



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

June 24, 2010

Joyce Chu
MODUS Consulting, LLC
833 Market Street, Suite 805
San Francisco CA 94103

RE: 10 Bernal Heights
Block: 5548 Lot: 003
Case No: 2008.1157C/Motion 17964

Dear Ms. Chu:

This letter is in regard to the Planning Commission's decision regarding Case No. 2008.1157C, Motion 17964, permitting T-Mobile to locate up to ten WTS antennas (nine panel and one dish) and associated equipment at the address referenced above. This Conditional Use authorization also established the existing tower configuration and maximum number of allowed antennas at the top of the hill in Bernal Heights Park. This parcel is located in an RH-1(D) (Residential, House, Single-Family, Detached) District with a 40-X height and bulk limitation.

Motion 17964 restricted the number of antennas on the site though a Condition of Approval that reads, "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 14 dish antennas with a diameter of 4 feet or less, and 57 other types of antennas (including cable, panel, access, omni, radiowave, amplifier, bogner, whip, dipole, and yagi) at any time." Your request is to verify that the number of antennas on the site may be modified administratively to allow for 19 round dish antennas and 52 panel antennas.

On March 1, 2010, the Planning Department issued an updated memorandum regarding modifications to existing WTS sites, which indicates that a conditional use could be required when additional antennas are proposed for existing sites. Because the request would be a modification to a Condition of Approval imposed by the Planning Commission on October 15, 2009, I believe it is appropriate for the proposed modification to the number and type of antennas at the site to be reviewed by the Planning Commission. In keeping with the Department's goal of ensuring adequate notice, I believe that a public notice consistent with current standards should be conducted. Therefore, it is my determination that a new Conditional Use authorization is required for antennas proposed, that the Planning Commission should review updated project information and design related to additional antennas at the subject property, and that adequate public notice should be conducted.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

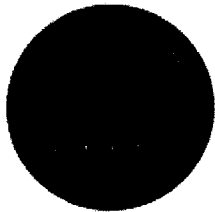
Sincerely,



Scott Sanchez
Acting Zoning Administrator

cc: Erika S. Jackson, Planner

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MAR 18 2010

COUNTY OF S.F.
PLANNING DEPARTMENT

ID# 8848
CR #54950
SOUTHEAST
SQUADRON
JULIAN
BANALES
CR# 00183344

18 March 2010

City of San Francisco, Planning Department
Lawrence Badiner, Zoning Administrator
1650 Mission St, Suite 400
San Francisco, CA 94103-2479

Re: Request for a Letter of Determination to amend the current Use Permit at 10 Bernal Heights Tower.

Dear Zoning Administrator,

On behalf of Clearwire, LLC, we respectfully request your consideration for a Letter of Determination with regard to **10 Bernal Heights Communications Tower**.

The Conditional Use Permit, **Case No. CU60.13, Motion No. 5313**, to establish the existing tower configuration and antennas on the site within a RH-1(D) Zoning District in a 40-X Height and Bulk District. Under this Conditional Use Permit, which allowed a maximum of 71 antennas, "limited further to no more than 14 dish antennas with a diameter of 4 feet or less and 57 other types of antennas (including cable, panel, access, omni, radiowave, amplifier, bogner, whip, dipole, and yagi) at any time."

At this time, there are currently only 53 antennas that are in commission on the tower and another 9 DEcommissioned, inactive antennas. T-Mobile has added another 9 antennas (1 being a dish antenna) under case no. 2008.1157C and approved under motion number 17964. With T-Mobile's antennas, there are 62 antennas and 9 inactive antennas that have poles that can be utilized.

Clearwire is looking to switch out 8 of the 9 inactive antennas with 8 active Clearwire internet services exchange round dishes. We understand that the tower already has 14 dishes and this would exceed the number of dishes allowed by 8. This switch out can be justified for the following reasons: 1) These dishes range from 1' to 2' in diameter and have a substantially lower surface area than panel antennas. 2) These dishes are much smaller and have a substantially lower visual impact than the inactive antennas that are currently on the tower. 3) There is a substantially lower RF emissions level at ground level due to the point-to-point feature of the dish that is concentrated in a linear beam and does not reach ground level as RF panel antennas do.

After your review, please advise as to the applicability for the existing UP to allow for completion of this proposed modification of 8 dish antennas through an amendment, modification that could be processed administratively, within the parameter of the referenced permit.

All the Best,


Joyce Chu
Land Use Planner

we were unable to track
down the original CoA
for CU 60.13, resolution
5313. But there is the
same language we are
asking the LOD for.

Thanks.
Jlu.

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 eight panel antennas and one dish antenna and related equipment as part of T-Mobile's wireless telecommunications network on an existing approximately 50 foot tall 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 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 September 25, 2008, on file with the Department in the docket for Case No. 2008.1157C (labeled EXHIBIT B), reviewed and approved by the Commission on October 15, 2009.
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 14 dish antennas with a diameter of 4 feet or less, and 57 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. Prior to Planning Department approval of the Building Permit Application, the Project Sponsor shall submit a new landscaping plan for the Project Site, subject to approval by the Zoning Administrator. Prior to permit issuance, the Project Sponsor shall install landscaping per the approved plan. Such landscaping plan, including species, shall include tree planting sufficient to screen the base tower and the building from distant views over time. Landscaping shall be maintained and as trees reach maturity or die of disease, they shall be replaced.

8. The final plans shall meet the standards of the Planning Code and be in general conformity with the plans approved by the Commission on October 15, 2009 as Exhibit B found in the Case docket.
9. 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

10. 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.