File No. 101609 Committee Item No. _____
Board Item No. 15

COMMITTEE/BOARD OF SUPERVISORS

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Committee _____ Date _____

Board of Supervisors Meeting Date January 4, 2011

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OTHER (Use back side if additional space is needed)

☐ ☐ _____
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Completed by: Arthur Khoo Date December 30, 2010
Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

12/29/10
11:47 a.m.

Time Stamp or
Meeting Date

INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

I hereby submit the following item for introduction:

_____ 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment
__X__ 2. Request for next printed agenda
_____ 3. Request for Committee hearing on a subject matter
_____ 4. Request for letter beginning "Supervisor _____ inquires..."
_____ 5. City Attorney request
_____ 6. Call file from Committee
_____ 7. Budget Analyst request (attach written motion).
_____ 8. Substitute Legislation File Nos.
_____ 9. Request for Closed Session
_____ 10. Board to Sit as A Committee of the Whole

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission
☐ Ethics Commission
☐ Building Inspection Commission
☐ Youth Commission
☐ Planning Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

Sponsor(s): **Clerk of the Board**

SUBJECT: Findings Disapproving Conditional Use for Property Located at 10 Bernal Heights Boulevard

The text is listed below or attached:

Motion adopting findings disapproving the Planning Commission's approval of Conditional Use Authorization No. 2010.0306C (which approved the installation of wireless telecommunications facility consisting of five internet exchange switch antennas on an existing 50 foot tall communications tower and to modify the conditional use approval under case No. 2008.1157C to change the number of allowed antennas on the site within a RH-1(D) zoning district and a 40-X height and bulk district).

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only:

FILE NO. MOTION NO.

[Findings Disapproving Conditional Use for Property Located at 10 Bernal Heights Boulevard]

Motion adopting findings disapproving the Planning Commission's approval of Conditional Use Authorization No. 2010.0306C (which approved the installation of wireless telecommunications facility consisting of five internet exchange switch antennas on an existing 50 foot tall communications tower and to modify the conditional use approval under case No. 2008.1157C to change the number of allowed antennas on the site within a RH-1(D) zoning district and a 40-X height and bulk district).

The appellant, Erick Arguello, on behalf of the Lower 24th Street Merchant Association, filed a timely appeal on August 2, 2010 protesting the approval by the Planning Commission of an application for a conditional use authorization (Conditional Use Application No. 2010.0306C, approved by Planning Commission Motion No. 18131 dated June 24, 2010), pursuant to Planning Code Sections 209.6(b) and 303, to authorize the installation of wireless telecommunications facility consisting of five internet exchange switch antennas on an existing 50 foot tall communications tower and to modify the conditional use approval under case No. 2008.1157C to change the number of allowed antennas on the site within a RH-1(D) zoning district and a 40-X height and bulk district, located at 10 Bernal Heights Boulevard, (Lot Nos. 003 in Assessor's Block 5548).

The San Francisco Planning Commission adopted the Wireless Telecommunications Services ("WTS") Facilities Siting Guidelines in August of 1996 ("Guidelines") to assist the Planning Department in its consideration of applications for conditional use authorization to install WTS facilities. These Guidelines are not binding on the Board of Supervisors. The Guidelines establish location preferences for installation of WTS facilities throughout the City. The location preferences set forth seven categories, with location preference one being the

most preferred sites, and location preference seven being the most disfavored sites. The property located at 10 Bernal Heights Boulevard falls within a location preference one, a preferred location for a publicly used structure.

On November 16, 2010, the Board of Supervisors conducted a duly noticed public hearing on the appeal from the Planning Commission's approval of the conditional use authorization referred to in the first paragraph of this motion. Following the conclusion of the public hearing on November 16, 2010, the Board voted to disapprove the decision of the Planning Commission (Planning Commission Motion No. 18131 dated June 24, 2010) and denied the issuance of the requested Conditional Use Application No. 2010.0306C by a vote of 11-0.

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

NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and County of San Francisco hereby adopts as its own and incorporates by reference herein, as though fully set forth, the findings made by the Planning Commission in its Motion No. 18131 dated June 24, 2010, except as indicated below.

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

FURTHER MOVED, That the Board of Supervisors finds that:

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

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

3. Notwithstanding the information submitted by the applicant at the November 16, 2010, public hearing, the evidence showed that the applicant presently had acceptable service in the geographic area of the proposed WTS facility from the applicant's existing WTS facilities in the vicinity.

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

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

6. There is nothing in the record to suggest that the Board's decision to disapprove the decision of the Planning Commission in this case will prevent the filling of a significant gap in wireless telecommunications services provided to remote users of those services in the

geographic area of the proposed site, whether those remote users obtain service from the applicant or from other wireless service providers serving the City.

FURTHER MOVED, That the Board of Supervisors, after carefully balancing the competing public and private interests, disapproved the decision of the Planning Commission by its Motion No. 18131 dated November 16, 2010, and denied the issuance of Conditional Use Authorization No. 2010.0306C.