

Wireless Antenna Permit Appeal

Permit Number: 10WR-0021
Appeal Number: 11-004
Appeal Title: Cooper vs. DPW BSM
Subject Property: 156 27th Avenue
Permit Type: Wireless Box

Submitted by Jeff and Nicole Cooper

February 22, 2011

San Francisco is a special place. Foremost is its dramatic physical beauty, created by bay and ocean surrounding a cluster of hills that are often illuminated by brilliant sun or shrouded in silvery fog. The views from these hilltops were given to us inadvertently. The early settlers, in their scramble to forge a new life, imposed a simple grid system on the land. So instead of streets winding themselves around the hills we have streets that can scale the hilltops to reveal extraordinary vistas. These vistas give us a city that appeals from any perspective and sparks our imagination.

- Introduction to the San Francisco General Plan

Executive Summary

27th Avenue between Lake Street and El Camino del Mar is a beautiful and quiet residential street with views of the bay and the Marin headlands. Most of the homes that line the street have clear views of the Golden Gate Bridge. The San Francisco General Plan (“General Plan”) has rated the view quality of 27th Ave between Lake Street and El Camino del Mar as “Good.” (See Exhibit 1).

As a result of the “Good” street view rating, the permit application for construction of a wireless antenna on 27th Ave that was submitted by NextG Networks (“NextG”) was required to go to the Planning Department for review. See S.F. Administrative Code section 11.9(b)(2)(A); Department of Public Works (“DPW”) Order No. 177,163 section 3.D.IV; and recently enacted Ordinance File Number 100041 Enact Number 12-11 (“the Avalos Legislation”). However, in this instance, the fact that the block containing 156 27th Ave and 161 27th Ave is rated “Good” by the General Plan was overlooked by DPW and NextG, and the permit did not go to the Planning Department for review.

As a result, the permit 10WR-0021 should never have been issued. DPW did not have the authority to approve the permit in this instance without Planning Department review. We therefore ask that the Board of Appeals repeal the permit for a wireless service facility on 27th Ave between Lake and El Camino del Mar.

The recently enacted Avalos Legislation, which was unanimously supported by the Board of Supervisors, states, “

The City's beauty is vital to the City's tourist industry and is an important reason for businesses to locate in the City and for residents to live here. Beautiful views enhance property values and increase the City's tax base... The City does not intend to regulate the technologies used to provide personal wireless services. However, the City needs to regulate the placement of such

facilities in order to prevent telecommunications providers from installing wireless antennas and associated equipment in the City's public rights-of-way either in manners or in locations that will diminish the City's beauty.”

We strongly agree. Since the initial permit approval by DPW should be deemed invalid, any new attempts at a permit approval at this location should fall under the new Avalos Legislation, which has a strong retroactivity clause (Section 4.a – See Exhibit 2). Further, the City should not approve wireless antennas on protected streets that significantly degrade neighborhood and street views. The Avalos Legislation is clear in its intent and its language. We ask the Board of Appeals to deny NextG’s pending permit application.

Background: NextG and DAS

NextG is the Distributed Antenna System (“DAS”) provider that installed the wireless antenna at issue in Permit 10WR-0021. DAS providers such as NextG Networks usually service large wireless corporations like AT&T, Verizon, Sprint-Nextel or T-Mobile. We understand that many of these large service providers in San Francisco utilize shared infrastructure (fiber optic backbone) provided by the DAS provider, but do not share antenna resources, even though sharing is technically feasible¹.

Typically, DAS providers certify themselves as full-facilities based competitive local exchange carriers (CLECs) in order to qualify for equal rights to the public rights-of-way, under the Telecommunications Act of 1996, on which to install their equipment. Quick and cheap access to the public rights-of-way is critical to the financial success of DAS providers such as NextG. Perhaps unsurprisingly, NextG has been very aggressive in the courts defending its access to the public rights-of-

¹Srividya Ramachandran, Establishing a Regulatory Framework for Distributed Antenna Systems. Page 8 states: “A DAS network is protocol-neutral, meaning that the same antenna equipment may be capable of accommodating carriers that use different protocols. Along the same lines, DAS networks may also be provider-neutral, with antennas capable of transmitting and receiving digital signals on multiple frequency bands simultaneously.”

way. NextG discusses their typical customer contracts as a contract that “involves construction of the DAS system and monthly transport services over the contract term.”² NextG customer contracts are typically 10 to 15 years long.³ While the initial roll out of a DAS system can be capital intensive, once the network is up and running it should generate significant cash flow. It is in NextG’s interest to roll out DAS networks as quickly and cheaply as possible, and utilizing the public rights-of-way is the best way to do this. We should expect NextG to act in the best interests of their shareholders, NextG is majority owned by Madison Dearborn Partners – a private equity firm based in Chicago. However, we, citizens of San Francisco, expect city officials to ensure a responsible roll out of DAS technology.

Background: Legal issues facing municipalities

Municipalities all over the US have been struggling with how to deal with the roll out of DAS in their communities. Just a simple Google News search with the key word “NextG Networks” produces dozens of articles about communities all over America upset about DAS installations being done with little oversight and no community input or engagement. See Exhibit 3. It is unfortunate that NextG has decided to take a combative and entitled posture, as opposed to educating communities about the benefits of a DAS system and working with communities to develop a reasonable approach to the rollout. We should expect NextG to act in its own financial interests and not necessarily in the interests of the greater community.

NextG’s posture has resulted in numerous lawsuits aimed at protecting their right to “equal access” to public rights-of-way. While NextG has been successful in protecting their rights to access, the Telecommunications Act of 1996, Section 704, is clear regarding facilities siting and the protection

²Per NextG Networks S-1A filed with the SEC.
<http://www.sec.gov/Archives/edgar/data/1424257/000089161808000516/f41153a2sv1za.htm#109>

³ IBID.

of local zoning authority. Section 704 states, “Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless facilities.” Section 704 (in full at Exhibit 4) goes on to discuss how limitations shall not unreasonably discriminate against providers and shall not have the effect of prohibiting the provision of personal wireless services. So, as long as local governments do not unreasonably discriminate or effectively block wireless service, then localities shall have final say with respect to decisions regarding placement and construction.

San Francisco has the authority to be a productive partner in the ongoing discussions regarding wireless facility siting and has ample jurisdiction to deny the permit in this particular instance.

San Francisco DAS in the public rights-of-way

Since May of 2008, 342 wireless permits for the public rights-of-way have been approved in San Francisco by DPW⁴. This large number of permit approvals alone indicates that San Francisco has not discriminated against NextG. However, as a concerned citizen, I am worried that there is not an appropriate level of oversight over the permitting approval process for the public rights-of-way. In 2010, one employee, Rassendyll Dennis, at DPW approved 152 wireless permits.⁵ On his busiest day, September 3, 2010, Rassendyll Dennis approved 30 wireless permits.⁶ The permit at 156 27th Ave was approved 5 days later on September 8, 2010.

We cannot comment as to whether DPW is appropriately staffed to handle the level of permit requests being processed, but the data is alarming. In the zip code of the subject property (which encompasses the Outer Richmond district), 33 wireless permits have been approved since May of 2008,

⁴ DPW’s Street Use Permitting System - Public Search website; as of February 2, 2011.

⁵ IBID

⁶ IBID

and 28 of these permits were issued to NextG during a three month period between 8/30/10 and 11/12/10.⁷ (See Exhibit 5 for the details). It is not surprising that residents feel as though NextG is rushing to acquire permits in order beat the now executed Avalos legislation. In addition, please see Exhibit 6 and 7 for a map of wireless permits approved since May 2008 in San Francisco and in the Richmond District. Also, for an interactive map of all the wireless permits approved in San Francisco since May 2008, please see (<http://www.batchgeo.com/map/569ba07186373cf94ee548ddcb22a0c0>)

Installation quality in San Francisco

Hopefully the Avalos legislation will change the status quo. Regardless of whether the installations of wireless antenna sites throughout the city have satisfied applicable guidelines and other governing laws, they do not meet the standards that we should expect in a city like San Francisco. A simple review of NextG's website shows many examples of DAS installations which do a better job of minimizing the visual impact of the antenna than what is occurring regularly in San Francisco. In San Francisco, it appears NextG has embarked on a rush job to install as many of the sites as cheaply as possible with little regard to the immediate community or the visual impact. See Exhibit 8 for a set of pictures taken from NextG website; these pictures can also be found on NextG's website.⁸ Also see Exhibit 9 for a set of pictures taken from a variety of sites in San Francisco.

In the photographs from NextG's website, there are no examples of attaching a six foot piece of 4x4 lumber to the top of an existing light post, then installing a wireless antenna on top of that extension, which is the method NextG employed on 27th Ave. Also, in most of the example pictures, the supporting equipment is more streamlined or even underground. In the town of Massapequa Park the Massapequa Park Village Board after many negotiations approved a slimmed down version of the

⁷ IBID

⁸ <http://www.nextgnetworks.net/solutions/photosdiagrams.html>

supporting equipment boxes NextG had planned to install in a residential part of the village. The versions previously proposed (and rejected by the Massapequa Park Village Board) looked very similar (if not smaller) than the boxes we see all over residential areas of San Francisco. (See Exhibit 10 for pictures of the old and new box design in Massapequa Park). Why we are settling for less in San Francisco?

The wireless antenna installation on 27th Avenue between Lake and El Camino Del Mar

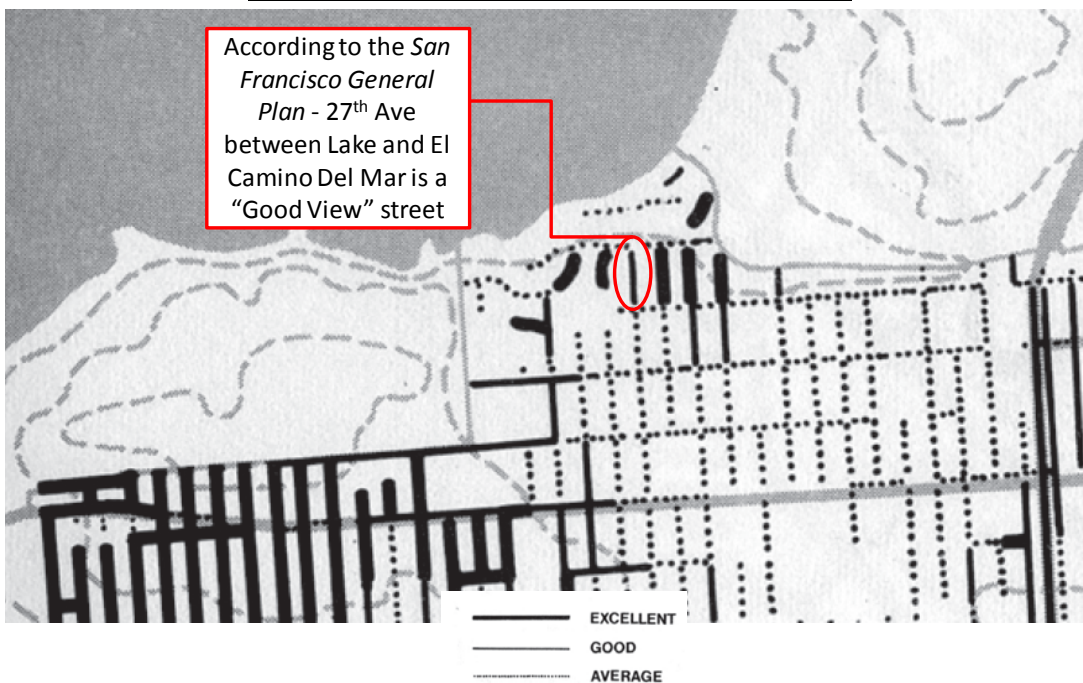
The equipment installed on 27th Ave is unsightly, creating visual blight of our quiet, residential street. By the standards of the Avalos legislation, the facility installed on 27th Ave is considered a Tier III site, which is the largest size. The wireless antenna and some supplemental equipment are primarily installed on a relatively old and frail wood light post located at 156 27th Avenue, with additional equipment supplementing the antenna on a utility pole located at 161 27th Avenue. NextG installed a large 4x4 square wood extension to the top of an existing round light post, which previously had no utility boxes on it of any kind. The extension looks unstable, does not appropriately blend in with the rest of the light post, impedes neighborhood views of the Pacific Ocean, Golden Gate Bridge and the Marin headlands, and is inappropriately close to the residence at 156 27th Avenue. As currently implemented, much of the supporting equipment sits 18 feet 8 inches from our living room window and 13 feet from the front of our house. In addition, since NextG had to utilize two poles, they had to run cables / power lines back and forth overhead, adding to the visual blight of the installation. Most of the streets in the immediate area have been determined to have “good” or “excellent” views by City and Country of San Francisco General Plan, and 27th Ave shares similar views of the Pacific Ocean, the Golden Gate Bridge and the Marin Headlands, and is a key part of the San Francisco Marathon route as runners head south from Lincoln Avenue. A wireless antenna and supporting equipment, as currently

installed, is not appropriate on this quiet and scenic block. (See Exhibits 11 through 18 for pictures of the installation on 27th Ave).

Planning department review was required in this instance, but the permit was not sent to planning

27th Avenue between Lake Street and El Camino del Mar has a street view rating of “Good” according to the San Francisco General Plan. However, the wireless permit at 156 27th Avenue did not receive Planning Department review. As a result, Permit 10WR-0021 should be deemed invalid. DPW does not have the authority to approve permits on protected streets, which includes streets that have a street view rated “Good” by the San Francisco General Plan, without Planning Department review. The graphic below shows an excerpt of the “Quality of Street Views” map from the San Francisco General Plan.

Quality of Street Views Map from the San Francisco General Plan



http://www.sf-planning.org/ftp/General_Plan/Images/15.urban_design/URB_Quality_of_Street_Views.pdf

City and County of San Francisco Department of Public Works Order No. 177,163 clearly states at Section (III)(D)(4)(d) that the:

“Department shall refer an application for a Personal Wireless Facility Site Permit to the Planning Department if the proposed location of the Personal Wireless Service Facility (as shown on the Department Maps) is ... on a street indentified in the City and County of San Francisco General Plan as on that is: (i) is most significant to City pattern; (ii) defines City form; (iii) has an important street view for orientation; or (iv) has street views that are rated “excellent” or “good.”

S.F. Administrative Code section 11.9(b)(2)(A) states, “Where review by the Planning Department is required, the Department of Public Works shall not issue a Wireless Services Facilities Site Permit unless the Planning Department has recommended approval.”

What Went Wrong

Our investigation of why a permit was improperly issued for 156 27th Ave provides us with an understanding of what went wrong. There is a different map on the DPW website that telecommunications carriers, such as NextG, and city officials have been utilizing to determine site locations. This map is meant to aggregate numerous city maps to make it easier for companies like NextG to determine site locations. Unfortunately, this map, created for convenience, is wrong. This Wireless Service Facilities Exception Map can be found here: <http://www.sfdpw.org/index.aspx?page=1284> and is included in Exhibit 19. The disclaimer on the website with this map states

“The map is provided for the convenience of telecommunications carriers applying for personal wireless service facilities site permits. It contains a graphical representation of the parts of San

Francisco identified in S.F. Administrative Code section 11.9(b)(2)(A) and DPW's Order No. 177,163 section 3.D.IV where approval of the Planning Department is required before DPW can issue a personal wireless service facilities site permit.”

S.F. Administrative Code and DPW’s Order No. 177,163 rely on the San Francisco General Plan as the original source for quality of street views and this map is readily available on www.sf-planning.org. Both DPW and NextG should have noticed the discrepancy between the original map source from the General Plan and the wireless map created for convenience.

Natasha Ernst, Director of Government Relations, said at the January 12 Jurisdictional request hearing that she was involved in picking site locations and that *“because the law under the 2007 guidelines and the multicolor wireless map is complicated, we were trying to stay away from those protected street views.”* This was before we, NextG or DPW realized that 27th Ave actually was protected. Rassendyll Dennis at DPW explained that permit 10WR-0021 was not sent to planning because it was not in a protected location, which has since been proven to be incorrect. On January 27, 2011, Jonas Ionin from the Planning Department confirmed that 156 27th Ave is on a protected street and has asked DPW to update the Wireless Service Facilities Exception Map. (Please see Exhibit 20 for a copy of his email to DPW). Since the Wireless Service Facilities Exception Map source is supposed to be the San Francisco General Plan, it is clear that the permit at 156 27th Ave should have received Planning Department review. It is also very possible that this location would have never been selected as a potential site if the DPW wireless exception map was correct, especially given the scale of the supporting equipment required at this particular location. The residents of 27th Ave are paying the price for this mistake.

It is our view that the wireless antenna installed at 156 27th Avenue between Lake and El Camino del Mar is a clear example of a case where the Planning Department should have stepped in with a

recommendation to deny the proposed permit. However, the permit application never went to planning for review. Even though 27th Ave is deemed protected by the San Francisco General Plan, the permit was mistakenly approved by the Department of Public works, in clear violation of S.F. Administrative Code section 11.9(b)(2)(A), DPW Order No. 177,163 and the recent Avalos legislation. For this reason, we ask that the Board of Appeals recognize that DPW did not have the power to approve the permit, and enforce City policy by repealing the permit approval.

Discussion of the effects of the Avalos legislation

The recently passed Avalos legislation changes the way wireless permits are approved, primarily by creating notification requirements to residents in the immediate vicinity of a proposed wireless facility site. The Avalos legislation provides guidance with respect to the general appearance of the wireless facilities by creating a tier system from I to III, with tier III being the largest facilities. Obviously, every effort should be made to avoid placing facilities in protected locations, especially larger tier III facilities. In addition, the Avalos legislation provides guidance to Planning Department for permits that require Planning review. The intent is that Planning should seriously consider the impact of the proposed facilities to the greater community. The Avalos legislation states that DPW “shall not approve an Application for a Tier II-B, Tier III-A, or Tier III-B Facility Permit unless Planning Department makes a determination that the Application satisfies the applicable Tier II-B, Tier III-A, or Tier III-B Compatibility Standard.” (The facility at 156 27th Avenue is a Tier III-B facility). Planning should consider, not only public street views which currently is consistent with prior city policies, but also private views of neighboring residences. The legislation clearly states that the “Planning Department’s determination that an Application for a Personal Wireless Service Site Permit satisfies the Tier II-B or Tier III-B Compatibility Standard for a Zoning Protected Location may include a Condition

that the Wireless Service Facility not obstruct the view from or the light into any adjacent residential window.” (See Exhibits 11 through 18 for pictures of the installation subject to this appeal). Based on both the intent and the letter of the Avalos legislation, the application for Permit 10WR-0021 should be denied. We also ask the Board of Appeals to determine that this instance is an example where the Planning Department should not recommend approval of a new permit, given the visual blight to our street and neighborhood vistas.

Concluding remarks

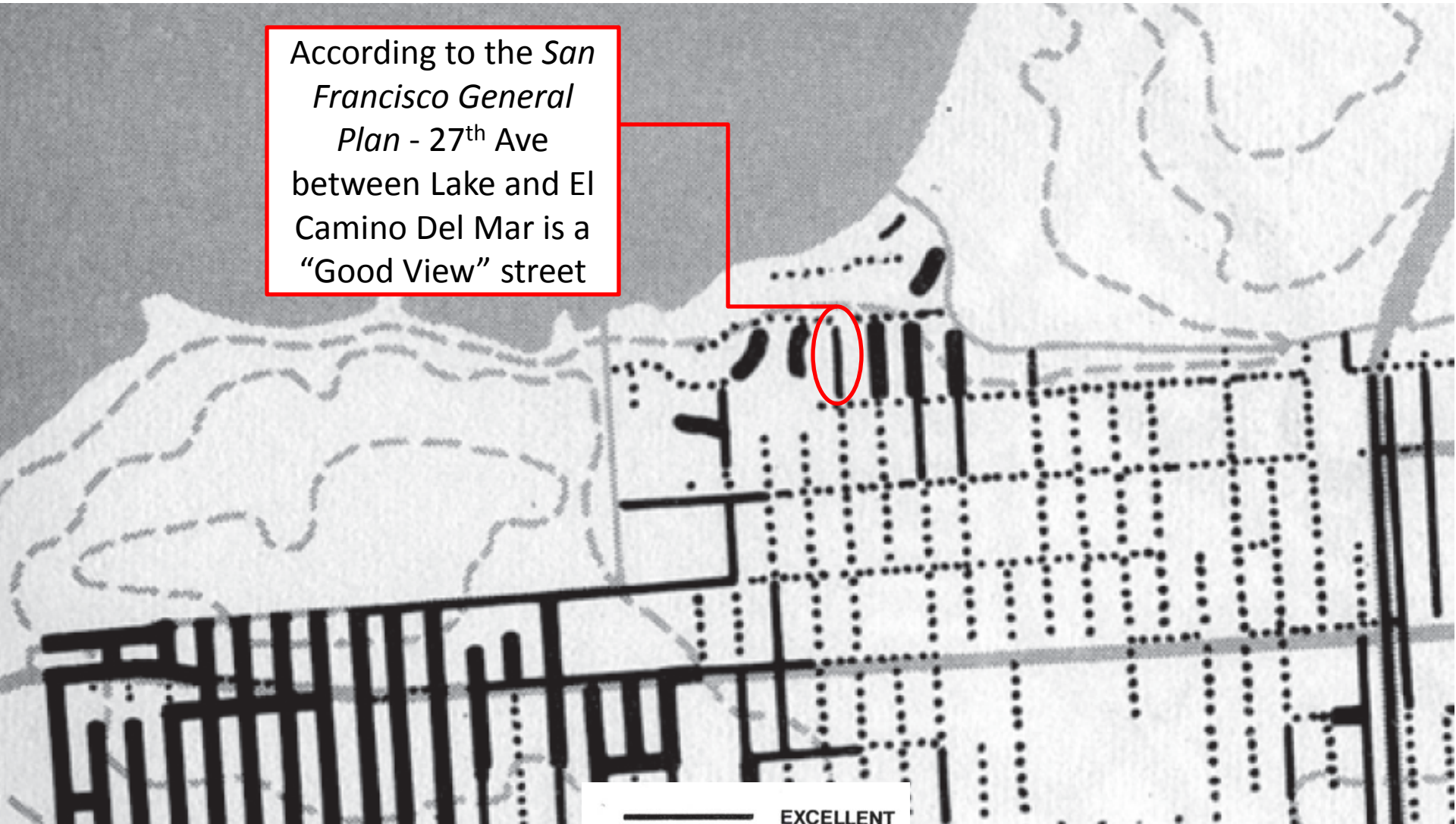
The Avalos legislation states, “The City does not intend to regulate the technologies used to provide personal wireless services. However, the City needs to regulate the placement of such facilities in order to prevent telecommunications providers from installing wireless antennas and associated equipment in the City’s public rights-of-way either in manners or locations that will diminish the City’s beauty.” The residents of 27th Avenue concur with this sentiment. We believe that the installations done throughout the city significantly add to the visual blight and believe that San Francisco should continue to challenge wireless communication providers to do a better job minimizing the impact. We also strongly believe that the installation at 156 27th Ave is in a location that diminishes the City’s beauty, and should therefore be removed.

Exhibits

Exhibit #	Subject	Page #
1	Excerpt from San Francisco General Plan – Quality of Street Views Map	13
2	Avalos legislation retroactivity clause	14
3	Google News search – “NextG Networks”	15
4	Section 704 of the Telecommunications Act of 1996	16-17
5	Wireless permits approved in the Zip Code 94121	18
6	Proliferation of wireless antennas in the Public Rights-of-Way	19
7	Outer Richmond map of Wireless Permits Approved since May 2008	20
8	Selected images of installations from NextG’s website	21
9	Selected images of installations around San Francisco	22
10	Massapequa Village Board Approves Smaller NextG Antennas	23
11- 18	Selected images of the installation at 156 & 161 27 th Ave	24 - 31
19	Multi-colored wireless exception map excerpt	32
20	Email from Planning Department confirming street view status	33

Exhibit 1: Excerpt from San Francisco General Plan – Quality of Street Views Map

According to the *San Francisco General Plan - 27th Ave* between Lake and El Camino Del Mar is a “Good View” street



—	EXCELLENT
- - -	GOOD
.....	AVERAGE

Exhibit 2: Avalos legislation retroactivity clause

5

6

7

8

9

10

11

12

Section 4. Retroactivity and Applicability. This section shall not be codified. This ordinance repeals Chapter 11, Article 1, Section 11.9(b) of the San Francisco Administrative Code, which was enacted in Ordinance No. 214-07.

(a) Retroactivity. The Board of Supervisor intends that the requirements of this ordinance shall be retroactive. Any pending application for a permit under Chapter 11, Article 1, Section 11.9(b) of the San Francisco Administrative Code that is not final on the effective date of this ordinance shall be subject to the requirements of this ordinance.

Exhibit 3: Google News search – run on February 7th

News Shopping Gmail more



"nextg networks"

Search

Instant is on

About 9 results (0.21 seconds)

Advanced search

- Everything
- Images
- Videos
- News**
- Shopping
- More

Top Stories

All news
Images
Blogs

Anytime
Past hour
Past 24 hours
Past week
Past month
Archives
Custom range...

Sorted by relevance
Sorted by date

AT&T™ 3G Network

AT&T 3G covers more than 230 million people across the nation.
att.com

Ad

NextG Networks

NextG Networks is a market leader in outdoor DAS networks, using fiber-fed distributed antenna systems to operate carrier-class wireless networks.

www.nextgnetworks.net - Cached - Similar

- Contact Us
- Solutions
- Corporate
- University Case Study
- Wireless Carriers
- Universities
- Technology
- Philadelphia

All results for "nextg networks" »

Wireless company: Brookhaven led us to believe we were within our ...

North Shore Sun - Samantha Brix - 4 days ago

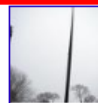
Robert Delsman, consul general for NextG Networks, said his company acted only after they believed many meetings and correspondences with the town gave them ...

Homeowners Upset Over Cell Phone Towers - NBC New York

Mobile Phone Tower Erected on Front Lawn - Phones Review

Cell phone tower on family's front lawn - 7Online.com

all 5 news articles »



North Shore Sun

Wireless company: We'll move our utility pole to another family's ...

North Shore Sun - Samantha Brix - 2 days ago

Deputy superintendent of highways Jim LaCarrubba confirmed Friday that NextG Networks proposed moving the utility pole to a different family's property to ...

Family Wakes Up To Cell Tower In Front Yard

The Consumerist - Ben Popken - 5 days ago

It was a cellphone tower put up by "NextG Networks," and local officials are calling it "construction by ambush." The family told NBC New York that when they ...

Want A Better Signal? Get A Cell Phone Tower In Your Front Yard - SlashGear

Company installs cell phone tower in family's front yard without ... - DTVUSAForum News

all 4 news articles »



SlashGear

Backyard Battle Over Cell Phone Poles

NBC New York - Tom Llamas - 3 days ago

The company installing the antennas around Garden City is NextG Networks. The same California company that put up an antenna inches from a front lawn in ...

Town asking wireless company to take down tower built on Mount ...

North Shore Sun - Samantha Brix - 5 days ago

NextG Networks, did not return calls from Northshoresun.com seeking comment. NextG's website states that the Public Service Commission has deemed it a ...



North Shore Sun

Residents Still Heated Over NextG Antenna Systems

Garden City Life - Melissa Argueta - Jan 20, 2011

"NextG [Networks] operates in an unethical, devious manner with no regard for the public interest or safety. For us they placed this equipment in the summer ...

Brookhaven orders removal of utility pole

Newsday (subscription) - Patrick Whittle - 5 days ago

Telecommunications company NextG Networks has 10 days to remove a 30-foot utility pole

Paid advertisement from NextG Networks – NextG pays for this to come up first

The rest of the results are news articles about neighborhood worries and complaints about cell towers going up with no community engagement

Exhibit 4: Section 704 of the Telecom Act of 1996

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY- Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

`(7) PRESERVATION OF LOCAL ZONING AUTHORITY-

`(A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

`(B) LIMITATIONS-

`(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

`(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

`(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

`(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

`(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

`(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

`(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

`(C) DEFINITIONS- For purposes of this paragraph--

`(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access

Exhibit 4: Section 704 of the Telecom Act of 1996 *(Continued)*

services;

`(ii) the term `personal wireless service facilities' means facilities for the provision of personal wireless services; and

`(iii) the term `unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).'.

(b) RADIO FREQUENCY EMISSIONS- Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY- Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

Exhibit 5: Wireless permits approved in the Zip Code 94121

permit	permit_type	Permit Curr Status	Inspector	Plan Checker	Approval Date	CompanyName	Block	Lot	Number	AddressStreet
09WR-0079	Wireless	APPROVED	None	Ranjit Parhar	7/21/2009	Omnipoint	1382	51	190	23RD AVE
09WR-0094	Wireless	APPROVED	None	Ranjit Parhar	7/31/2009	Omnipoint	1621	23	2256	CABRILLO ST
09WR-0135	Wireless	APPROVED	None	Ranjit Parhar	9/21/2009	Omnipoint	1678	1	801	35TH AVE
09WR-0106	Wireless	APPROVED	None	Ranjit Parhar	10/6/2009	Omnipoint	1510	21	4300	ANZA ST
09WR-0055	Wireless	APPROVED	None	Ranjit Parhar	10/21/2009	Omnipoint	1589	12	5549	ANZA ST
10WR-0104	Wireless	APPROVED	None	Rassendyll Dennis	8/30/2010	NextG Network, Inc	1465	3	431	33RD AVE
10WR-0086	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1610	13	765	34TH AVE
10WR-0087	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1610	13	763	38TH AVE
10WR-0088	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1606	14	763	30TH AVE
10WR-0089	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1614	9	732	26TH AVE
10WR-0092	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1624	005G	661	20TH AVE
10WR-0105	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1459	23	430	28TH AVE
10WR-0106	Wireless	APPROVED	None	Rassendyll Dennis	9/3/2010	NextG Network, Inc	1454	29	334	23RD AVE
10WR-0021	Wireless	APPROVED	None	Rassendyll Dennis	9/8/2010	NextG Network, Inc	1332	33	156	27TH AVE
10WR-0045	Wireless	APPROVED	None	Rassendyll Dennis	9/8/2010	NextG Network, Inc	1596	13	763	48TH AVE
10WR-0047	Wireless	APPROVED	None	Rassendyll Dennis	9/8/2010	NextG Network, Inc	1404	23	2816	CLEMENT ST
10WR-0022	Wireless	APPROVED	None	Rassendyll Dennis	9/24/2010	NextG Network, Inc	1415	022A	230	19TH AVE
10WR-0023	Wireless	APPROVED	None	Rassendyll Dennis	9/24/2010	NextG Network, Inc	1407	13	365	26TH AVE
10WR-0025	Wireless	APPROVED	None	Rassendyll Dennis	9/24/2010	NextG Network, Inc	1302	19	110	EL CAMINO DEL MAR
10WR-0027	Wireless	APPROVED	None	Rassendyll Dennis	9/24/2010	NextG Network, Inc	1410	22	2224	CLEMENT ST
10WR-0028	Wireless	APPROVED	None	Rassendyll Dennis	9/24/2010	NextG Network, Inc	1380	34	106	21ST AVE
10WR-0091	Wireless	APPROVED	None	Rassendyll Dennis	9/24/2010	NextG Network, Inc	1660	12	759	17TH AVE
10WR-0107	Wireless	APPROVED	None	Rassendyll Dennis	9/27/2010	NextG Network, Inc	1380	1	101	20TH AVE
10WR-0040	Wireless	APPROVED	None	Rassendyll Dennis	10/1/2010	NextG Network, Inc	1488	2	463	47TH AVE
10WR-0041	Wireless	APPROVED	None	Rassendyll Dennis	10/1/2010	NextG Network, Inc	1684	002B	863	41ST AVE
10WR-0042	Wireless	APPROVED	None	Rassendyll Dennis	10/1/2010	NextG Network, Inc	1677	010A	863	34TH AVE
10WR-0043	Wireless	APPROVED	None	Rassendyll Dennis	10/1/2010	NextG Network, Inc	1512	15	893	37TH AVE
10WR-0044	Wireless	APPROVED	None	Rassendyll Dennis	10/1/2010	NextG Network, Inc	1512	15	571	32ND AVE
10WR-0113	Wireless	APPROVED	None	Rassendyll Dennis	10/21/2010	NextG Network, Inc	1404	18	371	29TH AVE
10WR-0108	Wireless	APPROVED	None	Rassendyll Dennis	10/26/2010	NextG Network, Inc	1403	1	307	30TH AVE
10WR-0109	Wireless	APPROVED	None	Rassendyll Dennis	10/26/2010	NextG Network, Inc	1332	14	167	26TH AVE
10WR-0110	Wireless	APPROVED	None	Rassendyll Dennis	10/26/2010	NextG Network, Inc	1408	1	6310	CALIFORNIA ST
10WR-0024	Wireless	APPROVED	None	Rassendyll Dennis	11/12/2010	NextG Network, Inc	1402	13	367	31ST AVE

Exhibit 6: Proliferation of wireless antennas in the Public Rights-of-Way

- 340+ wireless permits approved since May 2008

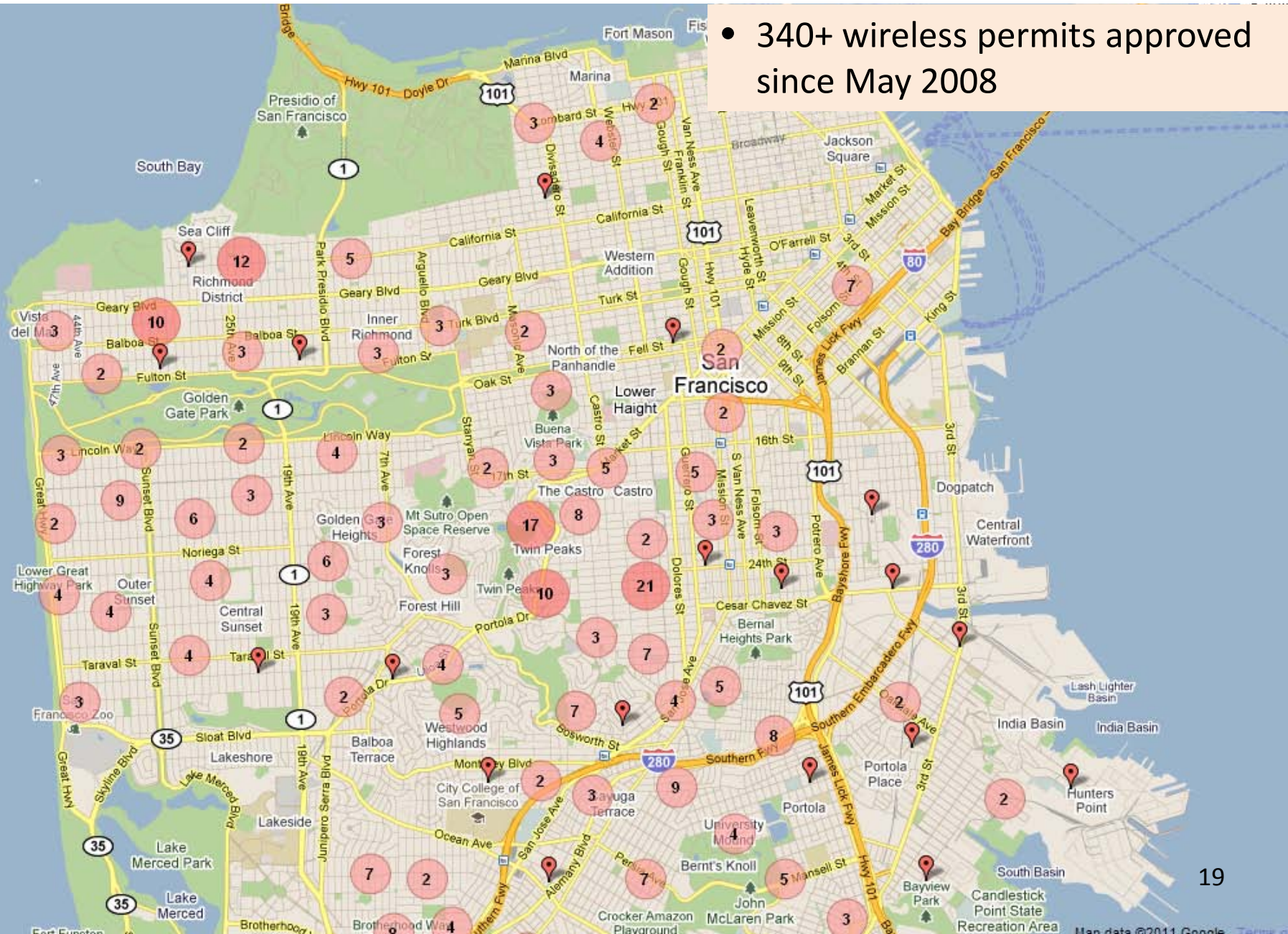


Exhibit 7: The Outer Richmond has seen a lot of recent activity

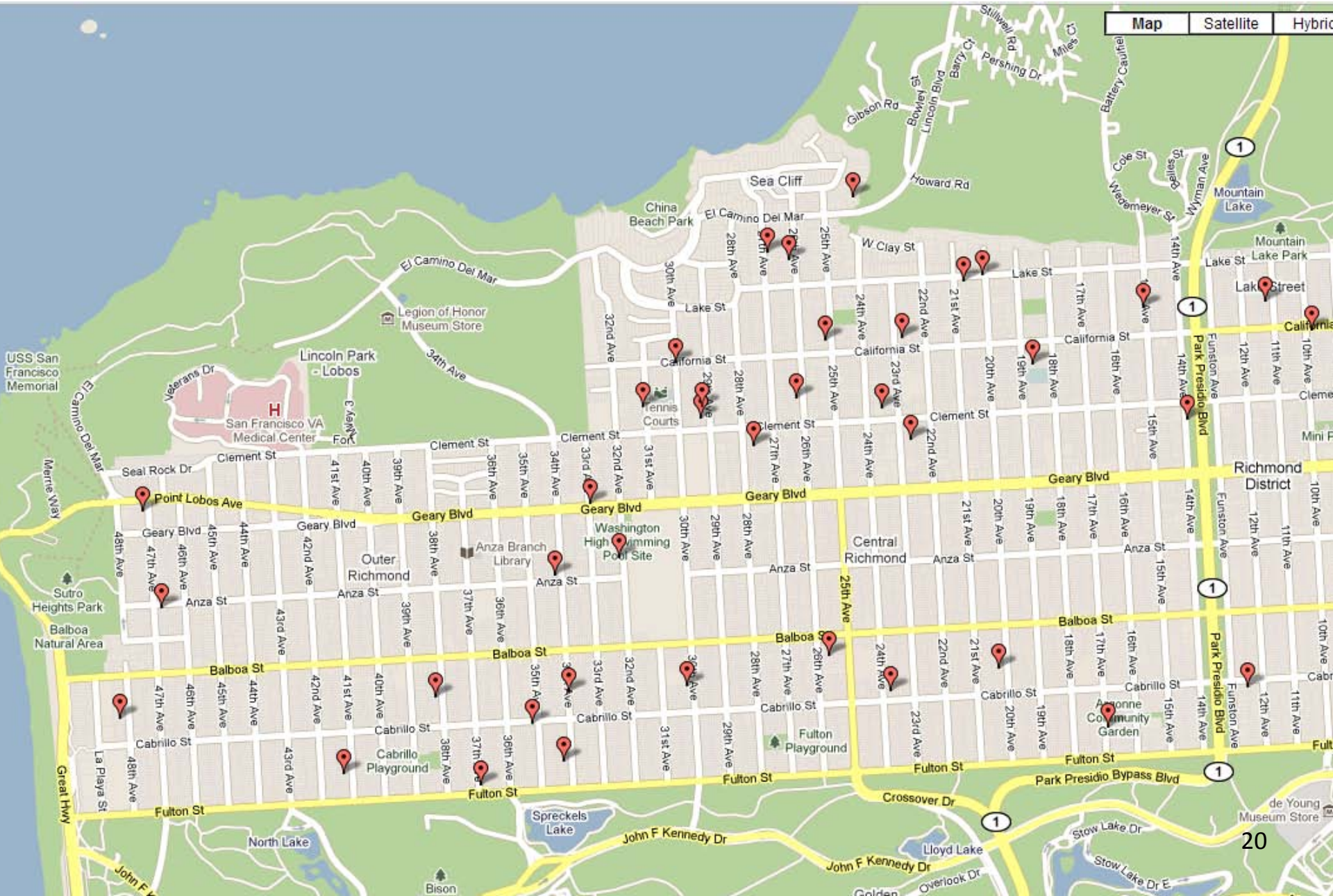


Exhibit 8: Selected pictures of wireless antenna installations from NextG's website – This is not what we are getting in SF



Exhibit 9: Pictures of wireless antenna installations from around San Francisco – Why are we settling for less!



Exhibit 10: Massapequa Village Board Approves Smaller NextG Antennas



Antenna box originally proposed by NextG (left) and prototype of the box that was approved by Massapequa Park Village Board.

Source:
<http://massapequa.patch.com/articles/village-board-approves-smaller-nextg-antennas#c>

Exhibit 11: View from the two bedroom windows of the residence at 156 27th Ave

View from master bedroom



View bedroom 2



Exhibit 12: View from the living room windows of the residence at 156 27th Ave



Exhibit 13: A view from a neighbor's house during installation work (taken after filing of the appeal)



Exhibit 14: View from a neighbor's house on 27th Avenue

Supporting equipment

Wireless antenna

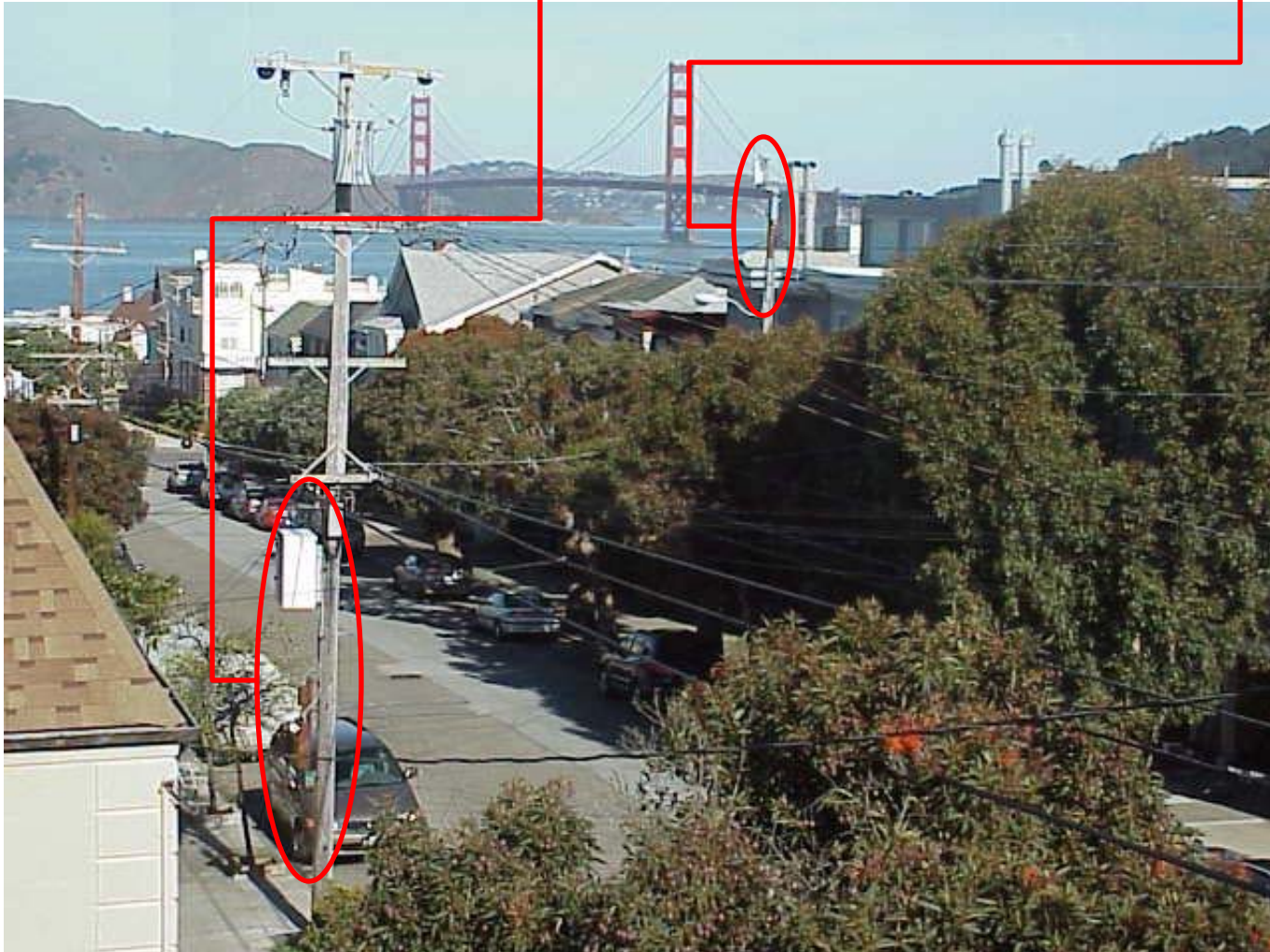


Exhibit 15: A view from a neighbor's house – Next door to 161 27th Ave



Exhibit 16: Google street view – Before installation at 161 27th Ave



Exhibit 17: Street view – After installation



Exhibit 18: Supporting equipment on 27th Avenue

Supporting equipment at 156 27th Ave



Supporting equipment at 161 27th Ave



Exhibit 19: Wireless Service Facilities Exception Map – This is inconsistent with the San Francisco General Plan

Approved permit at
156 27th Ave

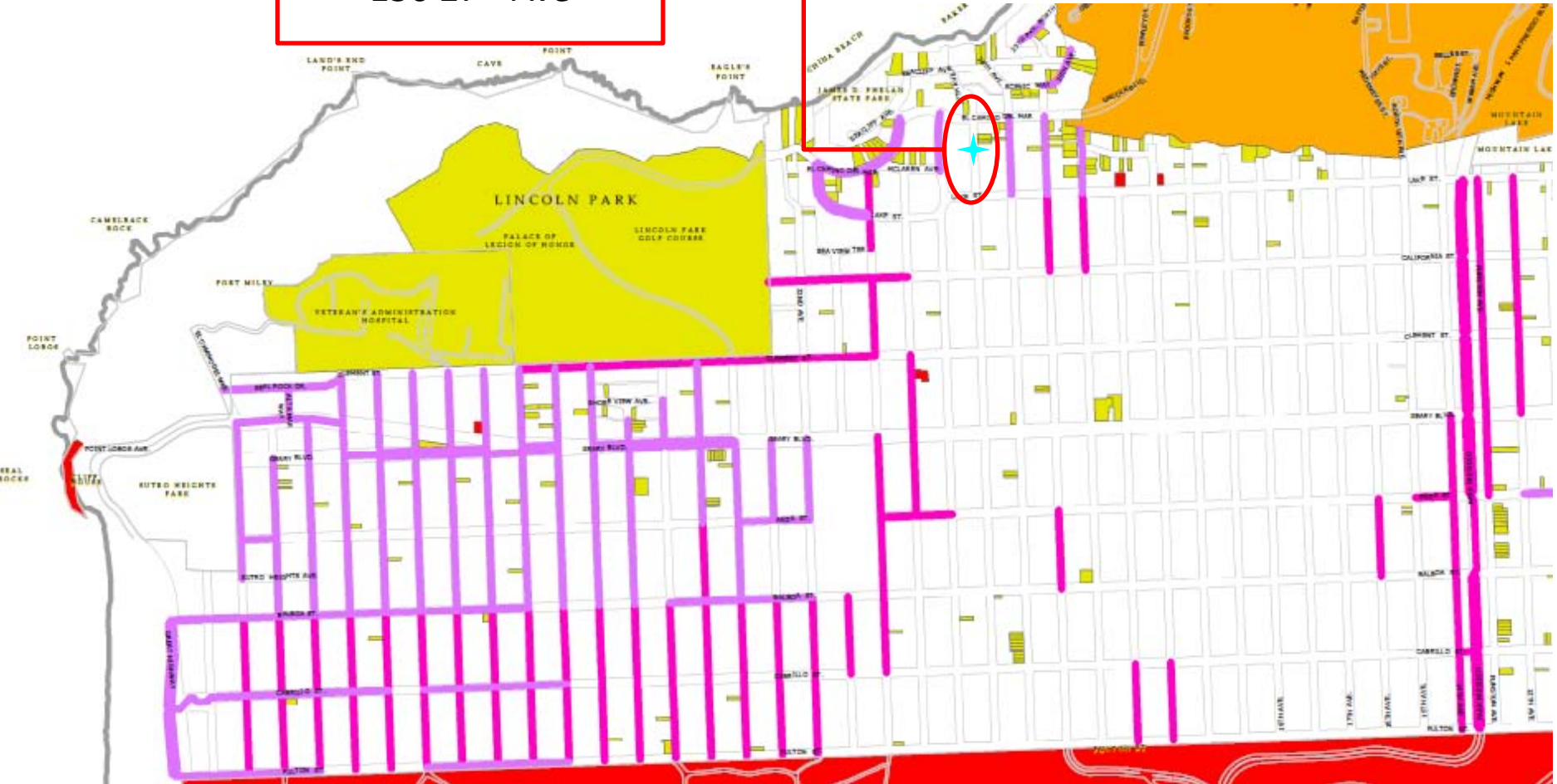


Exhibit 20: Email from Planning to DPW confirming that 27th Ave is considered a "Good" view street

----- Forwarded by **Jonas** Ionin/CTYPLN/SFGOV on 01/27/2011 11:32 AM -----

Jonas

Ionin/CTYPLN/SFGO

V

To

"Dennis, Rassendyll"

01/27/2011 11:28

<Rassendyll.Dennis@sfdpw.org>

AM

cc

William Sanders/CTYATT@CTYATT

Subject

DPW Exception Map(Document link:

Jonas Ionin)

Rassendyll,

A gentleman by the name of Jeff Cooper has brought to my attention a "Good" street that is not identified on the DPW map, specifically, 27th Av @ Lake Street does not appear.

Please add it to your map.

Jonas P. Ionin,

Senior Planner,

PIC Manager, SF Planning Department

1650 Mission Street, Suite 400

San Francisco, CA 94103

415.558.6309 phone

415.558.6409 facsimile

<http://www.sf-planning.org>