

(R-89-1629)

RESOLUTION NUMBER R-273082

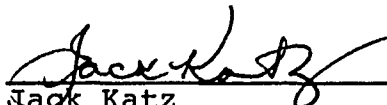
ADOPTED ON MARCH 20, 1989

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

In the matter of making appropriate findings in connection with the granting of a variance for side yard setback and a satellite permit, as contained in Sycamore/San Diego Investors v. City of San Diego and Sorrento Valley Industrial Partners and Qualcomm, Inc., as Real Party in Interest, as set forth in those findings in support of Resolution No. R-271574, attached hereto as attachment A.

APPROVED: JOHN W. WITT, City Attorney

By



Jack Katz
Senior Chief Deputy

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FINDINGS IN SUPPORT OF RESOLUTION NO. R-271574
ADOPTED ON AUGUST 2, 1988

WHEREAS, on August 2, 1988, the Council for The City of San Diego considered the appeal of QUALCOMM, INC., (herein "QUALCOMM" and "QUALCOMM APPEAL"), by Harvey P. White, Executive Vice President, from the decision of the Board of Zoning Appeals in partially granting Case No. C-19865 to (1) maintain an existing 33.14 foot high satellite earth station where such use is permitted by Satellite Antenna Permit on;y; and (2) to maintain the satellite earth station observing an 8'6" side yard where 25'0" is required - Lot C, in Acre Lot 9 of Sorrento Lands and Townsite, Map 483, located at 10555 Sorrento Valley Road, M-1A Zone;

WHEREAS, the QUALCOMM APPEAL was granted by the City Council and the decision of the Board of Zoning Appeals modified as set forth in Resolution No. R-271574;

WHEREAS, Sycamore/San Diego Investors, Ltd., a California limited partnership (herein "INVESTORS") filed a motion for writ of administrative mandate in the Superior Court of the State of California, for the County of San Diego, Case No. 604353, seeking to reverse the decision of the City Council;

WHEREAS, the superior court on November 14, 1988 granted without prejudice to The City of San Diego or to QUALCOMM, INVESTORS' motion for writ of administrative mandate, and remand the matter to the City Council for clarification of its findings based upon the evidence previously considered;

WHEREAS, the City Council in making their findings and arriving at their decision as herein set forth considered the staff report, the decision of the Zoning Administrator and Board of Zoning appeals, testimony given and the photographs and drawings presented and materials submitted prior to and at the public hearing on August 2, 1988, and the familiarity of members of the Council with the property and neighborhood in question;

WHEREAS, QUALCOMM occupies the land and buildings located at 10555 Sorrento Valley Road, San Diego, California (herein the "QUALCOMM LAND");

WHEREAS, the QUALCOMM LAND is a rectangular parcel, bordered to the northeast by Interstate 805, to the southwest by Sorrento Valley Road, to the northwest by INVESTORS' property, and to the southeast by another parcel;

WHEREAS, QUALCOMM has heretofore erected a satellite antenna (herein the "SATELLITE ANTENNA") in the northwest corner of the QUALCOMM LAND;

WHEREAS, satellite antennas such as the SATELLITE ANTENNA are a permitted use in the M-1A zone in which the QUALCOMM LAND is situated;

WHEREAS, the SATELLITE ANTENNA is situated approximately 8.5 feet from the western side yard of the QUALCOMM LAND, which is within the 25 foot side yard setback applicable under the M-1A zoning applicable to the QUALCOMM LAND;

WHEREAS, the natural slope and elevation of the QUALCOMM LAND drops off steeply from the rear yard boundary along Interstate 805 toward the front yard boundary along Sorrento

Valley Road; and WHEREAS, the natural slope and elevation of the QUALCOMM LAND along its rear yard boundary along Interstate 805 first drops off from the boundary with INVESTORS' property and then increases to the boundary with the contiguous land to the east of the QUALCOMM LAND, creating a natural depression in the rear yard of the QUALCOMM LAND;

WHEREAS, the area immediately adjacent to the northwest corner of the QUALCOMM LAND and situated generally between the QUALCOMM LAND and Interstate 805 is a hill sloping in elevation downward to the QUALCOMM LAND and to Interstate 805; and WHEREAS the area immediately adjacent to the northeast corner of the QUALCOMM LAND and situated generally between the QUALCOMM LAND and Interstate 805 is also a hill sloping steeply in elevation downward to the QUALCOMM LAND and to Interstate 805;

WHEREAS, the City Council finds that the present location of the SATELLITE ANTENNA is the highest elevation in the northwest quadrant of the QUALCOMM LAND; and WHEREAS the City Council finds the natural topography is such that any other location on the QUALCOMM LAND, including a location outside of the side yard setback, would interfere with the ability of the SATELLITE ANTENNA "seeing" and communicating with satellites whose position in orbit makes them low on the southern and eastern horizons, because the lower elevation and closer proximity of an alternate location on the QUALCOMM LAND to the hills, trees, billboards and other physical structures presently existing or which may hereafter lawfully be placed on the contiguous parcel of land to the southeast of the QUALCOMM LAND would obstruct the

"view" from the SATELLITE ANTENNA to such satellites;

WHEREAS, the City Council finds the natural slope and elevation of the QUALCOMM LAND, dropping as it does steeply from the rear to the front yard, and in the rear yard dropping as it does from each of the western and eastern boundaries creating a natural depression, and the contiguous hills to the northwest and northeast of the QUALCOMM LAND, and the proximity and visibility of the QUALCOMM LAND to Interstate 805, are special circumstances and conditions (herein the "SPECIAL CIRCUMSTANCES") applying to the QUALCOMM LAND, which circumstances or conditions are peculiar to the QUALCOMM LAND and do not apply generally to the land or buildings in the neighborhood of the QUALCOMM LAND;

WHEREAS, the City Council finds the aforesaid SPECIAL CIRCUMSTANCES have not resulted from any act of QUALCOMM or the present owner of the QUALCOMM LAND subsequent to adoption of the M-1A zoning ordinance applicable to the QUALCOMM LAND;

WHEREAS, the City Council finds the aforesaid SPECIAL CIRCUMSTANCES are such that strict application of the side yard setback requirements of the M-1A zoning applicable to the QUALCOMM LAND would deprive QUALCOMM of the reasonable use of the QUALCOMM LAND and SATELLITE ANTENNA, because the natural topography as above described is such that a location on the QUALCOMM LAND outside the side yard setback would interfere with and obstruct the "view" from the SATELLITE ANTENNA to satellites whose position in orbit makes them low on the southern and eastern horizons;

WHEREAS, the City Council finds for the reasons set forth herein that the present location of the SATELLITE ANTENNA is the minimum encroachment into the side yard setback which will allow QUALCOMM the reasonable use of its SATELLITE ANTENNA, and is further a location in the rear yard of the QUALCOMM LAND which is least visible to the public from Interstate 805;

WHEREAS, the City Council finds the contiguous hills to the northwest and northeast of the QUALCOMM LAND make the center portion of the rear yard of the QUALCOMM LAND more visible from Interstate 805 than is the present location of the SATELLITE ANTENNA;

WHEREAS, QUALCOMM has agreed to provide screening consistent with the Design Guidelines section of Development Guidelines For Satellite Antennas adopted by the City Council by Resolution R-263861, by using plant materials to screen the SATELLITE ANTENNA from view from the public right-of-way to the reasonable satisfaction and approval of the Zoning Administrator;

WHEREAS, the City Council finds the present location of the SATELLITE ANTENNA, with the screening agreed to by QUALCOMM, is in harmony with the general purpose and intent of the M-1A zoning regulations applicable to the QUALCOMM LAND and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

WHEREAS, the City Council finds that permitting the SATELLITE ANTENNA to be situated in its present location with the screening agreed to by QUALCOMM, will maintain the visual attractiveness of the neighborhood, will result in the least

disturbance to the natural contour of the land, and will not adversely affect the Progress Guide and General Plan for the City of San Diego or the Torrey Pines Community Plan adopted for the area in which the QUALCOMM LAND is situated;

WHEREAS, the City Council finds the total height of the SATELLITE ANTENNA does not exceed any height limit of the M-1A zoning applicable to the QUALCOMM LAND;

WHEREAS, except for the side yard setback requirements of the M-1A zoning applicable to the QUALCOMM LAND, and with the screening agreed to by QUALCOMM, the City Council finds the SATELLITE ANTENNA is in conformance with the Development Guidelines For Satellite Antennas adopted by resolution R-263861, and as to the side yard setback, the City Council finds a deviation should be granted to permit placement and maintenance of the SATELLITE ANTENNA in its present location;

WHEREAS, the northeast corner of the INVESTORS' property, which is closest to the location of the SATELLITE ANTENNA, has been excavated to below its natural grade and elevation; and WHEREAS the City Council finds the resultant difference in elevation between the INVESTORS' property and the QUALCOMM LAND caused by the excavation of INVESTORS' property has contributed to the visibility of the SATELLITE ANTENNA complained of by INVESTORS;

WHEREAS, the City Council finds that QUALCOMM made good faith efforts in obtaining the permit to locate the building pad for the SATELLITE ANTENNA, and the cost of moving the SATELLITE ANTENNA, approximately \$30,000, which after such moving could

then be relocated back to its present location in accordance with the within findings and this decision, would be too high a penalty and not appropriate under the circumstances.

NOW, THEREFORE, BE IT RESOLVED by the City of San Diego that the QUALCOMM APPEAL be, and it hereby is granted, and the decision of the Board of Zoning Appeals be, and it hereby is modified in conformance with this decision, subject to the following conditions:

1. That landscape plans be submitted to and approved by the Zoning Administrator within thirty (30) days of receipt of this resolution, to screen the SATELLITE ANTENNA from the properties to the northwest and Interstate 805;

2. That all approvals be obtained from the appropriate agencies to screen the dish from Interstate 805 within the public right-of-way;

3. That the SATELLITE ANTENNA permit be signed and notarized by QUALCOMM and returned to Zoning Administration to be recorded with the County Recorder within thirty (30) days of receipt of this resolution.

BE IT FURTHER RESOLVED, that the SATELLITE ANTENNA may be maintained in its present location.

BE IT FURTHER RESOLVED, by the City Council that its decision shall be, and is, final.

APPROVED: John W. Witt, City Attorney

By: Jack Katz
Jack Katz, Senior Chief Deputy

MAR 20 1989

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Maureen O'Connor*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **R-273082** Adopted **MAR 20 1989**

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