

Adena Chen
City Attorney

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OAKLAND

2012 DEC -6 PM 4:38

OAKLAND CITY COUNCIL

RESOLUTION No. 84158 C.M.S.

Introduced by Councilmember _____

A RESOLUTION DENYING THE APPEAL (A12-172) OF THE DECISION OF THE OAKLAND PLANNING COMMISSION, TO GRANT APPROVAL OF AN APPLICATION FOR A MAJOR CONDITIONAL USE PERMIT AND REGULAR DESIGN REVIEW TO MAKE ALTERATIONS TO AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY LOCATED AT 5745 THORNHILL DRIVE. (PLANNING CASE FILE: CMD12-056)

WHEREAS, on May 10, 2012, Streamline Engineering (the Applicant) on behalf of Sprint applied for a Major Conditional Use Permit and Regular Design Review to make alterations to the existing telecommunications wireless facility; and

WHEREAS, the Planning Commission, after taking testimony at a public hearing, approved the Major Conditional Use Permit and Regular Design Review on August 29, 2012; and

WHEREAS, on September 11, 2012, Karen Chambers (“Appellant”) filed an appeal to the City Council to overturn the Planning Commission’s approval of the Major Conditional Use Permit and Regular Design Review; and

WHEREAS, after giving due notice to the Appellant, Applicant, all interested parties and the public, the Appeal came before the City Council in a duly noticed public hearing on December 18, 2012; and

WHEREAS, the Appellant, Applicant and all other interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on December 18, 2012; now, therefore be it

RESOLVED: The City Council, having independently heard, considered, reviewed and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Project and the applications therefor, the Planning Commission’s decision and the Appeal, finds that the Appellant has not shown, by reliance on evidence in the record, that the Planning Commission’s decision was made in error and there was abuse of discretion by the Commission, and/or that the Commission’s decision was not supported by sufficient, substantial evidence in the record. This decision is based, in part, on the December 18, 2012 City Council Agenda Report and the July 11, 2012 and August 29, 2012 Planning Commission Staff reports, which are hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied,

and the Planning Commission's decision to approve the Project is granted, and the Project and the application therefore is approved; and be it

FURTHER RESOLVED: That, in further support of the City Council's decision to deny the Appeal and approve the Project, the City Council affirms and adopts as its own findings and determination the December 18, 2012 City Council Agenda Report including without limitation the discussion, findings, conclusions, specified conditions of approval (including the Standard Conditions of Approval, each of which is hereby separately and independently adopted by the Council in full), in the July 11, 2012 and August 29, 2012 City Planning Commission Reports, including without limitation of discussion, findings, conclusions, conditions of approval (each of which is hereby separately and independently adopted by this Council in full), except where otherwise expressly stated in this Resolution; and be it

FURTHER RESOLVED: That the record before this Council relating to this Project and Appeal includes, without limitation, the following:

1. The Project application, including all accompanying maps and papers;
2. All plans submitted by the Applicant and its representatives;
3. All final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
4. All oral written evidence by the City staff, Planning Commission and City Council before and during the public hearings on the Project and Appeal; and
5. All matters of common knowledge and all official enactments and acts of the City such as (a) the General Plan; (b) Oakland Planning Code; (c) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) City of Oakland, Office of Planning, Building and Neighborhood Preservation, located at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA ; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 18 2012

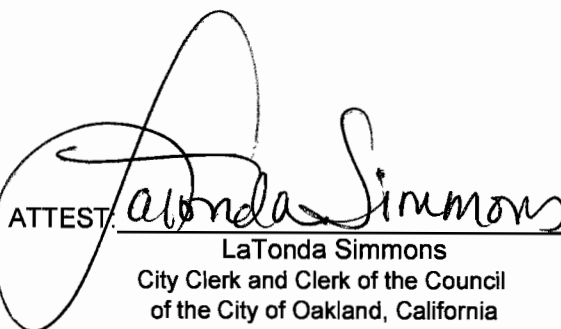
PASSED BY THE FOLLOWING VOTE:

AYES - ~~BECKWITH, DE LA FUENTE~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and
PRESIDENT REID - 6

NOES - Brunner, Brooks - 2

ABSENT - 0

ABSTENTION - 0

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California