

1 [Adopting findings related to the conditional use appeal on property located at 2489 – 2491  
2 Washington Street.]

3 **Motion adopting findings related to the appeal of the Planning Commission’s approval**  
4 **of Conditional Use Application No. 2000.1244C (which authorized, subject to certain**  
5 **conditions, the mounting of a total of three panel antennas on the roof and the**  
6 **installation of a non-occupied telephone equipment room in the basement as part of a**  
7 **wireless telecommunications network) for a two-story over basement commercial**  
8 **building within the Upper Fillmore Neighborhood Commercial District (NCD) and a 40-X**  
9 **Height and Bulk District, pursuant to Section 718.83 of the Planning Code, on property**  
10 **located at 2489 – 2491 Washington Street, southeast corner at Fillmore Street (Lot 022**  
11 **in Assessor’s Block 0612).**

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13 The appellant, Kate Jones, on behalf of the Neighborhood Committee for Antenna Free  
14 Zone, filed a timely appeal on June 11, 2001, protesting the approval by the Planning  
15 Commission of an application for a conditional use authorization (Conditional Use Application  
16 No. 2001.1244C, approved by Commission Motion No. 16161 on May 10, 2001) to mount,  
17 subject to certain conditions imposed by the Planning Commission, a total of three panel  
18 antennas on the roof, and to install a non-occupied telephone equipment room on the  
19 basement level, as part of the applicant’s (Sprint) wireless telecommunications network, on a  
20 two-story over basement commercial building, within the Upper Fillmore Neighborhood  
21 Commercial District (NCD) and a 40-X Height and Bulk District, pursuant to Section 718.83 of  
22 the Planning Code, on property located at 2489 – 2491 Washington Street, southeast corner  
23 at Fillmore Street (Lot 022 in Assessor’s Block 0612).

24 The San Francisco Planning Department adopted Wireless Telecommunications  
25 Services (“WTS”) Facilities Siting Guidelines (“Guidelines”) to help manage the Department’s

1 consideration of applications for conditional use authorization to install WTS facilities. The  
2 Guidelines establish location preferences for installation of WTS facilities throughout the City.  
3 The Location Preferences set forth seven location categories, with category 1 being the most  
4 preferred sites and category 7 being the most disfavored sites. The property located at 2489-  
5 2491 Washington Street falls within category 6. The Guidelines establish a presumption  
6 against approval of WTS facilities in category 6 locations. The installation of WTS facilities in  
7 a category 6 location is only proper where the applicant describes: 1) the more preferred sites  
8 located within the geographic service area of the facilities; 2) the good faith efforts that were  
9 taken to secure a more preferred location; 3) why such efforts were unsuccessful; and 4) how  
10 and why the proposed site is essential to meet the applicant's service demands.

11 The public hearing before the Board of Supervisors on said appeal was scheduled for  
12 July 2, 2001. On July 2 the Board continued the public hearing to July 16, 2001. On July 16  
13 the Board conducted a duly noticed hearing on the appeal from the Planning Commission's  
14 approval referred to in the first paragraph of this motion. Following the conclusion of the  
15 public hearing on July 16, the Board disapproved the decision of the Planning Commission  
16 (Planning Commission Motion No. 16161), and denied the issuance of requested Conditional  
17 Use Application No. 2000.1244C.

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

21 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and  
22 County of San Francisco hereby adopts as its own and incorporates by reference herein, as  
23 though fully set forth, the findings made by the Planning Commission in its Motion No. 16161,  
24 dated May 10, 2001, except as indicated below; and, be it

25 FURTHER MOVED, That the Board of Supervisors further took notice that the project

1 was categorically exempt from environmental review as a Class 1 exemption under Title 14 of  
2 the California Administrative Code. The Board finds that there have been no substantial  
3 project changes, no substantial changes in project circumstances, and no new information of  
4 substantial importance that would change the determination of categorical exemption issued  
5 by the Planning Department; and, be it

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

7 1. As required by the Guidelines, the applicant identified four more preferred  
8 sites within the “coverage objective area” identified by the applicant for service by the  
9 proposed facilities. The applicant submitted materials indicating that two of these sites  
10 were not technically feasible, and that lease negotiations were not successful at the  
11 other two more preferred locations. At the public hearing, following an answer that was  
12 provided to a question to the applicant’s representatives by a member of the Board of  
13 Supervisors, the Board determined that the written and oral information submitted by  
14 the applicant was not sufficient to establish that more preferred locations were not  
15 available within Sprint’s desired coverage objective area, or that the proposed facilities  
16 would be the least intrusive means for filling any gaps in service.

17 2. At the public hearing, and in documents submitted by the applicant, the  
18 applicant stated that the installation of these proposed antennas is essential to meet  
19 the applicant’s service demands within the geographic service area defined by Sprint.  
20 At the public hearing, however, the applicant was unable to demonstrate that the  
21 proposed facilities are essential. In particular, the applicant submitted a map entitled  
22 “Sprint PCS existing Coverage,” which purported to identify locations within the service  
23 area in which no Sprint service was available. Sprint customers who live or work within  
24 the proposed service area, however, testified that they are able to use Sprint’s services  
25 in the identified locations. Following questions to the applicant’s representatives by

1 members of the Board of Supervisors, a Sprint representative advised the Board that  
2 the map identifying areas in which no Sprint service was available was not accurate.  
3 Following further questions of the applicant's representatives by members of the Board  
4 of Supervisors, the Board determined that the written and oral information provided by  
5 the applicant (a) was not persuasive or objectively verified, (b) did not establish, as  
6 required, that the proposed site is essential to meet the applicant's service demands,  
7 and (c) at most indicated that any deficiencies or gaps in the applicant's service  
8 coverage are insignificant. Consistent with this finding, based on the evidence  
9 presented and information contained in Sprint's application indicating that, as of  
10 December, 2000, the applicant has at least 49 sites at which WTS facilities operate  
11 within San Francisco, the Board further determined that disapproving the decision of  
12 the Planning Commission by its Motion 16161, dated May 10, 2001, would not prohibit,  
13 or have the effect of prohibiting, the provision of personal wireless services.

14 3. Nothing in the record suggests that the Guidelines or the Board's application  
15 of the Guidelines in this case unreasonably discriminate against Sprint, and the Board  
16 therefore determined that disapproving the decision of the Planning Commission would  
17 not unreasonably discriminate in favor of providers of functionally equivalent services.

18 4. At the public hearing, several members of the public urged the Board to  
19 disapprove the decision of the Planning Commission because of their concerns about  
20 the environmental effects of radio frequency radiation. After a member of the Board of  
21 Supervisors sought legal advice about the role such considerations could play in the  
22 Board's decision, the Supervisor urged the public to address any such environmental  
23 concerns to other governmental bodies that have authority to address the  
24 environmental issues related to radio frequency radiation. The Supervisor further  
25 stated that any decision of the Board of Supervisors would be based on local land use

1 regulations, and not on the environmental effects of radio frequency radiation.

2 FURTHER MOVED, That based upon the findings made in the preceding paragraph,  
3 the Board of Supervisors finds that Finding 7 made by the Planning Commission was incorrect  
4 and without substantiation, and finds that the installation of the proposed antennas is not  
5 necessary in order to meet the applicant's service demands in the applicant's desired  
6 coverage area to be served by the proposed facilities, and is not necessary to meet  
7 emergency communication service.

8 FURTHER MOVED, That the Board of Supervisors finds that Finding 8 made by the  
9 Planning Commission was incorrect and without substantiation, and finds that the installation  
10 of the proposed antennas is not necessary or desirable for and compatible with the  
11 surrounding neighborhood.

12 FURTHER MOVED, That prior to acting on this appeal, the Board reviewed the final  
13 negative declaration issued for the proposed project; and, be it

14 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the  
15 competing public and private interests, disapproved the decision of the Planning Commission  
16 by its Motion 16161, dated May 10, 2001, and denied the issuance of Conditional Use  
17 Application No. 2000.1244C.

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