

1 [Adopting findings related to the conditional use appeal on the PG&E Transformer Station
2 located on the 3400 Block of 19th Street.]

3 **Motion adopting findings related to the appeal of the Planning Commission's approval**
4 **of Conditional Use Authorization No. 2002.0575C (which approved the installation of six**
5 **panel antennas and related back-up equipment on the PG&E Transformer Station**
6 **within an RH-3 (Residential House, Three-Family) District and a 50-X Height and Bulk**
7 **District) located at the south side of the 3400 Block of 19th Street (Lot 104 in Assessor's**
8 **Block 3596).**

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10 The appellant, Todd Curtis, filed a timely appeal on March 31, 2003, protesting the
11 approval by the Planning Commission of an application for a conditional use authorization
12 (Conditional Use Application No. 2002.0575C, approved by Planning Commission Motion No.
13 16534, dated February 27, 2003), pursuant to Planning Code Section 209.6(b), to authorize
14 the installation of six panel antennas and related back-up equipment on the PG&E
15 Transformer Station, as part of AT&T Wireless's wireless telecommunications network within
16 an RH-3 (Residential House, Three-Family) District and a 50-X Height and Bulk District,
17 located at the south side of the 3400 Block of 19th Street (Lot 104 in Assessor's Block 3596).

18 The San Francisco Planning Commission adopted the Wireless Telecommunications
19 Services ("WTS") Facilities Siting Guidelines in August of 1996 ("Guidelines") to assist the
20 Planning Department in its consideration of applications for conditional use authorization to
21 install WTS facilities. These Guidelines are not binding on the Board of Supervisors. The
22 Guidelines establish location preferences for installation of WTS facilities throughout the City.
23 The location preferences set forth seven categories, with location preference one being the
24 most preferred sites, and location preference seven being the most disfavored sites. The
25 PG&E Transformer Station on property located on the 3400 block of 19th Street would fall

1 within a location preference seven because it is in a residential district. The property falls
2 within a location preference one only because the proposed WTS facility would be placed on
3 a utility structure.

4 On July 22, 2003, the Board of Supervisors conducted a duly noticed public hearing on
5 the appeal from the Planning Commission's approval of the conditional use authorization
6 referred to in the first paragraph of this motion. Following the conclusion of the public hearing
7 on July 22, 2003, the Board voted to disapprove the decision of the Planning Commission
8 (Planning Commission Motion No. 16543 dated February 27, 2003) and denied the issuance
9 of the requested Conditional Use Application No. 2002.0575C by a vote of eight to one.

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

13 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and
14 County of San Francisco hereby finds that, following a review of questioned signatures on the
15 petition by the City Engineer's Office, the Director of Public Works determined that the appeal
16 qualified for presentation to the Board of Supervisors for consideration and decision.

17 FURTHER MOVED, That the Board of Supervisors hereby finds that the applicant was
18 given sufficient notice of the public hearing.

19 FURTHER MOVED, That the Board of Supervisors hereby adopts as its own and
20 incorporates by reference herein, as though fully set forth, the findings made by the Planning
21 Commission in its Motion No. 16543 dated February 27, 2003, except as indicated below.

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

1 would change the determination of categorical exemption issued by the Planning
2 Commission.

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

4 1. The written and oral information provided by the applicant to the Board was not
5 persuasive or objectively verified, and the applicant was unable to demonstrate credibly that
6 the proposed WTS facility is necessary for the neighborhood or the community, contrary to the
7 requirements of Section 303(c)(1) of the Planning Code.

8 2. The public testimony at the public hearing and the public documentation
9 submitted in support of the appellant's objections to the decision of the Planning Commission
10 supported the appellant's position that there is no necessity for the proposed WTS facility to
11 be approved and installed for residential or business purposes in the neighborhood or the
12 community because the proposed WTS facility will only be used to provide an unnecessary
13 and redundant service in the geographic area of the proposed site. The written and oral
14 information provided by the appellant and his supporters at the July 22, 2003, public hearing
15 showed that at least five other wireless service providers have adequate service in the
16 geographic area of the proposed WTS facility.

17 3. The public testimony at the public hearing and the public documentation
18 submitted in support of the appellant's objections to the decision of the Planning Commission
19 also supported the appellant's position that there is no necessity for the proposed WTS facility
20 to be approved and installed for residential or business purposes in the neighborhood or the
21 community because the proposed WTS facility is not necessary to meet the applicant's
22 present service demands within the geographic service area defined by the applicant.

23 4. The written and oral information provided by the applicant at the July 22, 2003,
24 public hearing showed that, according to the applicant, the proposed WTS facility would
25 increase capacity, reduce interference and allow the applicant to offer enhanced services.

1 5. Notwithstanding this information submitted by the applicant, the written and oral
2 information provided by the appellant and his supporters at the July 22, 2003, public hearing
3 showed that the applicant had acceptable service in the geographic area of the proposed
4 WTS facility from the applicant's antennas at six different WTS facilities in the vicinity of the
5 proposed site.

6 6. The public testimony at the public hearing and the public documentation
7 submitted in support of the appellant's objections to the decision of the Planning Commission
8 supported the appellant's position that the location of the proposed WTS facility is
9 incompatible with the existing character of the neighborhood, contrary to the requirements of
10 Section 303(c)(1) of the Planning Code.

11 7. The written and oral information provided by the appellant and his supporters at
12 the July 22, 2003, public hearing showed that the PG&E Transformer Station where the
13 proposed WTS facility would be installed was built in the 1930s, and is surrounded entirely by
14 a residential neighborhood. The addition of the proposed WTS facility at this site will only
15 serve to further industrialize this part of a neighborhood that is otherwise entirely residential.

16 8. The public testimony at the public hearing and the public documentation
17 submitted in support of the appellant's objections to the decision of the Planning Commission
18 supported the appellant's position that the location of the proposed WTS facility is undesirable
19 for the neighborhood or the community, contrary to the requirements of Section 303(c)(1) of
20 the Planning Code. Persons owning more than 20% of the properties within 300 feet of the
21 proposed site have subscribed to the appeal. Many other persons living in the neighborhood
22 signed petitions opposing the proposed WTS facility. In addition, members of the public
23 expressed overwhelming opposition to the proposed WTS facility during the July 22, 2003
24 hearing before the Board.

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

4 10. There is nothing in the record to suggest that the Board's decision to disapprove
5 the decision of the Planning Commission in this case will limit or prohibit access to wireless
6 telecommunications services in the geographic area of the proposed site.

7 11. There is nothing in the record to suggest that the Board's decision to disapprove
8 the decision of the Planning Commission in this case will prevent the filling of a significant gap
9 in wireless telecommunications services provided to remote users of those services in the
10 geographic area of the proposed site, whether those remote users obtain service from the
11 applicant or from other wireless service providers serving the City.

12 12. There is nothing in the record to suggest that the applicant exhausted its search
13 for alternative sites for the proposed WTS facility or that the proposed WTS facility would be
14 the least intrusive means for the applicant to improve its service quality in the geographic area
15 of the proposed site.

16 13. In the written and oral information provided at the July 22, 2003, public hearing,
17 members of the public expressed concern that radio frequency emissions from the proposed
18 WTS facility would have adverse health effects on persons residing in the vicinity. In making
19 these statements, members of the public exercised their constitutional right to petition the
20 government. However, there is evidence in the record that the proposed WTS facility would
21 comply with Federal Communications Commission safety standards for radio frequency
22 radiation exposure. Thus, in disapproving the decision of the Planning Commission and
23 denying the issuance of the requested conditional use authorization, the Board has not relied
24 on the public testimony or public documentation concerning this issue and the Board has not
25 based its determination on such a ground.

1 FURTHER MOVED, That based upon the findings made in the preceding paragraphs,
2 the Board of Supervisors finds that Finding 9 made by the Planning Commission was incorrect
3 and without substantiation. The Board finds that the installation of the proposed WTS facility
4 is not necessary for the neighborhood or the community. The neighborhood and the
5 community are adequately served both by the applicant and by other wireless service
6 providers from existing WTS facilities in the area of the proposed site.

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

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

22 FURTHER MOVED, That based upon the findings made in the preceding paragraphs,
23 the Board of Supervisors finds that Finding 11 made by the Planning was incorrect and
24 without substantiation. The Board finds that the installation of the proposed WTS facility does
25 not conform with the priority planning policies established by Section 101.1(b) of the Planning

1 Code because the proposed WTS facility is not necessary to: (i) preserve and enhance
2 existing neighborhood-serving retail uses and to preserve and enhance future opportunities
3 for resident employment in and ownership of such businesses (see Section 101.1(b)(1)); (ii)
4 conserve and protect existing housing and neighborhood character (see Section 101.1(b)(2));
5 (iii) preserve and enhance the City's supply of affordable housing (see Section 101.1(b)(3));
6 (iv) maintain a diverse economic base by protecting the City's industrial and service sectors
7 from displacement due to commercial office development or to enhance future opportunities
8 for resident employment and ownership in these sectors (see Section 101.1(b)(5)); (v) add to
9 the City's preparedness to protect against injury and loss of life in an earthquake (see Section
10 101.1(b)(6)); (vi) preserve any landmarks and historic buildings (see Section 101.1(b)(7)); and
11 (vii) protect City parks and open space and their access to sunlight and vistas from
12 development (see Section 101.1(b)(8)).

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

19 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the
20 competing public and private interests, disapproved the decision of the Planning Commission
21 by its Motion No. 16534 dated February 27, 2003, and denied the issuance of Conditional Use
22 Authorization No. 2002.0575C.

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