

1 [Adopting findings related to the conditional use appeal on property located at 3224-3252  
2 Pierce Street.]

3 **Motion adopting findings related to the appeal of the Planning Commission's approval**  
4 **of Conditional Use Application No. 2001.1027CR (which authorized, subject to certain**  
5 **conditions, the mounting of six panel antennas on a replacement light pole and related**  
6 **equipment cabinets on an interior wall of the City-owned Marina Off-Street Parking**  
7 **Garage as part of a wireless telecommunications network to be operated by Metro PCS)**  
8 **within an NC-2 (Small Scale Neighborhood Commercial) Zoning District and a 40-X**  
9 **Height and Bulk District, pursuant to Section 711.83 of the Planning Code, on property**  
10 **located at 3224-3252 Pierce Street, east side between Lombard and Chestnut Streets**  
11 **(Lots 009, 010, 011, 012 and 013 in Assessor's Block 0490).**

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13 The appellants, Madeline L. Camisa and Scott Dykes, filed a timely appeal on May 13,  
14 2002, protesting the approval by the Planning Commission of an application for a conditional  
15 use authorization (Conditional use Application No. 2001.1027CR, approved by Planning  
16 Commission Motion No. 16372 on April 11, 2002) to mount, subject to certain conditions  
17 imposed by the Planning Commission, a total of six panel antennas on a replacement light  
18 pole and related equipment cabinets on an interior wall of the City-owned Marina Off-Street  
19 Parking Garage) within an NC-2 (Small Scale Neighborhood Commercial) Zoning District and  
20 a 40-X Height and Bulk District, pursuant to Section 711.83 of the Planning Code, on property  
21 located at 3224-3252 Pierce Street, east side between Lombard and Chestnut Streets (Lots  
22 009, 010, 011, 012 and 013 in Assessor's Block 1028).

23 The applicant has not yet obtained a lease for the installation of its six proposed  
24 antennas on the City-owned Marina Off-Street Parking Garage.

25 The public hearing before the Board of Supervisors on said appeal was scheduled to

1 be heard on June 10, 2002. On June 10, 2002, the Board of Supervisors granted a requested  
2 continuance of the hearing and consideration of this appeal to June 17, 2002. On June 17,  
3 2002, the Board conducted a duly noticed hearing on the appeal from the Planning  
4 Commission's approval referred to in the first paragraph of this motion. Following the  
5 conclusion of the public hearing on June 17, the Board disapproved the decision of the  
6 Planning Commission (Planning Commission No. 16372), and denied the issuance of  
7 requested Conditional Use Application No. 2001.1027CR.

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

11 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and  
12 County of San Francisco hereby adopts as its own and incorporates by reference herein, as  
13 though fully set forth, the findings made by the Planning Commission in its Motion No. 16372,  
14 dated April 11, 2002, except as indicated below; and, be it

15 FURTHER MOVED, That the Board of Supervisors further took notice that the project  
16 was categorically exempt from environmental review as a Class I, 3 and 11 exemption under  
17 Title 14 of the California Administrative Code. The Board finds that there have been no  
18 substantial changes in project circumstances, and no new information of substantial  
19 importance that would change the determination of categorical exemption issued by the  
20 Planning Department; and, be it

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

22 1. At the public hearing, and in documents submitted by the applicant, the applicant  
23 stated that the installation of these proposed antennas is necessary to meet the applicant's  
24 service demands within the geographic service area defined by the applicant. At the public  
25 hearing, however, the applicant was unable to demonstrate credibly that the proposed

1 facilities are necessary. The Planning Department Case Report and the testimony before the  
2 Board indicated that other potential sites for WTS antennas exist in the proximate  
3 neighborhood of this proposed site. Members of the public testified, overwhelmingly, that  
4 there was not a need for further wireless service in this neighborhood. Following further  
5 questions of the applicant's representatives by members of the Board of Supervisors, the  
6 Board determined that the written and oral information provided by the applicant was not  
7 persuasive or objectively verified, and did not establish that the proposed site is necessary to  
8 meet the community needs. Consistent with this finding, and based on the evidence  
9 presented and information contained in the application, the Board further determined that  
10 disapproving the decision of the Planning Commission by its Motion 16372, dated April 11,  
11 2002, would not prohibit, or have the effect of prohibiting, the provision of personal wireless  
12 services in the area proximate to 3224-3252 Pierce Street.

13           2. The public testimony at the public hearing, and the public documentation submitted  
14 in support of the appellants' objections to the Planning Commission decision overwhelmingly  
15 supported appellants' position that there is no necessity for the proposed six panel antennas  
16 to be approved and installed for residential or business purposes in the neighborhood.

17           3. The public testimony at the public hearing, and the public documentation submitted  
18 in support of the appellants' objections to the Planning Commission decision overwhelmingly  
19 supported appellants' position that the location of the proposed six panel antennas at the  
20 proposed site will constitute a visual and industrial blight for the neighborhood.

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

25           5. Nothing in the record suggests that the Board's decision to disapprove the Planning

1 Commission's decision in this case limits, or prohibits, access to WTS service in the area  
2 proximate to 3224-3252 Pierce Street.

3 6. Nothing in the record suggests that the Board's decision to disapprove the Planning  
4 Commission's decision in this case will limit or prohibit the filling of a significant gap in WTS  
5 services either in the form of limited access to network facilities by wireless users in the  
6 neighborhood, or interrupted communications of wireless users in the neighborhood.

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

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

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

25 FURTHER MOVED, That the Board of Supervisors finds that Finding 11 made by the

1 Planning Commission was incorrect and without substantiation, and finds that the installation  
2 of the proposed antennas: is not necessary to preserve and enhance existing neighborhood  
3 retail uses and preserve and enhance future opportunities for resident employment in and  
4 ownership of such businesses; will be detrimental to the existing housing and neighborhood  
5 character; will not preserve and enhance the City's supply of affordable housing; and will not  
6 add to the City's preparedness to protect against injury and loss of life in an earthquake.

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

13 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the  
14 competing public and private interests, disapproved the decision of the Planning Commission  
15 by its Motion No. 16372, dated April 11, 2002, and denied the issuance of Conditional Use  
16 Application No. 2001.1027CR.

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