



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 19082

HEARING DATE: FEBRUARY 20, 2014

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Date: February 13, 2014
Case No.: **2014.0006C**
Project Address: **1060 Hyde Street**
Current Zoning: Polk Street Neighborhood Commercial District
65-A Height and Bulk District
Block/Lot: 0251/023
Project Sponsor: Maria Miller, Modus, Inc.
149 Natoma Street, 3rd Floor
San Francisco, CA 94105
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 303(c) AND 723.83 TO MODIFY AN EXISTING WIRELESS TELECOMMUNICATIONS SERVICES FACILITY TO CONSIST OF UP TO THREE SCREENED PANEL ANTENNAS LOCATED ON THE ROOFTOP AND ELECTRONIC EQUIPMENT ON THE ROOF AND IN THE REAR OF AN EXISTING MIXED-USE BUILDING AS PART OF SPRINT'S WIRELESS TELECOMMUNICATIONS NETWORK WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT, AND 65-A HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 25, 2013, Sprint (hereinafter "Project Sponsor"), submitted an application (hereinafter "Application"), for Conditional Use Authorization on the property at 1060 Hyde Street, Lot 023 in Assessor's Block 0251, (hereinafter "Project Site") to modify an existing wireless telecommunications services (WTS) facility to replace three (3) existing antennas in two locations, with three (3) screened panel antennas in three locations, located on the roof of the subject building, and equipment located on the roof and in the rear of the subject building, as part of Sprint's telecommunications network, within the Polk Street Neighborhood Commercial District, and 65-A Height and Bulk District.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 3 Categorical Exemption (Section 15303 of the California Environmental Quality Act). The Planning Commission has reviewed and concurs with said determination. The categorical exemption and all pertinent documents may be found in the files of the Planning Department (hereinafter "Department"), as the custodian of records, at 1650 Mission Street, San Francisco.

On February 20, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on the application for a Conditional Use Authorization.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the Applicant, Department Staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use in Application No. 2014.0006C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The subject building is located on Assessor's Block 0251, Lot 023, at the southeast corner of California and Hyde Streets. The Project site features a lot which slopes upward from Hyde Street and features a one-story, 19-foot tall, element along the Hyde Street frontage adjoining a two-story, 30-foot tall, building element at the rear of the lot. The one-story building element features a restaurant and a bar. The two-story element features one dwelling unit above ground floor personal service space (doing business as a hair dresser).

The Project Site features an existing T-Mobile micro WTS facility (Building Permit No. 200104136815) consisting of one façade-mounted panel antenna; and the existing Sprint macro WTS facility (Case No. 2000.1031C) approved on February 1, 2001.

3. **Surrounding Properties and Neighborhood.** The Project Site is located along the California Street commercial corridor along the easterly edge of the Polk Street Neighborhood Commercial District, within the Nob Hill Neighborhood. The Project Site is surrounded by a two-story shopping plaza (Trader Joes and CVS Drugstore) with a surface parking lot, to the south across Hyde Street, and a mix of medium and high-density uses, including four-story mixed use (three floors of residential units above ground floor commercial space) buildings in all other directions.

An AT&T Mobility macro WTS facility (Case No. 2011.0566C), featuring nine (9) panel antennas individually housed within faux vent pipes, is under construction at the five-story mixed use (four stories of apartments over ground floor retail and restaurant spaces) building located kitty corner to the Project Site at 1408 California Street.

- 4. Project Description.** The proposal is to modify an existing macro wireless telecommunication services (“WTS”) facility by replacing (3) roof-mounted antennas, and equipment at the rear of the subject building, as part of Sprint’s telecommunications network.

The existing Sprint macro WTS facility is composed of three roof-mounted antennas housed within two fiberglass radomes (cylinder); with two “accelerator” antennas within a radome on the lower roof, and a single panel antenna within a radome on the upper roof. Each fiberglass cylinder measures approximately 57" high by 6.25" in diameter and the tops of the cylinders are approximately 26'9" (on lower roof at approximately 19' above grade) and 38' above sidewalk grade (on upper roof at approximately 31' above grade). The equipment area, which requires an area approximately 9' by 21'9", is located in the rear of the building, and above an existing storage shed, and is screened from off-site view.

The proposed replacement antennas would be wider and taller than the existing antennas and housed within elements composed of fibre-reinforced plastic (FRP), which are intended to mimic (faux) roof-mounted vent pipes. The proposed replacement antennas would be located in three locations (sectors) on the roof of the building; with associated electronic equipment necessary to run the facility at the same location at the rear of the building.

The first antenna location (Sector 1) would be placed on the upper roof, near the midpoint of the subject building’s frontage along California Street, and setback approximately 8’ from the California Street facade. Sector 2, would be placed on the upper roof, near the rear of the subject building’s frontage along California Street and setback approximately 7’ from the nearest building edge. Sector 3 would be placed at the northwest corner of the subject building, on the lower roof, and be setback approximately 8’ from building edges along the intersection of California and Hyde Streets.

Each of the three (3) faux vent pipes would house individual antennas, and be approximately 24" in diameter and rise approximately 6.5’ (lower roof Sector 3), and approximately 7.5’ (Sectors 1 and 2 on upper roof) above the roof. The actual antennas would measure approximately 72" high by 12" wide by 6" thick. The proposed modification would also feature the installation of six (6) radio relay units (RRUs) on the roof, with two (2) RRUs adjacent to the base of each antenna sector. RRUs do not emit radio-frequency (RF) energy, but are instead utilized to improve signal strength and signal quality for high-speed data (Fourth Generation Long Term Evolution standard, known as “4G LTE”).

- 5. Past History and Actions.** The Planning Commission adopted the Wireless Telecommunications Services (WTS) Facilities Siting Guidelines (“Guidelines”) for the installation of wireless telecommunications facilities in 1996. 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 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. The Guidelines were updated by the Commission in 2003 and again in 2012, requiring community outreach, notification, and detailed information about the facilities to be installed.

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

1. Publicly-used Structures: such facilities as fire stations, utility structures, community facilities, and other public structures;
2. Co-Location Site: encourages installation of facilities on buildings that already have wireless installations;
3. Industrial or Commercial Structures: buildings such as warehouses, factories, garages, service stations;
4. Industrial or Commercial Structures: buildings such as supermarkets, retail stores, banks; and
5. Mixed Use Buildings in High Density Districts: buildings such as housing above commercial or other non-residential space.

Section 8.1 of the WTS Facilities Siting *Guidelines* further stipulates that the Planning Commission will not approve WTS applications for Preference 5 or below Location Sites unless the application describes (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) what good faith efforts and measures were taken to secure these more Preferred Locations, (c) explains why such efforts were unsuccessful; and (d) demonstrates that the location for the site 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 wireless facility, the Project Sponsor must submit a five-year facilities plan, which must be updated biannually, an emissions report and approval by the Department of Public Health, Section 106 Declaration of Intent, an independent evaluation verifying coverage and capacity, a submittal checklist and details about the facilities to be installed.

Under Section 704(B)(iv) of the 1996 Federal Telecommunications Act, local jurisdictions cannot deny wireless facilities based on Radio Frequency (RF) radiation emissions so long as such facilities comply with the FCC's regulations concerning such emissions.

6. **Location Preference.** The *WTS Facilities Siting Guidelines* identify different types of zoning districts and building uses for the siting of wireless telecommunications facilities. Under the *Guidelines*, and based on the zoning, land use, and presence of existing macro WTS facilities (Sprint and Sprint), the antennas are proposed on a Location Preference 6 Site (Limited Preference, Individual Neighborhood Commercial District) according to the

WTS Siting Guidelines.

As the existing Sprint macro WTS facility (Case No. 2000.1031C) was approved (February 1, 2001) pursuant to the WTS Facilities Siting Guidelines, no alternative site analysis is required.

7. **Radio Waves Range.** The Project Sponsor has stated that the proposed wireless facility is necessary to address coverage and capacity limitations of the existing Sprint micro-facility, which is not able to provide sufficient coverage for voice services or meet network demands for 4G Long Term Evolution (LTE) data services. The network would operate in the 800 – 1,900 Megahertz (MHZ) bands, which are regulated by the Federal Communications Commission (FCC) and must comply with the FCC-adopted health and safety standards for electromagnetic radiation and radio frequency radiation.
8. **Radiofrequency (RF) Emissions:** The Project Sponsor retained EBI Consulting, a radio engineering consulting firm, to prepare a report describing the expected RF emissions from the proposed facility. Pursuant to the *Guidelines*, the Department of Public Health reviewed the report and determined that the proposed facility complies with the standards set forth in the Guidelines.
9. **Department of Public Health Review and Approval.** The proposed Project was referred to the Department of Public Health (DPH) for emissions exposure analysis. Existing RF levels at ground level were around 1% of the FCC public exposure limit. There are two antennas operated by Sprint installed on the roof of the subject building, and there were no other observed antennas within 100 feet of the Project site.

Sprint proposes to install three (3) panel antennas at the Project Site. The antennas would be mounted at a height of approximately 25 feet above the ground. The estimated ambient RF field from the proposed Sprint transmitters at ground level is calculated to be 0.1584 mW/sq. cm., which is 29.7% of the FCC public exposure limit. The three dimensional perimeter of RF levels equal to the public exposure limit extends 14 feet, which includes 13 feet of rooftop area. Barriers should be installed to prevent access to these areas. Warning signs must be posted at the antennas and roof access points in English, Spanish, and Chinese. Workers should not have access to the area (5 feet) directly in front of the antenna while it is in operation.

10. **Coverage and Capacity Verification.** The maps, data, and conclusion provided by Sprint to demonstrate need for coverage and capacity have been confirmed by EBI Consulting, an engineering consultant and independent third party to accurately represent the carrier's present and post-installation conclusions.
11. **Maintenance Schedule.** The proposed facility would operate without on-site staff but with a two-person maintenance crew visiting the property approximately once a month

and on an as-needed basis to service and monitor the facility.

12. **Community Outreach.** The Project Sponsor held a Community Outreach Meeting for the proposed Project at 5:30 pm, on February 4, 2014, at the Chinatown Library Branch, located at 1135 Powell Street. Two (2) community members attended the meeting. Both members indicated their support for the Project, and one of the members in attendance (subject building resident) inquired about power usage and construction notification.
13. **Five-year plan:** Per the *Guidelines*, the Project Sponsor submitted an updated five-year plan, as required, in October 2013.
14. **Public Comment.** As of February 13, 2014, the Department has not received any comments from community members.
15. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Use.** Per Planning Code Section 723.83, a Conditional Use Authorization is required for the installation of Commercial Wireless Transmitting, Receiving or Relay Facility.
16. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the Project does comply with said criteria in that:
 - A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.
 - i. *Desirable: San Francisco is a leader of the technological economy; it is important and desirable to the vitality of the City to have and maintain adequate telecommunications coverage and data capacity. This includes the installation and upgrading of systems to keep up with changing technology and increases in usage. It is desirable for the City to allow wireless facilities to be installed.*

The proposed Project at 1060 Hyde Street is generally desirable and compatible with the surrounding neighborhood because the Project will not conflict with the existing uses of the property and will be designed to be compatible with the surrounding nature of the vicinity. The use of screening methods for antennas, such as faux vent pipes, and the overall limit of three (3) faux vent pipes, would ensure the proposed facility would not appear out of character with the subject building, nor have a negative impact on surrounding views. The antennas, screening elements, and equipment areas are so located, designed, and treated architecturally to minimize their visibility from public places, to avoid intrusion into public vistas, avoid disruption of the architectural design integrity of the Project site or adjacent buildings, insure harmony with the existing

neighborhood character and promote public safety. The Project has been reviewed and determined to not cause the removal or alteration of any significant architectural features of the subject building.

- ii. *Necessary: In the case of wireless installations, there are two criteria that the Commission reviews: coverage and capacity.*

Coverage: San Francisco does have sufficient overall wireless coverage (note that this is separate from carrier capacity). San Francisco's unique coverage issues are due to topography and building heights. The hills and buildings disrupt lines of site between WTS base stations. Thus, telecommunication carriers continue to install additional installations to make sure coverage is sufficient.

Capacity: While a carrier may have adequate coverage in a certain area, the capacity may not be sufficient. With the continuous innovations in wireless data technology and demand placed on existing infrastructure, individual telecommunications carriers must upgrade and in some instances expand their facilities network to provide proper data and voice capacity. It is necessary for San Francisco, as a leader in technology, to have adequate capacity.

The proposed Project at 1060 Hyde Street is necessary in order to achieve sufficient street and in-building mobile phone coverage and data capacity. Recent drive tests in the subject area conducted by the Sprint Radio Frequency Engineering Team provide that the Subject Property remains the most viable location, based on factors including quality of coverage and aesthetics.

- B. The proposed Project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
 - i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project must comply with all applicable Federal and State regulations to safeguard the health, safety and to ensure that persons residing or working in the vicinity will not be affected, and prevent harm to other personal property.

The Department of Public Health conducted an evaluation of potential health effects from Radio Frequency radiation, and has concluded that the proposed wireless transmission facilities will have no adverse health effects if operated in compliance with the FCC-adopted health and safety standards.

- ii. 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;

No increase in traffic volume is anticipated with the facilities operating unmanned, with a maintenance crew visiting the site once a month or on an as-needed basis.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

While some noise and dust may result from the installation of the antennas and transceiver equipment, noise or noxious emissions from continued use are not likely to be significantly greater than ambient conditions due to the operation of the wireless communication network.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The antennas would be placed in elements designed to mimic rooftop vent pipes, without significant increases in the overall bulk or dimensions of the building. The proposed antennas, screening elements, and equipment will not affect landscaping, open space, parking, lighting or signage at the Project site or surrounding area.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with Objectives and Policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed installation is a Public Use and is consistent with the purpose of the Polk Street Neighborhood Commercial District, in that the Project is located on an existing building and would not alter the overall character of the building or surrounding area. Furthermore, the facility would not impact the primary use of the building for commercial and residential uses.

- 17. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan

HOUSING ELEMENT

BALANCE HOUSING CONSTRUCTION AND COMMUNITY INFRASTRUCTURE

OBJECTIVE 12 – BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY’S GROWING POPULATION.

POLICY 12.3 – Ensure new housing is sustainable supported by the City’s public infrastructure systems.

The Project will improve Sprint coverage and capacity along California and Hyde Streets which are primary commercial corridors serving residential areas within the Nob Hill Neighborhood.

URBAN DESIGN

HUMAN NEEDS

OBJECTIVE 4 - IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

POLICY 4.14 - Remove and obscure distracting and cluttering elements.

The antennas would be adequately concealed to reduce their visual impact, thereby minimizing the possibility of introducing new elements considered distracting or cluttering. The height and bulk of the proposed faux vent pipes will not appear distracting nor create a cluttered visual aesthetic for the subject building or surrounding neighborhood.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1:

Encourage development, which provides substantial net benefits and minimizes undesirable consequences. Discourage development, which has substantial undesirable consequences that cannot be mitigated.

Policy 2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The Project would enhance the total city living and working environment by providing communication services for residents and workers within the City. Additionally, the Project would comply with Federal, State and Local performance standards.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 3:

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The site is an integral part of Sprint wireless communications network that will enhance the City's diverse economic base.

OBJECTIVE 4:

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 1:

Maintain and enhance a favorable business climate in the City.

Policy 2:

Promote and attract those economic activities with potential benefit to the City.

The Project would benefit the City by enhancing the business climate through improved communication services for residents and workers.

VISITOR TRADE

OBJECTIVE 8 - ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

POLICY 8.3 - Assure that areas of particular visitor attraction are provided with adequate public services for both residents and visitors.

The Project will ensure that residents and visitors have adequate public service in the form of Sprint telecommunications.

COMMUNITY SAFETY ELEMENT

Objectives and Policies

OBJECTIVE 3:

ENSURE THE PROTECTION OF LIFE AND PROPERTY FROM THE EFFECTS OF FIRE OR NATURAL DISASTER THROUGH ADEQUATE EMERGENCY OPERATIONS PREPARATION.

Policy 1:

Maintain a local agency for the provision of emergency services to meet the needs of San Francisco.

Policy 2:

Develop and maintain viable, up-to-date in-house emergency operations plans, with necessary equipment, for operational capability of all emergency service agencies and departments.

Policy 3:

Maintain and expand agreements for emergency assistance from other jurisdictions to ensure adequate aid in time of need.

Policy 4:

Establish and maintain an adequate Emergency Operations Center.

Policy 5:

Maintain and expand the city's fire prevention and fire-fighting capability.

Policy 6:

Establish a system of emergency access routes for both emergency operations and evacuation.

The Project would enhance the ability of the City to protect both life and property from the effects of a fire or natural disaster by providing communication services.

18. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

No neighborhood-serving retail use would be displaced and the wireless communications network will enhance personal communication services.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

No residential uses would be displaced or altered in any way by the granting of this authorization.

- C. That the City's supply of affordable housing be preserved and enhanced.

The Project would have no adverse impact on housing in the vicinity.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

Due to the nature of the Project and minimal maintenance or repair, municipal transit service would not be significantly impeded and neighborhood parking would not be overburdened.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project would cause no displacement of industrial and service sector activity.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Compliance with applicable structural safety and seismic safety requirements would be considered during the building permit application review process.

- G. That landmarks and historic buildings be preserved.

The Subject Property is not a landmark building, nor is the site located in a designated historic district. The Subject Property was developed in 1907 but is not considered a Historic Resource. The subject site is surrounded by mixed use buildings to the north, east, and south, which were developed in the Edwardian style, between the 1900s and 1920s, and are considered Potential Historic Resources. The building to the west was redeveloped as a contemporary grocery store. The Project would feature screening elements visible from select locations along adjacent public rights of way. However, the placement and design of the screening structures would not obscure or detract from other potentially significant buildings or public views within the Nob Hill neighborhood or along Hyde and California Streets.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project will have no adverse impact on parks or open space, or their access to sunlight or vistas.

19. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

DECISION

The Commission, after carefully balancing the competing public and private interests, and based upon the Recitals and Findings set forth above, in accordance with the standards specified in the Code, hereby approves the Conditional Use Authorization under Planning Code Sections 723.83 and 303 to modify an existing Sprint macro WTS facility and install up to three (3) screened (faux vent pipes) panel antennas on the rooftop, and associated equipment cabinets on the roof and in the rear of the Project Site and as part of a wireless transmission network operated by Sprint on a Location Preference 6 (Limited Preference, Individual Neighborhood Commercial District) according to the Wireless Telecommunications Services (WTS) Siting Guidelines, within the Polk Street Neighborhood Commercial District, and 65-A Height and Bulk District, and subject to the conditions of approval attached hereto as **Exhibit A**; in general conformance with the plans, dated January 15, 2014, and stamped "Exhibit B."

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this conditional use authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19082. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on **February 20, 2014**.

JONAS P. IONIN
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya, Wu

NAYES:

ABSENT:

ADOPTED: February 20, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use Authorization under Planning Code Sections 723.83 and 303 to modify an existing Sprint macro WTS facility and install up to three (3) screened (faux vent pipes) panel antennas on the rooftop, and associated equipment cabinets on the roof and in the rear of the Project Site and as part of a wireless transmission network operated by Sprint on a Location Preference 6 (Limited Preference, Individual Neighborhood Commercial District) according to the Wireless Telecommunications Services (WTS) Siting Guidelines, within the Polk Street Neighborhood Commercial District, and 65-A Height and Bulk District, and subject to the conditions of approval attached hereto as **Exhibit A**.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the Project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **February 20, 2014** under Motion No. 19082.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19082 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed Project and conveys no independent right to construct the Project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

DESIGN – COMPLIANCE AT PLAN STAGE

3. **Plan Drawings - WTS.** Prior to the issuance of any building or electrical permits for the installation of the facilities, the Project Sponsor shall submit final scaled drawings for review and approval by the Planning Department ("Plan Drawings"). The Plan Drawings shall describe:
 - a. **Structure and Siting.** Identify all facility related support and protection measures to be installed. This includes, but is not limited to, the location(s) and method(s) of placement, support, protection, screening, paint and/or other treatments of the antennas and other appurtenances to insure public safety, insure compatibility with urban design, architectural and historic preservation principles, and harmony with neighborhood character.
 - b. For the Project Site, regardless of the ownership of the existing facilities. Identify the location of all existing antennas and facilities; and identify the location of all approved (but not installed) antennas and facilities.
 - c. **Emissions.** Provide a report, subject to approval of the Zoning Administrator, that operation of the facilities in addition to ambient RF emission levels will not exceed adopted FCC standards with regard to human exposure in uncontrolled areas.

For information about compliance, contact the Case Planner, Planning Department at 415-575-6378, www.sf-planning.org.

4. **Screening - WTS.** To the extent necessary to ensure compliance with adopted FCC regulations regarding human exposure to RF emissions, and upon the recommendation of the Zoning Administrator, the Project Sponsor shall:
- a. Modify the placement of the facilities;
 - b. Install fencing, barriers or other appropriate structures or devices to restrict access to the facilities;
 - c. Install multi-lingual signage, including the RF radiation hazard warning symbol identified in ANSI C95.2 1982, to notify persons that the facility could cause exposure to RF emissions;
 - d. Implement any other practice reasonably necessary to ensure that the facility is operated in compliance with adopted FCC RF emission standards.
 - e. To the extent necessary to minimize visual obtrusion and clutter, installations shall conform to the following standards:
 - f. Antennas and back up equipment shall be painted, fenced, landscaped or otherwise treated architecturally so as to minimize visual effects;
 - g. Rooftop installations shall be setback such that back up facilities are not viewed from the street;
 - h. Antennas attached to building facades shall be so placed, screened or otherwise treated to minimize any negative visual impact; and
 - i. Although co location of various companies' facilities may be desirable, a maximum number of antennas and back up facilities on the Project Site shall be established, on a case by case basis, such that "antennae farms" or similar visual intrusions for the site and area is not created.

For information about compliance, contact the Case Planner, Planning Department at 415-575-6378, www.sf-planning.org.

MONITORING - AFTER ENTITLEMENT

5. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

7. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

8. **Implementation Costs - WTS.**

- a. The Project Sponsor, on an equitable basis with other WTS providers, shall pay the cost of preparing and adopting appropriate General Plan policies related to the placement of WTS facilities. Should future legislation be enacted to provide for cost recovery for planning, the Project Sponsor shall be bound by such legislation.
- b. The Project Sponsor or its successors shall be responsible for the payment of all reasonable costs associated with implementation of the conditions of approval contained in this authorization, including costs incurred by this Department, the Department of Public Health, the Department of Technology, Office of the City Attorney, or any other appropriate City Department or agency. The Planning Department shall collect such costs on behalf of the City.
- c. The Project Sponsor shall be responsible for the payment of all fees associated with the installation of the subject facility, which are assessed by the City pursuant to all applicable law.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

9. **Implementation and Monitoring - WTS.** In the event that the Project implementation report includes a finding that RF emissions for the site exceed FCC Standards in any uncontrolled location, the Zoning Administrator may require the Applicant to immediately cease and desist operation of the facility until such time that the violation is corrected to the satisfaction of the Zoning Administrator.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

10. **Project Implementation Report - WTS.** The Project Sponsor shall prepare and submit to the Zoning Administrator a Project Implementation Report. The Project Implementation Report shall:

- a. Identify the three dimensional perimeter closest to the facility at which adopted FCC standards for human exposure to RF emissions in uncontrolled areas are satisfied;
- b. Document testing that demonstrates that the facility will not cause any potential exposure to RF emissions that exceed adopted FCC emission standards for human exposure in uncontrolled areas.
- c. The Project Implementation Report shall compare test results for each test point with applicable FCC standards. Testing shall be conducted in compliance with FCC

regulations governing the measurement of RF emissions and shall be conducted during normal business hours on a non-holiday weekday with the subject equipment measured while operating at maximum power.

- d. **Testing, Monitoring, and Preparation.** The Project Implementation Report shall be prepared by a certified professional engineer or other technical expert approved by the Department. At the sole option of the Department, the Department (or its agents) may monitor the performance of testing required for preparation of the Project Implementation Report. The cost of such monitoring shall be borne by the Project Sponsor pursuant to the condition related to the payment of the City's reasonable costs.
 - i. **Notification and Testing.** The Project Implementation Report shall set forth the testing and measurements undertaken pursuant to Conditions 2 and 4.
 - ii. **Approval.** The Zoning Administrator shall request that the Certification of Final Completion for operation of the facility not be issued by the Department of Building Inspection until such time that the Project Implementation Report is approved by the Department for compliance with these conditions.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.

11. **Notification prior to Project Implementation Report - WTS.** The Project Sponsor shall undertake to inform and perform appropriate tests for residents of any dwelling units located within 25 feet of the transmitting antenna at the time of testing for the Project Implementation Report.
 - a. At least twenty calendar days prior to conducting the testing required for preparation of the Project Implementation Report, the Project Sponsor shall mail notice to the Department, as well as to the resident of any legal dwelling unit within 25 feet of a transmitting antenna of the date on which testing will be conducted. The Applicant will submit a written affidavit attesting to this mail notice along with the mailing list.
 - b. When requested in advance by a resident notified of testing pursuant to subsection (a), the Project Sponsor shall conduct testing of total power density of RF emissions within the residence of that resident on the date on which the testing is conducted for the Project Implementation Report.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

12. **Installation - WTS.** Within 10 days of the installation and operation of the facilities, the Project Sponsor shall confirm in writing to the Zoning Administrator that the facilities are being maintained and operated in compliance with applicable Building, Electrical and other Code requirements, as well as applicable FCC emissions standards.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

13. **Periodic Safety Monitoring - WTS.** The Project Sponsor shall submit to the Zoning Administrator 10 days after installation of the facilities, and every two years thereafter, a certification attested to by a licensed engineer expert in the field of EMR/RF emissions, that

the facilities are and have been operated within the then current applicable FCC standards for RF/EMF emissions.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.

OPERATION

14. **Community Liaison.** Prior to issuance of a building permit application to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

15. **Out of Service – WTS.** The Project Sponsor or Property Owner shall remove antennas and equipment that has been out of service or otherwise abandoned for a continuous period of six months.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

16. **Emissions Conditions – WTS.** It is a continuing condition of this authorization that the facilities be operated in such a manner so as not to contribute to ambient RF/EMF emissions in excess of then current FCC adopted RF/EMF emission standards; violation of this condition shall be grounds for revocation.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.

17. **Noise and Heat – WTS.** The WTS facility, including power source and cooling facility, shall be operated at all times within the limits of the San Francisco Noise Control Ordinance. The WTS facility, including power source and any heating/cooling facility, shall not be operated so as to cause the generation of heat that adversely affects a building occupant.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.

18. **Transfer of Operation – WTS.** Any carrier/provider authorized by the Zoning Administrator or by the Planning Commission to operate a specific WTS installation may assign the operation of the facility to another carrier licensed by the FCC for that radio frequency provided that such transfer is made known to the Zoning Administrator in advance of such operation, and all conditions of approval for the subject installation are carried out by the new carrier/provider.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

19. **Compatibility with City Emergency Services – WTS.** The facility shall not be operated or caused to transmit on or adjacent to any radio frequencies licensed to the City for emergency telecommunication services such that the City's emergency telecommunications system experiences interference, unless prior approval for such has been granted in writing by the City.

For information about compliance, contact the Department of Technology, 415-581-4000, <http://sfgov3.org/index.aspx?page=1421>