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Conditional Use Authorization Appeal

431 Balboa Street

DATE:	October 28, 2014
TO:	Angela Calvillo, Clerk of the Board of Supervisors
FROM:	John Rahaim, Planning Director – (415) 558-6411 Omar Masry, Case Planner – Planning Department (415) 575-9116
RE:	BOS File No. 14-1068 [Conditional Use authorization No. 2012.0059C] Appeal of approval of Conditional Use authorization for 431 Balboa Street
HEARING DATE:	November 4, 2014
ATTACHMENTS:	Commission Packet (including project approval CPC Motion No. 19237)

PROJECT SPONSOR: Theadora Vriheas, on behalf of AT&T Mobility

APPELLANT: John Umekubo, Community Member

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Commission's September 18, 2014 approval of the application for Conditional Use authorization under Planning Code Sections 303 (Conditional Use authorization) and 711.83 (Public Use) to locate up to nine screened rooftop-mounted wireless telecommunication panel antennas, along with associated equipment on the roof and the first floor of the mixed-use building. The subject building is located on the south side of Balboa Street between 5th and 6th Avenues within an NC-2 (Neighborhood Commercial, Small Scale) Zoning District and 40-X Height and Bulk District.

This response addresses the appeal to the Board filed on October 16, 2014 by John Umekubo. The appeal referenced the proposed project in Case No. 2012.0059C.

The issue before the Board is whether to uphold the Planning Commission's approval of a Conditional Use authorization to allow AT&T Mobility to establish a wireless telecommunication services ("WTS") facility at the site.

SITE DESCRIPTION & PRESENT USE

The Project Site is located on Assessor's Block 1639, Lot 047 along the south side of Balboa Street, between 5th and 6th Avenues. The Subject building was originally constructed as a one-story commercial building, and later modified in 1988, in order to add two floors of residential dwellings above. The Subject Building is approximately 33-feet tall, and features two residential dwellings, along with a

ground floor commercial space (Sushi Bistro restaurant).

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The Project Site lies within the Inner Richmond neighborhood, and is surrounded by a mix of single-story commercial buildings, mixed-use buildings (one or two residential floors above ground floor commercial space), two or three-story residential buildings to the north, and the adjacent residential neighborhood to the south.

PROJECT DESCRIPTION

The proposal is to allow the development of an AT&T Mobility macro wireless telecommunication services ("WTS") facility. The macro WTS facility would consist of nine (9) screened rooftop-mounted panel antennas, and electronic equipment necessary to run the facility on the roof and within a first floor room. Based on the zoning and land use, the WTS facility is proposed on a Location Preference 5 Site (Mixed-Use Buildings in High-Density Districts) according to the Commission's Wireless Telecommunications Siting Guidelines.

The proposed antennas would either measure approximately 55" high, by 7" wide, by 12" thick, or 48" high, by 29" wide, by 10" thick, and would be located in three separate areas (sectors). Sector A would feature three (3) roof-mounted panel antennas located behind a faux extension of the parapet along the Subject Building's frontage along Balboa Street. The existing parapet, which rises approximately two (2) feet above the 33-foot tall roof would be replaced and rise seven (7) above the roof. Sector B would be composed of three (3) panel antennas screened from view within elements intended to mimic 20-inch diameter vent pipes. The vent pipes would be mounted along the western edge of the building roof and set back approximately nine (9) feet from the primary frontage. The vent pipes would rise approximately seven (7) feet above the roof. Sector C would feature three panel antennas housed within a faux mechanical penthouse near the rear of the roof. The screening would mimic wood lattice screening and would measure 12' wide, by 12' deep, by 7' high.

The screening material used for the faux elements used for each Sector would be composed of a fiberglass like material known as fibre-reinforced plastic ("FRP"), which would be painted and textured to mimic vent pipes, parapets, and wood lattice screens typically found on building rooftops in the surrounding neighborhood. The FRP material allows for the screening of panel antennas, while still allowing radio waves to pass through.

The equipment necessary to run the facility would be installed in two locations. A portion of the equipment (e.g. radio relay units used to improve high speed data coverage) would be installed on the roof, but would not be visible from adjacent public rights-of-way due to the height and setback from roof edges. Large equipment cabinets would be located within an approximately 35 square-foot area on the first floor. These cabinets would contain telecommunications equipment and a battery back-up unit to provide backup power in the event of a power outage or disaster.

Though not a part of the Proposed Project, in the event the macro WTS facility is approved and constructed, AT&T Mobility would remove an existing micro WTS facility, featuring two (2) small façade-mounted "chicklet" antennas (each approximately the size of a three-ring binder), which are located approximately 180 feet away from the Project Site at 500 Balboa Street.

BACKGROUND

January 2012 – AT&T Mobility WTS Facility
On January 18, 2012, AT&T Mobility filed an application to request a Conditional Use authorization at the Project site.

March 2012 – Community outreach meeting
On March 1, 2012, AT&T Mobility held a community outreach meeting for the proposed project. Three (3) community members attended the meeting. They inquired about the potential health effects of radio-frequency emissions, safety standards, testing opportunities (for radio frequency exposure), site selection, the City's review process, and presence of other WTS facilities in the area. Planning Department staff worked with the carrier to further refine the design.

September 2014 – Initial CEQA Exemption Determination
On September 11, 2014, the Department determined the project would be exempt from CEQA as a Class 3 Categorical Exemption (Section 15303 of the California Environmental Quality Act).

September 2014 - Planning Commission Hearing
On September 18, 2014, the Planning Commission conducted a hearing to consider a Conditional Use authorization for the proposed Project. At the Planning Commission hearing, seven (7) community members voiced opposition to the Project, citing similar concerns to those raised in this appeal to the Board and discussed further below. Following the public testimony, the Planning Commission voted unanimously (7-0) to approve the Project, as proposed.

CONDITIONAL USE AUTHORIZATION REQUIREMENTS:

The Planning Commission established guidelines for the installation of wireless telecommunications facilities in 1996 ("WTS Guidelines").[1] These guidelines set forth the land use policies and practices that guide the installation and approval of wireless facilities throughout San Francisco. A large portion of the WTS Guidelines was dedicated to establishing location preferences for these installations. The Board of Supervisors, in Resolution No. 635-96, provided input as to where wireless facilities should be located within San Francisco.[2] The WTS Guidelines were updated by the Commission in 2003, requiring community outreach, notification, and detailed information about the facilities to be installed.

Section 8.1 of the WTS Guidelines outlines Location Preferences for wireless facilities. There are five primary areas were the installation of wireless facilities should be located:

1. **Publicly-used Structures:** such facilities as fire stations, utility structures, community facilities, places of worship, institutional structures and other public structures;

[1] Wireless Telecommunications Services Facilities Siting Guidelines, August 15, 1996.

[2] BOS File No. 189-92-2, Resolution 635-96, dated July 12, 1996.

2. **Co-Location Site:** encourages installation of facilities on buildings that already have these installations;
3. **Industrial or Commercial Structures:** warehouses, factories, garages, service stations;
4. **Industrial or Commercial Structures:** supermarkets, retail stores, banks; and
5. **Mixed Use Buildings in High Density Districts:** housing above commercial or other non-residential space.

The March 13, 2003 Supplement to the WTS Guidelines further stipulate that the Planning Commission may not approve WTS applications for Preference 5 locations unless the Project Sponsor: (a) identifies any Preferred Location Sites (Preferences 1 through 4) that are located within the geographic service area; (b) shows by clear and convincing evidence that it made good faith efforts to secure use of these Preferred Location Sites (Preferences 1 through 4) for its proposed WTS facility; (c) explains why such efforts were unsuccessful; and (d) demonstrates that its proposed WTS facility is essential to meet demands in the geographic service area and the Applicant's citywide networks.

Before the Planning Commission can review an application to install a WTS facility, the project sponsor must submit a five-year facilities plan, which must be updated biannually, an emissions report that has been approved by the Department of Public Health, and details about the facilities to be installed.

In addition to the criteria outlined for the installation of a WTS facility, the Commission must also refer to the criteria outlined in Section 303 (Conditional Uses) of the Planning Code. Section 303 states that the following must be met in order for the Commission to grant approval of an application:

1. That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and
2. That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
    a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
    b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166 of this Code.
    c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
    d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
    e. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.

If a proposed WTS facility meets the criteria outlined in the WTS Guidelines and the criteria outlined in Section 303 of the Code, then the Commission may approve the Conditional Use authorization.

As the Project site is considered a "Location Preference 5" (Preferred Location, Mixed-Use Building in a High-Density District) the Project Sponsor prepared an alternate site analysis, which was included with the Conditional Use Authorization packet provided to the Planning Commission. The alternative site analysis identified the lack of available sites, such as publicly-used buildings, co-location opportunities, or wholly commercial buildings, within the proposed service improvement objective area ("search ring"). The Commission's motion and Conditional Use Authorization packet also contains information outlining the Project Sponsor's need for the facility, based on maps, data, and conclusions about service coverage submitted by the Project Sponsor. This information was reviewed by a third party. Planning Department staff determined that the Project Sponsor had adequately demonstrated a need for the proposed WTS facility.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

In the October 16, 2014 appeal, the appellant indicated the reason for the appeal as: "I object to the placement of nine antennas on a mixed-use building in a residential neighborhood." Appellant also included with his appeal a copy of petition signed by approximately 58 community members who opposed the Project that had been submitted to the Planning Commission during the hearing.

Department Response: The appellant has not provided sufficient information for the Department to provide a response to his appeal. However, from telephone calls and e-mails to the Planning Department, as well as verbal testimony and a petition provided to the Planning Commission, the Planning Department understands the appellant's concerns to consist of the following:

1. The potential health effects of radio-frequency ("RF") emissions, and the monitoring of RF emissions for long term compliance with RF exposure standards.
2. The aesthetic effects of the proposed facility.
3. The potential for alternative sites (e.g. Kaiser Hospital's French Campus along Geary Boulevard between 5th and 6th Avenues).
4. Whether the site is needed based on existing network coverage for AT&T Mobility.
5. The timing and method of neighborhood notification.

The following Department responses are provided to those items listed above:

1. Federal law prohibits the City denying an application to install a WTS facility based on the potential health effects of RF emissions provided the proposed WTS facility complies with public and occupational exposure standards as set forth by the Federal Communications Commission ("FCC"). In this instance, the Project Sponsor showed that the Proposed WTS facility complied with FCC guidelines, and the Department of Public Health confirmed this was the case.

The City maintains a robust system for monitoring of RF emissions from WTS facilities. All new WTS facilities, as well as existing WTS facility modifications (e.g. swaps of antennas to new technologies), and changes to support equipment that may change antenna power output, require the preparation of an RF emissions study by a licensed engineer. Such studies must also be approved by the Department of Public Health before a permit may be issued to construct or modify a facility. Furthermore, post-installation testing, and periodic safety monitoring tests are required on a two year basis.

There are over 900 WTS facilities for commercial wireless carriers (AT&T Mobility, T-Mobile, Sprint, and Verizon Wireless) in the City and County of San Francisco. To date, the City has not seen a pattern of non-compliance with standards set by the FCC, from wireless facilities, which are similar to the one proposed. The City has the ability to conduct its own RF emissions monitoring or arrange for RF emissions testing by carriers, at no charge to residents.

The RF emissions estimated for a proposed WTS facility are calculated by assuming a worst-case scenario of every antenna operating at maximum capacity, which is not a typical operating condition. Therefore, the actual RF emissions from operating WTS facilities tend to fall well below those estimated.

In the event that an operating WTS facility is found to be out of compliance with RF emissions standards, or if new nearby construction (e.g. building additions at adjacent properties) results in publicly accessible areas being within an area that exceeds RF exposure standards, the City can require the carrier to make changes to the facility (e.g. changes to antenna azimuth [direction], or using alternate antennas which feature more limited potential RF emissions), or shut down the facility. Furthermore, the approval conditions associated with each Conditional Use Authorization and the City's WTS Guidelines allow the City to revoke the authorization to operate the WTS facility in the event of non-compliance.

2. The proposed Project is designed so as to reduce the aesthetic effects of the WTS facility by providing a design that is compatible with the Subject Building and the surrounding neighborhood. The use of screening elements composed of fiber-reinforced plastic (akin to a fiberglass material which can be textured and painted to match many building materials) faux vent pipes, a replacement parapet, and a mechanical equipment enclosure screen are designed to mimic elements typically found on buildings of such a design. The placement of such screening structures does not appear to result in adverse effects to neighboring properties as they would not impair access to air and light for adjacent residential dwellings or views of surrounding buildings.

[1]Macro WTS facilities are typically developed with between three (3) to sixteen (16) panel antennas and supporting equipment areas ranging in size from an office cubicle to a shipping container.

The placement of electronic equipment within the Subject Building would reduce the potential for adverse noise effects from cooling fans used to regulate the temperature of the electronic equipment that is necessary to operate the proposed WTS facility.

Furthermore, the deployment of macro[1] WTS facilities like the one proposed by the Project Sponsor tends to reduce the demand by wireless carriers to install other types of WTS facilities, including those known as Distributed Antenna Systems or "DAS" that are attached to utility poles and generally found within San Francisco's lower-lying (building height) residential and neighborhood commercial areas. Such facilities tend to present aesthetic and other concerns, are difficult to screen, are often placed in proximity to street-facing resident windows, and fall within the public right-of-way where the City has limited authority over siting, design, and modifications.

3. The City's WTS Guidelines, specifically the March 13, 2003 Supplement to the Guidelines, require an Alternate Site Analysis for those locations considered a Preference 5 (Mixed-Use Buildings in High-Density Districts) such as the Subject Building. The Project Sponsor submitted an Alternative Site Analysis that evaluated the potential for alternative sites considered a higher preference (e.g. publicly-used structures, co-locations with other macro WTS facilities, or wholly commercial or industrial structures) by the WTS Guidelines. In that analysis, the Project Sponsor provided sufficient information to demonstrate a lack of higher preference sites within its search ring.

   The Kaiser Hospital French Campus location at 4131 Geary Boulevard (between 5th and 6th Avenues) is located outside the search ring and near (approximately 1,050 feet away) an existing AT&T Mobility macro WTS facility at 389 9th Avenue (fronting Geary Boulevard). The proposed macro WTS facility would serve a distinctly separate area not primarily served by the existing macro WTS facility.

   Furthermore, it does not appear that there are similar Preference 5 locations (e.g. other mixed-use buildings within, or adjacent to, the carrier's search ring), or lower preference locations that offered the opportunity to establish a WTS facility that would have had less of an impact in terms of scale, massing, or view considerations, based on factors such as distances from resident windows.

4. Per direction by the Board of Supervisors in 2011, a third party reviewed the coverage maps and data provided by the Project Sponsor for the proposed WTS facility and conducted its own drive tests to gauge the wireless signal quality (which affects network coverage and/or capacity) in the vicinity of the proposed WTS facility. The third party reviewer had been approved by the Planning Department and the review was included as an exhibit to the Planning Commission's Conditional Use Authorization packet. The third party review determined that, based on drive tests and industry standards for determining indoor coverage, the proposed macro WTS facility is required to meet an indoor 4G/LTE (4th Generation, Long Term Evolution data standard)

coverage gap within the area.

5. The City's WTS Guidelines, specifically the March 13, 2003 Supplement to the Guidelines, require the Project Sponsor to mail an invitation to a community meeting to introduce the proposed Project, building owners, occupants and neighborhood groups within 500 feet of the proposed macro WTS facility. The Project Sponsor complied with this requirement.

   Furthermore, a notice of public hearing was sent by the Planning Department to building owners, occupants, and neighborhood groups within 300 feet of the Project Site 20 days prior to the public hearing before the Planning Commission. Additionally a public hearing notification poster was placed at the Project Site and a newspaper advertisement was published approximately 22 days prior to the public hearing.

CONCLUSION:

In the Commission's authorization of the Conditional Use, the Project was found to be necessary, desirable, and compatible with the neighborhood as the Project Sponsor: (1) established the need for the proposed WTS facility; (2) demonstrated that the proposed WTS facility would enhance wireless coverage in the area; (3) showed that its proposed WTS facility was compatible with the existing building and surrounding neighborhood.

For the reasons stated above, the Planning Department recommends that the Board Supervisors uphold the Planning Commission's decision approving the Conditional Use authorization for 431 Balboa Street and deny the appeal.