserve and enhance future opportunities for resident employment in and
11 ownership of such businesses; will be detrimental to the existing housing and neighborhood
12 character; will not preserve and enhance the City's supply of affordable housing; and will not
13 add to the City's preparedness to protect against injury and loss of life in an earthquake.

14 FURTHER MOVED, That the Board of Supervisors finds that Finding 12 made by the
15 Planning Commission was incorrect and without substantiation, and finds that the conditional
16 use authorization would not promote the health, safety and welfare of the city, and will only
17 add an unnecessary and redundant service that will result in an additional intrusion of
18 unnecessary, noticeable equipment into a neighborhood which includes a high proportion of
19 residential property.

20 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the
21 competing public and private interests, disapproved the decision of the Planning Commission
22 by its Motion No. 16382, dated April 18, 2002, and denied the issuance of Conditional Use
23 Application No. 2002.0057C.

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