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Planning Commission Motion No. 18131

HEARING DATE: JULY 1, 2010

Date: June 24, 2010
Case No.: 2010.0306C
Project Address: 10 Bernal Heights Boulevard
Current Zoning: RH-1(D) (Residential, House, Single-Family, Detached) District
 40-X Height and Bulk District
Block/Lot: 5548 / 003
Project Sponsor: Joyce Chu
 Modus Consulting
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 for Clearwire
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 209.6(b) AND 303 TO INSTALL A 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) (RESIDENTIAL, HOUSE, SINGLE-FAMILY, DETACHED) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 29, 2010, Joyce Chu (hereinafter "Project Sponsor"), made an application (hereinafter "application"), for Conditional Use (CU) authorization on the property at 10 Bernal Heights Boulevard, Lot 003 in Assessor's Block 5548, (hereinafter "Project Site") to install a wireless telecommunications facility consisting of 5 internet exchange switch antennas on an existing 50 foot tall communications tower at the top of the hill in Bernal Heights Park. The CU will modify the Conditional Use approval under Case No. 2008.1157C to modify the number of allowed antennas on the site. The Project Site is within the RH-1(D) (Residential, House, Single-Family, Detached) Zoning District, and a 40-X Height and Bulk District.

The San Francisco Planning Department (hereinafter "Department") determined the application to be categorically exempt from the environmental review process (CEQA) pursuant to exemption Classes 1, 3 and 11 of Title 14 of the California Administrative Code.

The Proposed Project as approved herein is consistent with the Project description contained in the categorical exemption and would not result in significant impacts not identified in the categorical exemption or cause significant effects already identified in the categorically exemption to be substantially more severe.

On July 1, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the application for a Conditional Use.

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. 2010.0306C, 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 Project Site is located at the top of the hill in Bernal Heights Park. The Project Site is owned and operated by American Tower Corporation and contains one equipment building and one approximately 50 foot tall telecommunications tower with 62 antennas. The antennas are operated by various tenants including Covad, WiLine, T-Mobile, and the City and County of San Francisco.
3. **Surrounding Properties and Neighborhood.** The Project Site is located within the Bernal Heights neighborhood. The Project Site is located on a parcel of land within the RH-1(D) Zoning District surrounded by the Bernal Heights Park, which is within the P Zoning District. Land uses surrounding the park are primarily residential.
4. **Proposal.** The proposal is to install a wireless telecommunications facility consisting of 5 internet exchange switch antennas on an existing 50 foot tall communications tower at the top of the hill in Bernal Heights Park and an associated equipment cabinet as part of a wireless transmission network operated by Clearwire. The CU will modify the Conditional Use approval under Case No. 2008.1157C to modify the amount of allowed antennas on the site. Each internet exchange switch antenna ranges from 1 foot to 2.5 feet in diameter. The equipment cabinet would be placed within the existing equipment structure on the hill.

5. **Past History and Actions.** On October 6, 1960, the Planning Commission, by Resolution No. 5313, authorized the construction of two approximately 50 foot tall telecommunications towers and an equipment building in Bernal Heights Park with a maximum of eight horn type antennas on each tower for use as a microwave radio relay station for telephone service. Research regarding the Project has found that there was only one tower constructed and that there are currently approximately 62 antennas on the tower.

On October 15, 2009, the Planning Commission authorized the installation a wireless telecommunications facility consisting of eight panel antennas and one dish antenna and related equipment as part of T-Mobile's wireless telecommunications network on the communications tower at the top of the hill in Bernal Heights Park and to modify the original Conditional Use approval under Case No. CU60.13 (Resolution 5313) to establish the existing tower configuration and number antennas on the site.

6. **Location Preference.** The WTS Facilities Siting Guidelines identify different types of buildings for the siting of wireless telecommunications facilities, with Location Preference 1 being the most desirable location and Location Preference 7 being the least desirable location. Under the Guidelines, the Project is a Location Preference Number 1, as it is a preferred location for a publicly used structure.
7. **Radio Waves Range.** The Project Sponsor has stated that the proposed wireless network will transmit calls by radio waves operating in the 2496-2690 Megahertz (MHZ) bands, which are regulated by the Federal Communications Commission (FCC) and which 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 Hammett & Edison, Inc., a radio engineering consulting firm, to prepare a report describing the expected RF emissions from the proposed facility. 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.** There are currently a large number of existing antennas located on a tower in the Bernal Hill Park. Existing RF levels at the ground level were less than 1% of the FCC public exposure limit. There were observed no other antennas within 100 feet of this site. Clearwire proposes to install five dish antennas. The antennas would be mounted at effective height of about 58 feet above the ground. The estimated ambient RF field from the proposed Clearwire transmitters at ground level is calculated to be 0.000012 mW/cm² which is 0.0012% of the FCC public exposure limit. The three dimensional perimeter of RF levels equal to the public exposure limit is calculated to extend 10 feet from the antennas. Due to the mounting locations the Clearwire antennas would not be accessible to the general public. Warning signs must be posted at the access points and the antennas in English, Spanish and Chinese.

10. **Maintenance Schedule.** The proposed facility would operate without on-site staff but with a one- or two-person maintenance crew visiting the property approximately once or twice a month and on an as-needed basis to service and monitor the facility.
11. **Community Outreach.** A Community Outreach Meeting was conducted for the Proposed Project. The meeting was held at 7:00 P.M. on Wednesday, June 16, at the Bernal Heights Recreation Center located at 500 Moultrie Street, San Francisco, CA. No members of the public attended the meeting.
12. **Five-year plan:** Clearwire submitted its latest five-year plan, as required, in April 2010.
13. **Public Comment.** The Department has received no public comments regarding the Proposed Project.
14. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the amendments to Planning Code in the following manner:
 - A. **Use.** Per Planning Code Section 209.6(b), a Conditional Use authorization is required for communications utilities in the RH-1(D) Zoning District.
15. **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.

The Proposed Project will be generally desirable and compatible with the surrounding neighborhood because the Project will not conflict with the existing uses of the property. The Proposed Project will be comparable in size to the existing conditions. The approval of this authorization has been found, first and foremost, to insure public safety. The Proposed Project will also provide necessary facilities for emergency transmission and improved communication for the neighborhood, community and the region.
 - 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 Proposed 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.

An evaluation of potential health effects from RF radiation, conducted by the Department of Public Health, 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. The Department has received information that the proposed wireless system must be operated so as not to interfere with radio or television reception in order to comply with the provisions of its license under the FCC.

The Department is developing a database of all such wireless communications facilities operating or proposed for operation in the City and County of San Francisco. All applicants are now required to submit information on the location and nature of all existing and approved wireless transmission facilities operated by the Project Sponsor. The goal of this effort is to foster public information as to the location of these facilities.

- 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 single 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 erection 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 subject site has ample landscaping and open space. There is a proposed condition requiring the Project Sponsor to submit and install landscaping per an approved landscaping plan. The installation of antennas on the existing tower will not affect the existing landscaping.

- 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 Project is consistent with the stated purposed of RH-1(D) Districts in that the intended use is located at an existing tower approximately 50 feet tall.

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

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 a new 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.

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.

17. **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 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.

No landmarks or historic buildings would be affected by the Project.

- 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.

18. 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.
19. The Commission hereby finds that approval of the Determination of Compliance authorization would promote the health, safety and welfare of the City.

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 209.6(b) and 303 to install a wireless telecommunications facility consisting of five internet exchange switch antennas on an existing 50 foot tall communications tower at the top of the hill in Bernal Heights Park 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) (Residential, House, Single-Family, Detached) Zoning District, a 40-X Height and Bulk District and subject to the conditions of approval attached hereto as **Exhibit A**.

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. 18131. 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.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on **July 1, 2010**.

Linda Avery
Commission Secretary

AYES: Commissioners, Miguel, Olague, Borden, Moore, Sugaya, Antonini

NAYS: None

ABSENT: Lee

ADOPTED: July 1, 2010

Exhibit A

Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

General Conditions

1. This approval is for Conditional Use authorization under Planning Code Sections 209.6(b) and 303 to install a wireless telecommunications facility consisting of 5 internet exchange switch antennas on an existing 50 foot tall communications tower at the top of the hill in Bernal Heights Park 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) (Residential, House, Single-Family, Detached) Zoning District, a 40-X Height and Bulk District.
2. The Project approved by this Motion is in general conformity with the plans dated April 6, 2010, on file with the Department in the docket for Case No. 2010.0306C (labeled EXHIBIT B), reviewed and approved by the Commission on July 1, 2010.
3. This Conditional Use authorization restricts the number of towers in Bernal Heights Park to one and limits the number of antennas to 71. The antennas shall be limited further to no more than 19 dish antennas with a diameter of 4 feet or less, and 52 other types of antennas (including cable, panel, access, omni, radiowave, amplifier, bogner, whip, dipole, and yagi) at any time.
4. The Property Owner is responsible for the removal of the 9 inactive antennas on the Project Site.
5. The Property Owner is responsible for filing Building Permit Applications or for requiring tenants to file Building Permit Applications to legalize all existing antennas and for all future antennas on the site.
6. Installation of additional antennas beyond the 71 authorized by this Conditional Use Application requires the approval of a new Conditional Use Application.

Design

7. The final plans shall meet the standards of the Planning Code and be in general conformity with the plans approved by the Commission on July 1, 2010 as Exhibit B found in the Case docket.
8. 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:
 - 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.

Performance

9. Project Implementation Report. 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. 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 week day with the subject equipment measured while operating at maximum power.
 - d. 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.
10. Notification and Testing. The Project Implementation Report shall set forth the testing and measurements undertaken pursuant to Conditions 4 and 13.
11. 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.

12. Notification prior to Project Implementation Report. The Project Sponsor shall undertake to inform and perform appropriate tests for residents of any dwelling units located within 25 feet of the transmitting antennae 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.
13. Community Liaison. Within 10 days of the effective date of this authorization, the Project Sponsor shall appoint a community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facilities. Upon appointment, the Project Sponsor shall report in writing the name, address and telephone number of this officer to the Zoning Administrator. The Community Liaison Officer 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.
14. Installation. 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.
15. Screening.
 - a. 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:
 - i. Modify the placement of the facilities;
 - ii. Install fencing, barriers or other appropriate structures or devices to restrict access to the facilities;
 - iii. 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; or
 - iv. Implement any other practice reasonably necessary to ensure that the facility is operated in compliance with adopted FCC RF emission standards.

- b. To the extent necessary to minimize visual obtrusion and clutter, installations shall conform to the following standards:
 - i. Antennas and back-up equipment shall be painted, fenced, landscaped or otherwise treated architecturally so as to minimize visual impacts;
 - ii. Rooftop installations shall be setback such that back-up facilities are not viewed from the street;
 - iii. Antennae attached to building facades shall be so placed, screened or otherwise treated to minimize any negative visual impact; and
 - iv. 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.
16. The Project Sponsor or Property Owner shall remove antennae and equipment that has been out of service for a continuous period of six months.
17. Periodic Safety Monitoring. 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.
18. Emissions Conditions. 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.
19. Noise and Heat. The WTS facility, including power source and cooling facility, shall be operated at all times within the limits of the San Francisco Noise Ordinance. The WTS facility, including power source and cooling facility, shall not be operated so as to cause the generation of heat that adversely affects a building occupant.
20. Implementation and Monitoring Costs.
 - 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 the monitoring of the conditions of approval contained in this authorization, including costs incurred by this Department, the Department of Public Health, the Department of Electricity and Telecommunications, Office of the City Attorney, or any other appropriate City Department or agency pursuant to Planning Code Section 351(f)(2). 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.
21. All Conditions Basis for Revocation. The Project Sponsor or its successors shall comply fully with all conditions specified in this authorization. Failure to comply with any condition shall constitute grounds for revocation under the provisions of Planning Code Sections 174, 176 and 303(d). The Zoning Administrator shall schedule a public hearing before the Planning Commission to receive testimony and other evidence to demonstrate a finding of a violation of a condition of the authorization of the use of the facility and, finding that violation, the Commission shall revoke the Conditional Use authorization. Such revocation by the Planning Commission is appealable to the Board of Supervisors.
- 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.
22. Complaints and Proceedings. Should any party complain to the Project Sponsor about the installation or operation of the facilities, which complaints are not resolved by the Project Sponsor, the Project Sponsor (or its appointed agent) shall advise the Zoning Administrator of the complaint and the failure to satisfactorily resolve such complaint. If the Zoning Administrator thereafter finds a violation of any provision of the Planning Code and/or any condition of approval herein, the Zoning Administrator shall attempt to resolve such violation on an expedited basis with the Project Sponsor. If such efforts fail, the Zoning Administrator shall refer such complaints to the Commission for consideration at the next regularly scheduled public meeting.
23. Severability. 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 of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.
24. Transfer of Operation. 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, and the authorizing Motion is recorded on the deed of the property stating the new carrier/provider and authorizing conditions of approval.
25. Compatibility with City Emergency Services. The facility shall not be operated, nor 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.

Motion No. 18131
Hearing Date: July 1, 2010

CASE NO. 2010.0306C
10 Bernal Heights Boulevard

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