

1 [Adopting Findings Related to the Conditional Use Authorization - 2041 Larkin Street]

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3 **Motion adopting findings supporting the Board's decision to 1) disapprove the**
4 **decision of the Planning Commission by its Motion No. 18448 , approving Conditional**
5 **Use Authorization identified as Planning Case No. 2010.1083C on property located at**
6 **2041 Larkin Street; and 2) to approve Conditional Use Authorization on property**
7 **located at 2041 Larkin Street subject to all of the conditions imposed by the Planning**
8 **Commission by its Motion No. 18448, regarding Application 2010.1083C, and further**
9 **subject to additional conditions imposed by the Board of Supervisors on December 6,**
10 **2011.**

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12 The appellant, Laura Albert, on behalf of the Russian Hill Community Association, filed
13 a timely appeal on October 24, 2011, protesting the approval by the Planning Commission of
14 an application for a conditional use authorization (Conditional Use Application No.
15 2010.1083C), approved by Planning Commission Motion No. 18448 dated September 15,
16 2011, pursuant to Planning Code Section 209.6(b), to authorize the installation of wireless
17 telecommunications facility consisting of up to six panel antennas and related equipment on
18 an existing church as part of the AT&T wireless telecommunications network within the RH-3
19 (Residential, House, three-Family) District and a 40-X Height and Bulk District, on property
20 located at 2041 Larkin Street, Assessor's Block No. 0572, Lot No. 0572.

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

1 The location preferences set forth seven categories, with location preference one being the
2 most preferred sites, and location preference seven being the most disfavored sites. The
3 property located at 2041 Larkin Street falls within a location preference one, a preferred
4 location for publicly used structures.

5 On December 6, 2011, the Board of Supervisors conducted a duly noticed public
6 hearing on the appeal from the Planning Commission's approval of the conditional use
7 authorization referred to in the first paragraph of this motion. Following the conclusion of the
8 public hearing on December 6, 2011, the Board voted to disapprove the decision of the
9 Planning Commission (Planning Commission Motion No. 18448 dated September 15, 2011)
10 and denied the issuance of the requested Conditional Use Application No. 2010.1083C, by a
11 vote of 8-3. The Board then moved to authorize conditional use referred to in the first
12 paragraph of this motion, subject to all of the conditions imposed by the Planning Commission
13 in its Motion No. 18448 dated September 15, 2011, and further subject to the additional
14 condition that:

- 15 1. Use is authorized as long as an independent evaluator, selected by the Planning
16 Department with input from the parties, determines that the information and conclusions
17 submitted by applicant in support of its request for conditional use are accurate. Applicant
18 shall fully cooperate with the valuator and shall provide any and all data requested by the
19 evaluator to allow the evaluator to verify that the maps, data, and conclusions about service
20 coverage submitted by applicant are accurate. Applicant shall bear all costs of said
21 evaluation. The independent evaluation, upon request by applicant, shall keep the submitted
22 data confidential and shall sign a confidentiality agreement acceptable to applicant. The
23 independent evaluator shall be a professional engineer licensed by the State of California.

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1 In considering the appeal of the approval of the requested conditional use
2 authorization, the Board reviewed and considered the written record before the Board and all
3 of the comments made in support of and in opposition to the appeal.

4 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and
5 County of San Francisco hereby adopts as its own and incorporates by reference herein, as
6 though fully set forth, the findings made by the Planning Commission in its Motion No. 18448
7 dated September 15, 2011.

8 FURTHER MOVED, That the Board of Supervisors took notice that the project was
9 categorically exempt from environmental review pursuant to exception Class 3 of Title 14 of
10 the California Administrative Code. The Board finds that there have been no substantial
11 changes in project circumstances and no new information of substantial importance that
12 would change the determination of categorical exemption issued by the Planning
13 Commission.

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

15 1. The written and oral information provide by the applicant to the Board was not
16 objectively verified and the applicant was therefore unable to demonstrate credibly that the
17 proposed WTS facility is necessary for the neighborhood or the community, contrary to the
18 requirements of Section 303(c)(1) of the Planning Code.

19 2. The public testimony at the public hearing and the public documentation
20 submitted in support of the appellant's objections to the decision of the Planning Commission
21 supported the appellant's position that there is no necessity for the proposed WTS facility to
22 be approved and installed for residential or business purposes in the neighborhood or the
23 community because the proposed WTS facility is not necessary to meet the applicant's
24 present service demands within the geographic service area defined by the applicant.
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1 3. Contrary to the information submitted by the applicant prior to and during the
2 December 6, 2011, public hearing, the evidence, including testimony of residents in the
3 geographic area, marketing and advertising data of the applicant, information contained on
4 the applicant's web-site and the study of an engineer, showed that the applicant presently had
5 acceptable service in the geographic area of the proposed WTS facility.

6 4. In the event the applicant is able to demonstrate to an independent evaluator
7 that applicant's own data supports the accuracy of the maps, data, and conclusions about
8 service coverage and capacity submitted by applicant during this appeal, then Conditional
9 Use is supported as set forth in the Planning Commission Motion No. 18422 dated September
10 15, 2011. The independent evaluator should be selected by the Planning Department, with
11 input from both parties, the evaluator should be an engineer licensed in the State of California.
12 The applicant should submit any data requested by the evaluator and should cooperate fully
13 with the evaluator. The evaluator should maintain in confidence any data submitted to the
14 evaluator by the applicant.

15 5. There is nothing in the record to suggest that the Board's decision in this case
16 will unreasonably discriminate against the applicant in favor of providers of functionally
17 equivalent services.

18 6. There is nothing in the record to suggest that the Board's decision in this case
19 will limit or prohibit access to the applicant's WTS in the geographic area of the proposed site.

20 7. There is nothing in the record to suggest that the decision in this case will
21 prevent the applicant from filling a significant gap in WTS provided to remote users of those
22 services in the geographic area of the proposed site.

23 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the
24 competing public and private interests, disapproved the decision of the Planning Commission
25 by its Motion No. 18422 dated September 15, 2011, and denied the issuance of Conditional

1 Use Authorization No. 2011.0664C, and approved the issuance of requested Conditional Use
2 Application No. 2011.0664C, subject to the conditions imposed by the Planning Commission
3 in its Motion No. 18422, and further subject to the additional conditions imposed by the Board
4 of Supervisors on December 6, 2011.

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