

214 Middle Road
Santa Barbara,
Ca. 93108
12th March 2010

Santa Barbara County Board of Supervisors:

I am writing to ask you to uphold our appeal and prevent NextG from installing a wireless antenna and its attendant boxes and wiring outside our home on 214 Middle Road and in other locations throughout Montecito.

VIEW ATTACHMENT 1

These cell antennas represent a real and significant threat to our communities on multiple fronts, aesthetics and property values being the most important.

According to Planning and Development testimony; once one antenna goes up, 4 more can go up on the same pole. The attached picture gives a graphic of five antennas without the 36" boxes - a separate picture shows the box - not a pretty sight. And every pole is fair game. This will forever alter the aesthetics of our little community and damage decades of work by hundreds of people who have been dedicated to protecting the beauty of Montecito.

VIEW ATTACHMENT 2

I have had Sotheby's and Village Properties assess the effects of the installation of the proposed wireless antenna on the value of my home:-

Sotheby's estimates a 35% depreciation and values our home at \$2,000,000. This is a \$700,000 loss.

Village Properties states: ***The placement of a cellular installation as proposed would heavily impact the value of your home***

VIEW ATTACHMENTS 3,4

These antennas are not designed to improve current cell service. We currently have adequate service in Montecito by all the large carriers including AT & T, Verizon and Sprint. I understand NextG wants to make a profit but not at my expense and the expense of the community.

I am vehemently opposed to this initiative by NextG and the severe financial hardship it will cause to my family and me.

I look forward to your support as our elected officials.

You have the power to uphold our appeal based on aesthetic grounds and the erosion of property values, and in the years to come the community will remember and be grateful for your decision.

Yours sincerely,



SHAUN TOMSON

ATTACHMENT 1



ATTENDANT BOX ON POLE



**ATTACHMENT 1A
214 MIDDLE ROAD**

**PROPOSED ANTENNA SITE AND
BOX LOCATION ON POLE**



ATTACHMENT 2

5 ANTENNAS ON ONE POLE



ATTACHMENT 3 - Property Depreciation

March 11, 2010

Shaun & Carla Tomson
214 Middle Road
Santa Barbara, CA 93108

Dear Shaun & Carla:

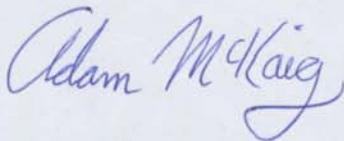
Thank you very much for giving me the opportunity to present the following proposal to market your property. I appreciate the time you spent with me reviewing the special features of your home, and outlining your financial goals and time considerations.

In this current market I believe your home is valued in excess of \$2,000,000 but given the impact of a cell tower being built in close proximity of your house, the unsightliness of it, not to mention the potential negative health risks and given this fragile real estate market you can expect at least a 35% loss in value.

You will receive a high level of local expertise and service when you select me and Sotheby's International Realty to assist in the sale of your property. We have represented many special properties your area, concluding transactions that realize maximum value in a reasonable time. I hope that you will choose me to represent your home and guide you through this important transaction.

This proposal includes a comprehensive market analysis that will assist us in determining a market value and pricing strategy for your home. I hope that this analysis, along with the information included about me and Sotheby's International Realty, will confirm that I am well qualified and committed to successfully marketing your home.

Sincerely,



Adam McKaig, DRE# 01237501
Agent, REALTOR®

Sotheby's
INTERNATIONAL REALTY

ATTACHMENT 4 - Property Depreciation

VILLAGE PROPERTIES REALTORS

Mr. and Mrs. Shaun Tomson
214 Middle Road
Santa Barbara, CA 93108

Dear Shaun and Carla,

In regard to your home at 214 Middle Road, the placement of a cellular installation as proposed would heavily impact the value of your home.

First, it would exclude a large percentage of Buyers who have health concerns regarding these sites.

Second, many Buyers who may not be concerned about personal health impacts will not consider buying due to the impact to their ability to sell in the future is seriously in question, making it a problematic investment.

The third issue is esthetics, which is difficult to evaluate at this time but may also have adverse impacts.

These factors combine to depress the current value of your home to a significantly lower level than its current value in the event of the installation of this cell site.

If I can provide any additional information, please do not hesitate to call.

Sincerely,



Shandra Campbell

March 12, 2010

Santa Barbara County Board of Supervisors:

I am writing to express my extreme concern about NextG's plan to install wireless cellular antennas next to our homes and schools throughout Santa Barbara County.

These cell antennas represent a real and significant threat to our communities on multiple fronts, aesthetics, property values, and health being but three of the most important.

Currently, the County Ordinance allows cell antenna installations next to homes and schools without any neighborhood oversight or control. Indeed, **some antennas have already been installed within Public Utility Easements on homeowners' properties with no notification to the homeowner and without their consent.** Because these antennas and related equipment represent a visual blight and raise serious health concerns, it has been conclusively shown that the presence of a cell antenna on or near a property can reduce that property's value by 15% or more. Thus, I strongly believe that cell antennas need to be sited very carefully to protect the best interests of the community, and that residents should have the right to determine whether a cell tower or antenna is installed on their property.

I am aware that the applications submitted by NextG to install cell antennas throughout our county represent but the first wave of such installations. Should NextG be permitted unfettered license to install antennas wherever they see fit, it will inevitably open the door to other companies who wish to do the same thing. This means that we could soon be seeing these antennas going up on literally any and all utility poles throughout our county, and we, the residents, will have absolutely no say in the matter.

This kind of antenna proliferation would drastically change the way our streets and neighborhoods look and feel, and to allow it is tantamount to permitting outside corporate control over community property values and aesthetics. The County has the right and duty to regulate installations of this kind based on aesthetics and protection of property value.

I urge the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

Signed: Carrie and Thomas Tighe

Date: March 12, 2010

Lee-Rodriguez, Nicole

From: Carla Tomson [carlatomson@mac.com]
Sent: Friday, March 12, 2010 11:14 AM
To: Allen, Michael (COB)
Cc: sbcob
Subject: ATTENTION CHIEF DEPUTY CLERK OF THE BOARD - PLEASE DO THE RIGHT THING
Attachments: box on pole.jpg; ATT00001.htm; with just 1 on pole.jpg; ATT00002.htm; VIEW FROM DINING ROOM.jpg; ATT00003.htm; mr allen.zip; ATT00004.htm; view from inside home.jpg; ATT00005.htm; VIEW FROM DINING ROOM.jpg; ATT00006.htm; Village Properties.jpg; ATT00007.htm; Sotheby's.jpg; ATT00008.htm

214 Middle Road

Santa Barbara

Ca 93108

9th March 2010

Attention Chief Deputy Clerk

Dear Mr. Allen,

I am writing to you to make known my great concern regarding the proposed cell phone antennas and their attending boxes on the pole that stands right outside our house at 214 Middle Road and would like this letter and all other related correspondence to be presented to the **Board of Supervisors**.

Some months ago, I was out walking with my husband and newborn baby in his pram, when I became aware of a small notice that had half fallen down on the pole outside our house. Had I not been on foot I would not have even been aware of this notice that was half attached to the pole. After reading what was being proposed both my husband and I immediately began action to prevent this process.

We chose to live here in Montecito for its natural rural charm tucked between the ocean and the mountains, the beautiful trees, great schools, extraordinary community, and lovely homes. It's this very special community that has preserved this gem of a town. They have chosen to have quaint hand carved signs, not to have streetlights and not to have "For Sale" signs. There are very few

sidewalks and there are very strict building codes. These are just some of the things this community does to maintain the natural beauty. All this to protect the aesthetics of our neighborhood and now we are faced with a new cell phone company that we don't need or haven't invited, that will destroy what we have worked so hard to preserve.

Next G have shown no regard for the residents in this community in that they did not contact any of us in advance to see how we felt, or how close to our homes they had positioned the poles, and whether the boxes and antennas would affect the values of our homes.

I speak personally for our home when I state that the proposed pole at 214 Middle Road is right outside our house on our property, and it is in direct view from our bay window of the dining room/lounge, which would be so ugly once the installation is complete. It is also in the view from the north facing bedroom (our baby's room) and bathrooms. This would decrease the value of our property immensely (please see the letters attached from two separate realtors). We would never have purchased this house had we any idea that it was a target for cell phone antennas and boxes on the pole directly outside our door. Neither would I purchase any other house with cell phone antenna within close proximity.

Whether the health risks can be proved or not, may not be something that can be fought or something that everybody agrees about despite the fact that the telecommunications act was passed in 1996 which clearly needs updating 14 years later, we have a 6 month old baby and this is a concern to us. Furthermore there are so many other people out there like us that have the same fears and reservations on these issues, and might not want to buy a house with a pole right outside the door with a cell phone box and antenna. This would make it that much harder for us to sell our property when we want to, which again decreases the value **not only** because the view will become unsightly.

Lastly, I would like to bring to your attention the following. I saw two men in a truck marked HP Communications working on three different poles around our address. They were not the poles that we have been made aware of as being marked for cell phone antennas. This sparked my interest so I asked the men working on them what company they were from and what they were doing and subsequently spoke to their boss on the phone. I established that HP Communications is part of Next G. From their boss I finally managed to get the phone number of Heidi Payne at Next G, and consequently

have had a couple of conversations with her. I would like to make it known that she was very accommodating and said that Next G wanted to move the pole outside our house and understood our situation. She appeared to want to help us and put forward a suggestion for another pole position further down the Road nearer a corner closest to 195 Middle Road but not directly outside anybody's house. She asked me for my feedback. I called her and told her that it was better for us personally but I hadn't talked to any of the residents in the surrounding houses. It didn't appear to affect anybody's view but I hadn't actually been into any of those houses.

I have spoken to Megan Lowery about this situation. She told me that as the appeal is already being processed the pole couldn't be moved at this time. I did however want to acknowledge that Heidi Payne has shown concern after contacting her and has been willing to find a new position for the pole, which would make things a lot better for us should this cell phone company come into our area.

Please see that I have attached the letter from Village Properties, and one page from the assessment from Sotheby's as their valuation and proposal is in a bound book (and I will drop the book off at your offices). The realtor shared with us that they have had some experience of having difficulties being able to sell properties with similar situations to what we would be in if the cell antenna and attending boxes were to be placed on the pole outside our home. The decreased value from Sotheby's would be approximately 35% in our property because of the close proximity of the positioning of the pole.

Please also find attached the following:-

1. a photograph of a pole with just one box
2. a pole with an antenna and attending box and visualize that an additional 4 boxes and antennas are possibly going to be added on.
3. Also attached is the view from inside my dining room.
4. View taken from inside my dining room sitting at the table
5. Another view taken from inside my home
6. Village Properties valuation
7. Sotheby's valuation

You should receive 7 attachments.

Thank you so much for taking the time to read this letter. I hope you can put yourselves in our situation and ask yourself how you would feel if it we you. Please do the right thing for us.

Sincerely,

Carla Tomson



NEXT G
1-800-445-3384









VILLAGE PROPERTIES

REALTORS

Mr. and Mrs. Shaun Tomson
214 Middle Road
Santa Barbara, CA 93108

Dear Shaun and Carla,

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First, it would exclude a large percentage of Buyers who have health concerns regarding these sites.

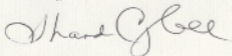
Second, many Buyers who may not be concerned about personal health impacts will not consider buying due to the impact to their ability to sell in the future is seriously in question, making it a problematic investment.

The third issue is esthetics, which is difficult to evaluate at this time but may also have adverse impacts.

These factors combine to depress the current value of your home to a significantly lower level than its current value in the event of the installation of this cell site.

If I can provide any additional information, please do not hesitate to call.

Sincerely,



Shandra Campbell

March 11, 2010

Shaun & Carla Tomson
214 Middle Road
Santa Barbara, CA 93108

Dear Shaun & Carla:

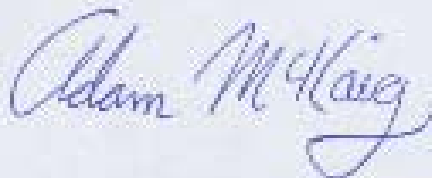
Thank you very much for giving me the opportunity to present the following proposal to market your property. I appreciate the time you spent with me reviewing the special features of your home, and outlining your financial goals and time considerations.

In this current market I believe your home is valued in excess of \$2,000,000 but given the impact of a cell tower being built in close proximity of your house, the unsightliness of it, not to mention the potential negative health risks and given this fragile real estate market you can expect at least a 35% loss in value.

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This proposal includes a comprehensive market analysis that will assist us in determining a market value and pricing strategy for your home. I hope that this analysis, along with the information included about me and Sotheby's International Realty, will confirm that I am well qualified and committed to successfully marketing your home.

Sincerely,



Adam McKaig, DRE# 01237501
Agent, REALTOR[®]

Sotheby's
INTERNATIONAL REALTY

Lee-Rodriguez, Nicole

From: stormypictures@gmail.com on behalf of Sarah Wilson [sarah@stormypictures.co.uk]

Sent: Thursday, March 11, 2010 5:55 PM

To: sbcob

Subject: Next G antennas

Santa Barbara County Board of Supervisors:

I am writing to express my extreme concern about NextG's plan to install wireless cellular antennas next to our homes and schools throughout Santa Barbara County.

These cell antennas represent a real and significant threat to our communities on multiple fronts, aesthetics, property values, and health being but three of the most important.

Currently, the County Ordinance allows cell antenna installations next to homes and schools without any neighborhood oversight or control. Indeed, **some antennas have already been installed within Public Utility Easements on homeowners' properties with no notification to the homeowner and without their consent.** Because these antennas and related equipment represent a visual blight and raise serious health concerns, it has been conclusively shown that the presence of a cell antenna on or near a property can reduce that property's value by 15% or more. Thus, I strongly believe that cell antennas need to be sited very carefully to protect the best interests of the community, and that residents should have the right to determine whether a cell tower or antenna is installed on their property.

I am aware that the applications submitted by NextG to install cell antennas throughout our county represent but the first wave of such installations. Should NextG be permitted unfettered license to install antennas wherever they see fit, it will inevitably open the door to other companies who wish to do the same thing. This means that we could soon be seeing these antennas going up on literally any and all utility poles throughout our county, and we, the residents, will have absolutely no say in the matter.

This kind of antenna proliferation would drastically change the way our streets and neighborhoods look and feel, and to allow it is tantamount to permitting outside corporate control over community property values and aesthetics. The County has the right and duty to regulate installations of this kind based on aesthetics and protection of property value.

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits

3/12/2010

and their appeal on March 16th, 2010.

Signed: ___sarah wilson_____

Date: _____11 March 2010_____

Lee-Rodriguez, Nicole

From: Allen, Michael (COB)
Sent: Thursday, March 11, 2010 2:45 PM
To: Lee-Rodriguez, Nicole
Subject: PRINTED FW: wireless antenna appeal
Follow Up Flag: Follow up
Flag Status: Green

From: Erin Zuck [mailto:ejazuck@cox.net]
Sent: Thursday, March 11, 2010 2:43 PM
To: Allen, Michael (COB); SupervisorCarbajal; Wolf, Janet; Farr, Doreen; Gray, Joni; Centeno, Joseph
Subject: wireless antenna appeal

Michael Allen - Chief Deputy Clerk of the Board
Salud Carbajal - Supervisor 1st District
Janet Wolf, Vice Chair - 2nd District
Doreen Farr - 3rd District
Joni Gray - 4th District
Joseph Centeno, Chair 5th District

March 11, 2010

Dear Mr. Allen and Supervisors,

I am one of many residents totally opposed to the NEXTG applications.

I am requesting the Board of Supervisors to uphold the Appeals currently filed for several of the currently permitted sites. I also request that, no other antenna sites be permitted in Santa Barbara County until the citizens of Santa Barbara have the opportunity for a full public review of any and all potential antenna site as a full-scope of work project.

Currently, the County Ordinance allows cell antenna installations next to homes and schools **without any neighborhood oversight or control**. Indeed, some antennas have already been installed within Public Utility Easements on homeowners' properties **with no notification to the homeowner and without their consent**.

Reasons for opposing NEXTG's applications:

1. Aesthetics:

In a semi-rural community that has rejected street-lamps and sidewalks, antennas and metal boxes on the side of utility poles will be an eye-sore and a visual blight. The

appearance of Montecito is tightly controlled by its residents who even go as far as to fund its simple, wooden street signs in keeping with its fiercely protected rural nature. It is highly likely that other companies could come and ask NextG for co-location on these poles which means the visual blight could grow considerably worse.

2. Under grounding of utilities:

Furthermore, approval of pole mounted infrastructure will severely frustrate our continuing community efforts to achieve under grounding of all utilities. Montecito Association and Montecito Planning Commission has long term goals to underground electric utilities for aesthetic, safety and electrical reliability reasons. The County should be supporting the under grounding of electric utilities rather than approving projects that will empower other commercial interests to oppose our community goal. This piggy-backing on the overhead electric poles and wires will frustrate, delay and make under grounding in Montecito more costly and harder to achieve.

3. No coverage gap:

The public is already well served for cell phone coverage in Montecito. Cell phone service is provided by at least 3 other carriers in this area and unless NextG can document the need for additional wireless services, their applications should be denied. We neither need nor want blanket coverage which is what we would be getting if these antennas were approved. It should be noted that other jurisdictions have denied wireless facility applications based on failure to demonstrate a significant gap in coverage.

4. Detrimental to property values:

Installations are proposed in very close proximity to two story homes and will loom over gardens and second floor bedrooms. Because people are becoming more aware of the health risks involved in living near to these RF emitting antennas, potential house buyers will not be willing to live in close proximity to an antenna. **This will result in substantial property devaluation.** In Europe it is now estimated that living close to an antenna can knock between 15% and 25% off the value of a home. **At the Montecito Association meeting held on Tuesday, November 10, a local Resident stood up to say, his house fell out of escrow specifically due to its close proximity to one of the proposed cell antennas! He said the buyers decided not to buy his home due to their concerns regarding the proposed cell antenna! This greatly concerns all home owners and our home values! We do not want Next G diminishing our equity for their gain!**

5. Cumulative analysis of this project is lacking:

It is a circumvention of our community planning process to treat the NextG applications as 39 individual applications that have no relationship to each other. They are clearly part of one overall project and as such a complete cumulative project description and with supporting maps, graphics and description of each application is needed and the cumulative impacts of the system-wide project should be assessed before further application processing is conducted. There is no cumulative visual analysis for the installation - there will be many miles of overhead fiber optic cable that will be strung under the electric distribution wires.

6. The applications and supporting documentation are inconsistent and contradictory:

The report provides calculations for only one carrier (multiple carriers and antennas are possible according to the applications) the RF estimates are for one story rather than two story residences and buildings whereas the higher RF levels will be at two story height and the report fails to show maximum levels. The County should request RF emissions information and not just compliance evaluations. The administrative record should be complete and accurate.

7. Structural integrity of poles is questionable:

The poles proposed for many of the installations are riddled with woodpecker holes and will be inadequate for any long-term infrastructure needs. NextG should provide information documenting the suitability and structural integrity of each pole and indicate which poles are likely to require replacement in the foreseeable future. These poles are located beside recreational trails (San Leandro Lane) and directly opposite schools, playgrounds and parks used for children (San Ysidro Road and San Leandro).

8. Health Issues:

Despite the stealth way the cell phone companies managed to get a bill passed in 1996 (before most people had cell phones), (the Telecommunications Act of 1996), which does not allow opposition of their cell antennas and towers due to health concerns, I personally know of several people who have gotten cancer due to the use of their cell phone.

The data that the FCC is using to set its standards is outdated (1985). The FCC set a limit for thermal effects. They deferred the setting of biological limits (non-thermal) to the nations health agencies (EPA, FDA, OSHA, etc.). This sounds appropriate, but at the same time they cut the funding of research into these health effects to zero. **They also made the local governments responsible for making sure the wireless companies comply with the FCC limits** (in the past the FCC would check for compliance). **Most local governments don't know that they are responsible for this.**

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

We in Sant Barbara are relying on our Government Officials to make sure that outside companies cannot take control of our community, put our citizens at risk and reduce our property values for their personal gain!

With kind regards,

Erin and Jeffrey Zuck
603 E Calle Laureles
Santa Barbara, CA 93105

March 11, 2010

Santa Barbara County Board of Supervisors:

I am writing to express my extreme concern about NextG's plan to install wireless cellular antennas next to our homes and schools throughout Santa Barbara County.

These cell antennas represent a real and significant threat to our communities on multiple fronts, aesthetics, property values, and health being but three of the most important.

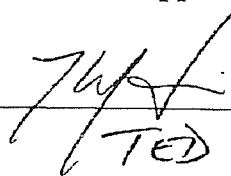
Currently, the County Ordinance allows cell antenna installations next to homes and schools without any neighborhood oversight or control. Indeed, **some antennas have already been installed within Public Utility Easements on homeowners' properties with no notification to the homeowner and without their consent.** Because these antennas and related equipment represent a visual blight and raise serious health concerns, it has been conclusively shown that the presence of a cell antenna on or near a property can reduce that property's value by 15% or more. Thus, I strongly believe that cell antennas need to be sited very carefully to protect the best interests of the community, and that residents should have the right to determine whether a cell tower or antenna is installed on their property.

I am aware that the applications submitted by NextG to install cell antennas throughout our county represent but the first wave of such installations. Should NextG be permitted unfettered license to install antennas wherever they see fit, it will inevitably open the door to other companies who wish to do the same thing. This means that we could soon be seeing these antennas going up on literally any and all utility poles throughout our county, and we, the residents, will have absolutely no say in the matter.

This kind of antenna proliferation would drastically change the way our streets and neighborhoods look and feel, and to allow it is tantamount to permitting outside corporate control over community property values and aesthetics. The County has the right and duty to regulate installations of this kind based on aesthetics and protection of property value.

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

Signed: _____


TED SIMMONS

Date: _____

3/12/10

Dear Chief Deputy Clerk of the Board,

I want to express my concerns over the Next G network both as a longtime resident of Montecito and as an adjacent property owner to the pole, located on Park Lane. We chose to move here over 10 years ago because of the unique character of Montecito. We do not want to see that ruined by unsightly boxes and antennas that we would have to look at everyday. In addition we are concerned that our property value will drop by at least 10% or more, similar to what has happened in other cities. As an adjacent property owner we were never approached about granting Next G easement rights. According to Next G, we are one of the only ones with proper standing as an aggrieved party to complain of such a violation.

Please take this into consideration. Thank you.

Sincerely,

Susan and Don Fuhrer

Susan Fuhrer
Don Fuhrer

ESTIMATED PROPERTY VALUE LOSS DUE TO CELL ANTENNA SITINGS

In Santa Barbara there is an example of a home on the Mesa that lost more than 10% of its value due primarily due to the cell tower that is located next to the residence. The house is located at 1557 La Cresta Drive and was purchased in April 2004 for \$1,625,100 around the height of the real estate boom. In trying to resell this home the owners had listed and relisted it at various prices over the years but it never sold again until May 2009 when it went into foreclosure and sold on the Courthouse steps for \$1,240,000.

In comparison, there are two homes on the same street that are not directly next to the towers. 1538 La Cresta was under contract within 38 days, closed January 30, 2009 at \$1,852,500, and was about 400 square feet smaller.

1548 La Cresta is actively for sale right now for \$1,695,000. Its size is between the other two homes, location less dramatic, no pool, and still has views.

If you calculate the price difference between the sold (\$1,852,500) and the courthouse sale (\$1,240,000) there is a 33% difference. If you calculate that the homes may be different, which they always are in custom neighborhoods, at least you can see that a 10% reduction in value is probably too small. The biggest factor to the delay of sale and price is that the pool of buyers is greatly diminished. There is the perceived, or shadow of possibility for concern, that causes a buyer to look elsewhere, just in case. So if a buyer has choices or the ability to wait, then a particular property has lost at least some desirability through an act that the homeowner has no control over.

- In another town in California, there was a home in Los Altos that expected a property value drop of 10% or more resulting from the Verizon monopole that was being erected next to the home. (Source, Bruce Barton, the Antenna Dilemma)
- In Merrick, NY, NextG and the city are being sued for \$100,000,000 in property losses due to the deployment of the NextG Das system.
- In Canada according to Industry Canada, "In 2001 assessed values of 16 residential properties in British Columbia were reduced by 7.2% due to aesthetic impacts of broadcasting(cell) antennas.
- In England, Melfyn Williams, Chairman of the National Association of Estate Agents, said in some cases a mast(antenna) could see a home value decrease by between 5 and 10 percent.
- According to another Google Search regarding property value and cell antennas, "to summarize, the professionals estimated a decrease of 5-10% in house prices."

Lee-Rodriguez, Nicole

From: Allen, Michael (COB)
Sent: Friday, March 12, 2010 4:01 PM
To: Lee-Rodriguez, Nicole
Subject: FW: Opposition to cell towers
[Another...](#)

From: David Gaynes [mailto:davidgaynes@sbttotalhealth.com]
Sent: Friday, March 12, 2010 2:42 PM
To: Allen, Michael (COB); SupervisorCarbajal; Wolf, Janet; Farr, Doreen; Gray, Joni; Centeno, Joseph
Subject: Opposition to cell towers

Dear Mr. Allen and Supervisors,

I am one of many residents totally opposed to the NEXTG applications.

I am requesting the Board of Supervisors to uphold the Appeals currently filed for several of the currently permitted sites. I also request that, no other antenna sites be permitted in Santa Barbara County until the citizens of Santa Barbara have the opportunity for a full public review of any and all potential antenna site as a full-scope of work project.

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Installations are proposed in very close proximity to two story homes and will loom over gardens and second floor bedrooms. Because people are becoming more aware of the health risks involved in living near to these RF emitting antennas, potential house buyers will not be willing to live in close proximity to an antenna. **This will result in substantial property devaluation.** In Europe it is now estimated that living close to an antenna can knock between 15% and 25% off the value of a home. **At the Montecito Association meeting held on Tuesday, November 10, a local Resident stood up to say, his house fell out of escrow specifically due to its close proximity to one of the proposed cell antennas! He said the buyers decided not to buy his home due to their concerns regarding the proposed cell antenna! This greatly concerns all home owners and our home values! We do not want Next G diminishing our equity for their gain!**

5. **Cumulative analysis of this project is lacking:**

It is a circumvention of our community planning process to treat the NextG applications as 39 individual applications that have no relationship to each other. They are clearly part of one overall project and as such a complete cumulative project description and with supporting maps, graphics and description of each application is needed and the cumulative impacts of the system-wide project should be assessed before further application processing is conducted. There is no cumulative visual analysis for the installation - there will be many miles of overhead fiber optic cable that will be strung under the electric distribution wires.

6. **The applications and supporting documentation are inconsistent and contradictory:**

The report provides calculations for only one carrier (multiple carriers and antennas are possible according to the applications) the RF estimates are for one story rather than two story residences and buildings whereas the higher RF levels will be at two story height and the report fails to show maximum levels. The County should request RF emissions information and not just compliance evaluations. The administrative record should be complete and accurate.

7. **Structural integrity of poles is questionable:**

The poles proposed for many of the installations are riddled with woodpecker holes and will be inadequate for any long-term infrastructure needs. NextG should provide information documenting the suitability and structural integrity of each pole and indicate which poles are likely to require replacement in the foreseeable future. These poles are located beside

recreational trails (San Leandro Lane) and directly opposite schools, playgrounds and parks used for children (San Ysidro Road and San Leandro).

8. Health Issues:

Despite the stealth way the cell phone companies managed to get a bill passed in 1996 (before most people had cell phones), (the Telecommunications Act of 1996), which does not allow opposition of their cell antennas and towers due to health concerns, I personally know of several people who have gotten cancer due to the use of their cell phone.

The data that the FCC is using to set its standards is outdated (1985). The FCC set a limit for thermal effects. They deferred the setting of biological limits (non-thermal) to the nations health agencies (EPA, FDA, OSHA, etc.). This sounds appropriate, but at the same time they cut the funding of research into these health effects to zero. **They also made the local governments responsible for making sure the wireless companies comply with the FCC limits** (in the past the FCC would check for compliance). **Most local governments don't know that they are responsible for this.**

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

We in Sant Barbara are relying on our Government Officials to make sure that outside companies cannot take control of our community, put our citizens at risk and reduce our property values for their personal gain!

With kind regards,

David Gaynes, L.Ac., M.T.O.M.
Total Health- A Center for Wellness
9 East Mission Street
Santa Barbara, CA 93101
805-682-6492
www.sbttotalhealth.com

Lee-Rodriguez, Nicole

From: Allen, Michael (COB)
Sent: Friday, March 12, 2010 9:23 AM
To: Lee-Rodriguez, Nicole; Board Letters
Subject: PRINTED FW: Oppose NEXTG applications
Follow Up Flag: Follow up
Flag Status: Green
[Another for posting – Next G](#)

From: Connie Doolittle [mailto:doolittle17@cox.net]
Sent: Thursday, March 11, 2010 9:43 PM
To: Allen, Michael (COB); SupervisorCarbajal; Wolf, Janet; Farr, Doreen; Gray, Joni; Centeno, Joseph
Subject: Oppose NEXTG applications

Michael Allen - Chief Deputy Clerk of the Board
Salud Carbajal - Supervisor 1st District
Janet Wolf, Vice Chair - 2nd District
Doreen Farr - 3rd District
Joni Gray - 4th District
Joseph Centeno, Chair 5th District

March 11, 2010

Dear Mr. Allen and Supervisors,

I am one of many residents totally opposed to the NEXTG applications.

I am requesting the Board of Supervisors to uphold the Appeals currently filed for several of the currently permitted sites. I also request that, no other antenna sites be permitted in Santa Barbara County until the citizens of Santa Barbara have the opportunity for a full public review of any and all potential antenna site as a full-scope of work project.

Currently, the County Ordinance allows cell antenna installations next to homes and schools **without any neighborhood oversight or control**. Indeed, some antennas have already been installed within Public Utility Easements on homeowners' properties **with no notification to the homeowner and without their consent**.

Reasons for opposing NEXTG's applications:

1. Aesthetics:

In a semi-rural community that has rejected street-lamps and sidewalks, antennas and metal boxes on the side of utility poles will be an eye-sore and a visual blight. The appearance of Montecito is tightly controlled by its residents who even go as far as to

fund its simple, wooden street signs in keeping with its fiercely protected rural nature. It is highly likely that other companies could come and ask NextG for co-location on these poles which means the visual blight could grow considerably worse.

2. Under grounding of utilities:

Furthermore, approval of pole mounted infrastructure will severely frustrate our continuing community efforts to achieve under grounding of all utilities. Montecito Association and Montecito Planning Commission has long term goals to underground electric utilities for aesthetic, safety and electrical reliability reasons. The County should be supporting the under grounding of electric utilities rather than approving projects that will empower other commercial interests to oppose our community goal. This piggy-backing on the overhead electric poles and wires will frustrate, delay and make under grounding in Montecito more costly and harder to achieve.

3. No coverage gap:

The public is already well served for cell phone coverage in Montecito. Cell phone service is provided by at least 3 other carriers in this area and unless NextG can document the need for additional wireless services, their applications should be denied. We neither need nor want blanket coverage which is what we would be getting if these antennas were approved. It should be noted that other jurisdictions have denied wireless facility applications based on failure to demonstrate a significant gap in coverage.

4. Detrimental to property values:

Installations are proposed in very close proximity to two story homes and will loom over gardens and second floor bedrooms. Because people are becoming more aware of the health risks involved in living near to these RF emitting antennas, potential house buyers will not be willing to live in close proximity to an antenna. **This will result in substantial property devaluation.** In Europe it is now estimated that living close to an antenna can knock between 15% and 25% off the value of a home. **At the Montecito Association meeting held on Tuesday, November 10, a local Resident stood up to say, his house fell out of escrow specifically due to its close proximity to one of the proposed cell antennas! He said the buyers decided not to buy his home due to their concerns regarding the proposed cell antenna! This greatly concerns all home owners and our home values! We do not want Next G diminishing our equity for their gain!**

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I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

We in Sant Barbara are relying on our Government Officials to make sure that outside companies cannot take control of our community, put our citizens at risk and reduce our property values for their personal gain!

With kind regards,
Richard Gannon Doolittle
Constance Hoffman Doolittle
131 Palm Tree Lane
Montecito, CA 93108

Fax to 568-2249

March 11, 2010

Santa Barbara County Board of Supervisors:

I am writing to express my extreme concern about NextG's plan to install wireless cellular antennas next to our homes and schools throughout Santa Barbara County.

These cell antennas represent a real and significant threat to our communities on multiple fronts, aesthetics, property values, and health being but three of the most important.

Currently, the County Ordinance allows cell antenna installations next to homes and schools without any neighborhood oversight or control. Indeed, **some antennas have already been installed within Public Utility Easements on homeowners' properties with no notification to the homeowner and without their consent.** Because these antennas and related equipment represent a visual blight and raise serious health concerns, it has been conclusively shown that the presence of a cell antenna on or near a property can reduce that property's value by 15% or more. Thus, I strongly believe that cell antennas need to be sited very carefully to protect the best interests of the community, and that residents should have the right to determine whether a cell tower or antenna is installed on their property.

I am aware that the applications submitted by NextG to install cell antennas throughout our county represent but the first wave of such installations. Should NextG be permitted unfettered license to install antennas wherever they see fit, it will inevitably open the door to other companies who wish to do the same thing. This means that we could soon be seeing these antennas going up on literally any and all utility poles throughout our county, and we, the residents, will have absolutely no say in the matter.

This kind of antenna proliferation would drastically change the way our streets and neighborhoods look and feel, and to allow it is tantamount to permitting outside corporate control over community property values and aesthetics. The County has the right and duty to regulate installations of this kind based on aesthetics and protection of property value.

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

Signed: _____

John Myrde
Concerned Montecito resident!

Date: _____

3/12/10

March 11, 2010

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I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal 01} March 16t\ 2010.

-"" -|

Dear Chariman Centeno and Board of Supervisors :
3/12/10

On December 4, 2009 the Planning and Development Department (“P&D”) issued its notice and intent to approve Permit Nos. 09CDP-00000-00052, 09LUP-00000-00381, 09CDP-00000-00053, 09LUP-00000-00317, 09CDP-00000-00055, 09CDP-00000-00056, 09LUP-00000-00319, with an appeal period ending December 14, 2009. Appellants successfully filed the appeal within the requisite appeal period. These appeals were upheld by the Montecito Planning Commission on February 24th 2010.

This letter is intended to provide the framework for the appeal and to identify the grounds for appeal in summary fashion. Appellants expect to provide additional information and fully-developed arguments in support of their appeal for the Board’s hearing on NextG’s appeal of these appeals, and we reserve their right to do so.

I. Projects on Appeal

NextG has proposed the construction and use of an unmanned wireless telecommunications facility within the public right of way in an area zoned for residential use. It intends to attach its facilities to existing wooden utility poles located in the public right of way adjacent to privately-owned real properties identified by the County Assessor in the permits. The proposed facilities to be mounted on pole include one 26-inch whip omnidirectional antenna and an equipment box measuring 32” x 6” x 5” (inexplicably not described specifically in the approved project description). The antenna would have a range of approximately 1500 to 2000 feet in each direction.

While the pending permit indicates “none” where asked to identify “associated case numbers,” this pending permit is part of a larger package of “Tier 1” permit applications from NextG, through which it intends to install a “Distributed Antenna System” throughout the south coast areas of Santa Barbara County. The permit at issue here is one of 39 proposed for the South County, with 13 proposed for Montecito. NextG has identified Metro PCS as the carrier that would use these facilities to provide wireless service. In addition, NextG’s plans include installation of fiber-optic cabling to connect all of the antennas. With the exception of cabling requiring trenching in coastal zone areas, the placement of cable is exempt from zoning permits. Installation of aerial cabling requires no permits, and installation of underground cable will require only road encroachment permits. This cabling is designed to support up to five carriers, each of which presumably would seek to co-locate its antennas on the same poles included in the NextG network of facilities, including the pole at issue in this particular permit.

In addition to the permit at issue here, Appellants expect to appeal P&D’s decisions to approve some of these additional facilities where the proposed locations are similarly in conflict with the community’s goals and with the interests of its citizens.

II. Appellants Have Standing As Aggrieved Persons

Appellants are all aggrieved persons adversely affected by P&D's decision within the meaning of Chapter 35.500 of the Montecito Land Use and Development Code, which defines an "aggrieved person" as "[a]ny person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the local government of the nature of his concerns or who for good cause was unable to do either." The permit here appealed was issued administratively; therefore none of the appellants had an opportunity to attend a public hearing concerning the specific action. However, appellants have participated in several hearings before the Board of Supervisors that were characterized by P&D as informational briefings related to the NextG Distributed Antenna System and numerous pending NextG applications, including the application for the permit at issue here. These hearings were prompted by members of the community, including some of the appellants, who expressed concern regarding the NextG projects during the public comment period at the Board's October 6, 2009 hearing, requesting that the Board impose a moratorium on the processing of applications for additional facilities to allow time for research and review of standards for approval of such facilities. As a result, the Board requested Staff briefings on the permitting framework for such applications and considered public testimony on October 20, 2009 and December 1, 2009.

The lead appellants, Shaun and Carla Tomson, have sent letters to the County expressing their opposition to the NextG network proposal and Shaun Tomson spoke against the permit at issue here, as well as the NextG project generally, at Board of Supervisor meetings. Other individual appellants have written letters to the County to express their concerns and have attended one or more Board of Supervisors meetings related to the NextG permits. The Montecito Association has expressed its views in writing and its representatives have attended the Board of Supervisors meetings. Cindy Feinberg, in addition, has expressed her opposition publicly through local media including the Montecito Journal, the Independent, and KEYT News. Many of the appellants have called or emailed P&D staff with their concerns.

In summary, all of the appellants have appeared at a public hearing focused on this matter or otherwise have made their concerns known to P&D during the time when P&D was processing the permit application.

III. Grounds for Appeal

A. The Facilities Approved by this Permit Do Not Merit Approval under the County's Commercial Telecommunications Facilities Ordinance

Chapter 35.444 of the Montecito Land Use and Development Code (and Chapter 35.44 of the County Land Use and Development Code) ("LUDC") provides that commercial telecommunications facilities are to be considered under "tiered" standards, with a "very small facility" in a residential zone treated as a Tier 1 project requiring a

Land Use Permit. While the processing requirements for Tier 1 projects are limited, the LUDC includes more demanding development standards applicable to all telecommunication facilities. Appellants contend that certain of these development standards have not been met and that the permit was approved in error.

Except for very small facilities that qualify under Tier 1, all wireless facilities proposed to be located in any residential zone require a Major Conditional Use Permit under the jurisdiction of the Planning Commission. Appellants contend that P&D abused its discretion in processing each of the individual permit applications as a Tier 1 project requiring only “ministerial” review when, viewed as a Distributed Antenna System in which all of the facilities are inter-dependent, they clearly require a higher level of review under the LUDC and the California Environmental Quality Act (“CEQA”).¹

In issuing a Land Use Permit for a telecommunications facility, the review authority must make certain required findings, including the finding that the proposed development will conform to the applicable provisions of the County’s Comprehensive General Plan including the Montecito Community Plan and the LUDC. (LUDC § 35.472.100) Appellants contend that P&D did not make this or other required findings and could not have made these findings, as discussed within this letter.

Moreover, Chapter 35.444 requires that the review authority must make certain additional required findings in the issuance of any permit for telecommunications facilities, including Land Use Permits and Coastal Development Permits. These include the following:

1. The facility will be compatible with the existing and surrounding development in terms of land use and visual qualities.
2. The facility is located to minimize its visibility from public view.
3. The facility is designed to blend into the surrounding environment to the greatest extent feasible.
4. The facility complies with all required development standards unless granted a specific exemption by the review authority as provided in Subsection D. (Additional development standards for telecommunications facilities) above.
5. The applicant has demonstrated that the facility shall be operated within the frequency range allowed by the Federal Communications Commission and complies with all of the applicable safety standards.

¹ In a letter dated October 26, 2009, NextG has asserted that the California Public Utilities Commission is the “lead agency” under CEQA and “the only entity with broad discretionary decision-making authority over NextG’s proposed services, facilities, and construction throughout the state.” Appellants contend that the County of Santa Barbara has a responsibility under CEQA as a responsible agency if not as a lead agency and is responsible for assessing the environmental impacts of the proposed project within its own jurisdiction.

P&D has made **none** of these findings in the permit at issue and, as Appellants will show, cannot make these findings based upon the facts and evidence readily available concerning this project. Accordingly, P&D has abused its discretion and acted in error in issuing the permit.

B. Health Risks Associated with Electromagnetic Frequency Exposures Are a Legitimate Community Concern

As Appellants have stated in the Board of Supervisors hearings and in their written communications, they are extremely concerned about the health risks of exposure to electromagnetic frequencies (“EMF”) associated with wireless communications, particularly where NextG proposes to add substantially to existing and presently unavoidable exposures all around us. Their concerns have not been addressed in Condition 8 of the Conditions of Approval associated with this permit, which requires compliance with Federal Communications Commission exposure limitations. The federal standards have not been updated to reflect the most recent scientific knowledge, which was presented to the Board of Supervisors during its several hearings, and the federal standards provide inadequate protection against health risks as they are understood today.

The Board of Supervisors has expressed the same concerns in its Resolution 09-339, approved on November 10, 2009, where the Board objected to lobbying efforts by the Cellular Telecommunications Industry of America to have the Federal Communications Commission impose even greater restrictions on a local government’s authority to undertake meaningful review of all aspects of telecommunications projects. Instead, the Board urged repeal of the sections of the 1996 Telecommunications Act that pre-empt local control and prevent local governments from considering health effects. At the same time, the Board authorized the County’s legislative advocates “to actively seek and support state legislation that would give local governments greater flexibility to regulate the placement of cellular facilities within the road right of way.”

Appellants join the Board of Supervisors in their frustration with constraints under the 1996 Telecommunications Act of 1996. However, they recognize that the Telecommunications Act does not prevent the County from denying applications on other grounds. Specifically, the Act preserves local zoning authority over decisions regarding the placement, construction, and modification of personal wireless service facilities as long as regulation does not have the effect of prohibiting the provision of personal wireless services. (47 USC §§ 253(b), 332(c)(7).) Appellants contend that P&D abused its discretion when it approved the subject permit without adequate regard for the aesthetic and safety impacts resulting from the placement of facilities in the proposed project, which are well within the County’s authority to regulate.

C. The County’s Police Power Includes Regulation of Land Uses Based upon Aesthetic Impacts

The California Constitution, Article XI section 7, establishes the County’s

authority to “make and enforce within its limits all local, police, and other ordinances and regulations not in conflict with general laws.” This constitutional police power is an exercise of the sovereign right of the government to protect the lives, health, morals, comfort, and general welfare of the people. Under California law, a local government’s exercise of police power is valid if its restrictions bear a reasonable relation to the general welfare. *City of Los Angeles v. County of Kern* (C.D.Cal. 2006) 462 F.Supp.2d 1105. One California court has described the police power as follows:

[P]olice power is not a circumscribed prerogative, but is elastic and, in keeping with the growth of knowledge and the belief in the popular mind of the need for its application, capable of expansion to meet existing conditions of modern life, and thereby keep pace with the social, economic, moral, and intellectual evolution of the human race.

(*Richeson v. Helal* (2007) 158 Cal.App.4th 268.)

Certainly consideration of the impacts of new technologies such as the network proposed by NextG is amenable to the exercise of the County’s authority as it keeps pace with both the growth of knowledge and the need for expansion to meet conditions of modern life. Certainly, too, the “belief in the popular mind” concerning the NextG Distributed Antenna System is that the County should exercise its authority in the interest of the public health, safety and welfare.

Both state and federal courts have determined that regulation to protect aesthetic interests is within the exercise of the police power. In *Metromedia, Inc. v. San Diego* (1981) 453 U.S. 490, the United States Supreme Court determined that even if the only interest implicated in the selected location is aesthetic, that aesthetic concern is a legitimate and significant governmental interest. In *Echevarrieta v. City of Rancho Palos Verdes* (2001) 86 Cal.App.4th 472, the California Court of Appeal concluded that the exercise of governmental authority for aesthetic purposes is clearly a legitimate exercise of traditional police power. The *Echevarrieta* Court agreed with the trial court in that case that “[t]he concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic, [and] monetary.” (*Echevarrieta*, 86 Cal.App.4th at p. 478.)

The regulation of visual blight as an aesthetic concern is certainly within the County’s authority. For example, in *Crown Motors v. City of Redding* (1991) 232 Cal.App.3d 173, the Court of Appeal concluded that the power of government to advance the quality of life in the community included eliminating the visual blight created by two proposed reader boards. (*Crown Motors*, 232 Cal.App.3d at pp. 178-179.) The court reasoned that the governmental interest in attempting to preserve “the quality of urban life” is one that must be accorded high respect.

The *Crown Motors* Court went a step farther in determining that the aesthetic condition of a community is related to public health. The court reasoned that the term “public health” must be interpreted according to the circumstances in which it is used. It

“takes on new definitions when new conditions arise, but generally speaking, it means the wholesome condition of the community at large.” (Crown Motors, supra 233 Cal.App.3d at p. 178 [quoting *Chisholm v. California Jockey Club* (1958) 164 Cal.App.2d 367, 369].)

The “wholesome condition” of the Montecito community is at the heart of this appeal because that is what this NextG permit jeopardizes. The NextG facilities will create a visual blight on a well-traveled thoroughfare where they will be seen daily by many Montecito residents, all of whom chose to live in the community because of its semi-rural character. By impacting the quality of life in the community, NextG’s numerous antennas and equipment boxes may also impact the mental and spiritual well-being of some residents. They certainly will create a visual distraction for drivers, raising traffic and safety concerns on the community’s roads, particularly in the vicinity of schools. Whip antennas and equipment boxes mounted on poles throughout the community conflict with the aesthetics of the community and cannot possibly be in concert with the public health and safety.

D. Approval of the Permit is Contrary to the Montecito Community’s Goals and Undermines the Character of the Community

To approve this permit, P&D must find that the proposed facility will be compatible with the existing and surrounding development in terms of land use and visual qualities. P&D also must find that the facility is located to minimize its visibility from public view and that it is designed to blend into the surrounding environment to the greatest extent feasible. (LUDC § 35.444.010(G).) P&D has not made these findings and cannot make such findings.

When members of the Montecito community prepared the Montecito Community Plan in 1992, they stated as an over-arching goal the preservation of a semi-rural residential quality of life, and they identified the features of the community that establish its character, including the presence of narrow winding roads and the absence of urbanizing features. The Montecito Community Plan is integral to the County’s Comprehensive General Plan, and its policies must be considered in the review of any permit for the Montecito planning area.

Aesthetic considerations and preservation of the character of the community are paramount throughout the Community Plan as well as the Montecito Architectural Guidelines and Development Standards. The Community Plan includes Goal LU-M-2:

Preserve Roads As Important Aesthetic Elements That Help to Define the Semi-Rural Character of the Community. Strive To Ensure That all Development Along Roads Is Designed In A Manner That Does Not Impinge Upon the Character of the Roadway.

The Guidelines state as goals: “To maintain the semi-rural character of the roads and lanes” and “To preserve, protect and enhance the existing semi-rural environment of Montecito.” Accordingly, when reviewing a proposed new residential development, the

Board of Architectural Review must find, among other things, that there is “a harmonious relationship with existing developments in the surrounding neighborhood.”

The installation of pole-mounted antennas, equipment boxes and a cable network along narrow, winding roadways throughout the community contradicts these stated community goals and undermines the community’s effort to preserve its semi-rural character. Appellants contend that P&D abused its discretion when it failed to consider these goals in approving the permit.

Moreover, under Section 35.44.010(D)(2) of the LUDC, all commercial telecommunications facilities must meet particular development standards, among which is the following:

- d. Support facilities (e.g., vaults, equipment rooms, utilities, equipment enclosures) shall be located underground, if feasible, if they would otherwise be visible from public viewing areas (e.g., public road, trails, recreational areas).

The review authority may grant an exemption only if it “finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance either will not increase the visibility of the facility or decrease public safety, or is required due to technical considerations that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility, or it would avoid or reduce the potential for environmental impacts.”

The facilities in question include a 26 inch whip antenna and an unsightly equipment box that will hang on the utility pole, fully visible from a public road and adjacent areas. The proposed antenna by itself is visually intrusive, and the equipment box makes it completely unacceptable aesthetically. Under Subsection (D)(2), these facilities should be located underground because they are visible from public viewing areas. Clearly NextG wants to install its facilities exactly as it has proposed, but to Appellants’ knowledge, NextG has not provided information sufficient for P&D to conclude that there are no possible alternatives.

P&D is required to make a finding that the facility “complies with all required development standards unless granted a specific exemption by the review authority as provided in Subsection D.” The permit at issue includes no grant of an exemption from this requirement, nor would it qualify for such an exemption based upon the criteria provided in the ordinance. Accordingly, Appellants contend that P&D abused its discretion by issuing a permit for facilities that do not comply with this development standard.

2. Pole-Mounted Equipment Conflicts with the Community’s Goal of Undergrounding Utilities

Recognizing the aesthetic aspects of the community's character, Appellant Montecito Association recently adopted an Overhead Utility Policy, which states the following:

The Montecito Association affirms its long-term support for the elimination of overhead utilities. This is consistent with our long-standing support of the Montecito Community Plan goals to sustain and enhance the exceptional beauty and semi-rural character of the Montecito community as well as to maintain property values and a high quality living environment.

Indeed, undergrounding of utilities has been a priority in the Montecito Community for many years. There are several districts in the community where utilities have been undergrounded pursuant to Public Utilities Commission Rule 20, some with government funding under Rule 20A and others by private funding under Rules 20B and 20C. In 1986 the Board of Supervisors approved a Rule 20A district on San Ysidro Road, and one of the NextG antennas is proposed for a pole that might well be removed in an expansion of undergrounding. Considering that the NextG facilities are part of a network of interdependent antennas, it makes little sense to approve the installation of antennas on any poles that are likely to be proposed for removal as part of undergrounding projects in the future.

Notably, LUDC section 35.44.010(C)(a)(2) states: "If at a later date the utility poles are proposed for removal as part of the undergrounding of the utility lines, the permit for the facilities shall be null and void." This provision provides little comfort to Appellants, since it is highly unlikely that NextG would accept an automatic nullification of a permit on which it has relied for an installation that it may claim is integral to its network.

2. Both the Land Use and Development Code and the Montecito Community Plan Call for Adequate Setbacks between Habitable Structures and Telecommunications Facilities

In 1992 wireless communications were in their infancy. Even so, the Montecito Community Plan included as Goal E-M-1 the protection of citizens from elevated electromagnetic fields until the potential risk from EMF exposure can be determined. The Plan recognized the County's authority to protect the community from this potential hazard by requiring "adequate building setbacks from EMF-generating sources to minimize exposure to this hazard."

As it has turned out, the EMF hazard remains a concern and building setbacks have taken on broader significance as telecommunications systems have changed. With antennas and large equipment boxes mounted on numerous poles throughout the community, setbacks from buildings are important so as not to block the views or otherwise compromise the enjoyment of adjacent private property, consistent with the Community Plan's goals.

Similarly, as the County has updated its Commercial Telecommunications Facilities ordinances, it has included as a requirement that in a residential zone, the base of any new freestanding antenna support structure shall be set back from adjacent residential property “a distance equal to five times the height of the antenna and antenna support structure, or a minimum of 300 feet, whichever is greater.” While LUDC Section 35.444.010(D) includes an exception from setback requirements for antennas installed on existing public utility poles, the exception contradicts the basic premise of setbacks – that two uses are either fundamentally incompatible or are made so by proximity to each other.

Aesthetically an antenna and equipment box mounted on an existing pole may be as intrusive visually as a new freestanding antenna support system. The appellants who live near the permit at issue here certainly find the prospect of looking at them every day a visual intrusion on their area.

Once telecommunications facilities are installed, the future use of the adjacent property is compromised. Regardless of whether the Telecommunications Act recognizes health risks as a legitimate basis for denying a project, people in the community generally are aware that scientists have raised substantial exposure concerns and they do not want to live close to antennas when proximity can be avoided. The installation of an antenna next to a residential property effectively limits the property owner’s opportunity to expand or remodel his residence in the area closest to the antenna.

For these same reasons, the presence of any telecommunications equipment close to residential uses may jeopardize the long-term value of the adjacent residential properties. Appellants are aware of other situations in the community where properties have lost substantial value after the installation of nearby telecommunications equipment.

In short, approving any pole mounted facilities is contrary to County policies and a step backward from the 1992 Montecito Community Plan. Appellants contend that P&D abused its discretion in permitting the installation of any NextG antennas on poles where the requisite setback from existing structures cannot be achieved, thereby compromising the interests of private residential property owners.

E. Impacts of this Permit Will Be Compounded by Connection to NextG’s System and by Anticipated Co-Location

This permit cannot be viewed as though it approves a single whip antenna and single equipment box on a single pole. As objectionable as these facilities are in their own right, they must be seen as enabling something far more damaging to the community: an interdependent network of similar installations that together will create a Distributed Antenna System, causing an immeasurable change in the community’s character. NextG has proposed 39 pole locations today, and its Distributed Antenna System, if approved, will pave the way for up to five additional antennas on each pole, including the pole at issue in this permit.

As discussed throughout this letter, Appellants object to P&D's decision to consider each of the proposed antennas as a single "Tier 1" project pursuant to the LUDC section 35.444.010, requiring only ministerial review. P&D explained to the Board of Supervisors in its December 1, 2009 Agenda Letter that the theory behind a tiered approach is that "as the size and complexity of the facility and potential for environmental impacts or policy inconsistencies increased, the decision-making body shift[s] upward." Under this theory, the NextG permit applications and the entire Distributed Antenna System should have been viewed as one project subject to higher scrutiny.

Moreover, in accepting each of NextG's multiple applications as a single "Tier 1" permit application, P&D concluded that only a "ministerial" permit is required and therefore apparently concluded that, apart from NextG's contentions concerning the California Public Utilities Commission as the "lead agency," that each such "ministerial" project is exempt from review under the CEQA. Appellants contend that P&D abused its discretion in not considering the impacts of the project as a whole, including its potential cumulative impacts, particularly since the approval of one antenna facilitates the creation of the Distributed Antenna System **and this reasonably foreseeable consequences** must be assessed. They maintain that P&D should have conducted this level of review not solely because of CEQA but also because the project requires a higher level of scrutiny under the LUDC.

F. P&D Issued the Permit Based Upon Inadequate, Incomplete or Unreliable Data

1. P&D Based its Permit Decision on Inadequate Information Concerning Project Alternatives

NextG's permit applications provide no substantive alternative site analysis as is required before an application may be deemed complete. Instead, NextG asserts in its applications that it has selected its pole locations "based on their network efficiency allowing the least number of equipment installations as well as structural integrity and constructability." The presumptions in this "analysis" pre-determine the conclusion. NextG proposes a particular kind of network – a Distributed Antenna System – in which the maximum separation between its antennas is determined by design and environmental factors. To Appellants' knowledge, P&D did not require NextG to justify its facility location on any scientific basis, particularly "gap of service."

But for the fact that NextG wants to install this particular type of system, other options would be available. Even accepting the practical limitations of this type of system, alternative locations and configurations certainly are available within the Montecito community. Such alternatives might have been pursued as a result of a thorough peer review. They certainly would have been reviewed in a CEQA analysis, which requires consideration of project alternatives, including the "no project" alternative. However, P&D did not avail itself of either source of information and relied on insufficient information from the applicant. Appellants contend that P&D abused its

discretion in not fully exploring project alternatives, including but not limited to alternative locations for the facilities at issue in this permit.

2. P&D Has Not Established that the Proposed Location May Be Used Legally as Proposed

LUDC section 35.472.100(E) states, among the required findings for issuance of a Land Use Permit, that the proposed development must be “located on a legally created lot” and that the subject property is “in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks, and other applicable provisions of this Development Code.” P&D has not made either required finding in the subject permit and, to Appellants’ knowledge, no analysis has been completed that would warrant such a finding.

Among other things, P&D has not addressed the specific limitations on use of the utility easements where the poles are located. Each of the poles proposed for location of NextG facilities, including the pole at issue in this appeal, is located in a public right of way and is owned or maintained by another utility. Appellants do not yet know the specifics of the easement affected by the permit at issue. However, they have seen no evidence that P&D has considered those specifics in approving this permit. For example, the right of way may exist under an easement granted by an adjacent property owner who continues to own the fee in the land, and the use of the easement may be restricted in a way that would prevent the County from extending rights to a particular user.

In addition, the pole may be owned by Southern California Edison or another utility that has the authority to limit NextG’s use. In its December 1, 2009 Agenda Letter, P&D explained to the Board of Supervisors that the County’s franchise agreement with Southern California Edison provides: “Except in those cases where Grantee (SCE) is required by State or Federal law to provide access to its Facilities, use of Grantee’s Facilities for any pursue other than the uses permitted by this ordinance shall require notice and consent by County.” P&D also explained that the California Public Utilities Commission requires electrical utilities to allow pole access to telecommunications providers possessing a Certificate of Public Convenience and Necessity from the Commission. However, P&D did not state whether NextG has such a Certificate, and Appellants are not aware of one.

In the absence of information establishing the legal status of the location and NextG’s right to occupy it, P&D cannot make the required findings. Appellants contend that P&D abused its discretion in issuing the permit without adequate foundation.

3. P&D Acted upon Information Inadequate to Establish Compliance with Federal Communications Commission Regulations

In its October 20, 2009 Agenda Letter, P&D stated that it had asked NextG to provide “site-specific cumulative emissions tests in order to be able to affirmatively make

the finding of the installation's compliance with FCC's emissions thresholds. Upon receipt of the site specific radio frequency emissions tests, the County will have the reports peer reviewed for accuracy; following, decisions on these LUP, CDP and CDH permit applications will be rendered." Appellants have been unable to obtain any information that would indicate completion of the reports.

Moreover, Appellants are aware that P&D selected for its peer review expert a Mr. Bushberg who has worked extensively for major telecommunications carriers throughout the state, including but not limited to NextG. The county maintains a list of accepted consultants in various fields and, to Appellants' knowledge, Mr. Bushberg is not among them. Clearly Mr. Bushberg had a conflict of interest if asked to provide an unbiased peer review of reports prepared by or on behalf of his current or potential future client. To the extent that he may have provided any peer review of the subject permit, his review cannot be relied upon.

To approve this permit, P&D must make the required finding that "[t]he applicant has demonstrated that the facility shall be operated within the frequency range allowed by the Federal Communications Commission and complies with all of the applicable safety standards." To Appellants' knowledge, P&D did not receive reports and/or did not complete the peer review of this project and therefore cannot make this finding. Under these circumstances, P&D abused its discretion and issued the permit in error.

4. P&D Has Not Addressed Critical Issues Raised by the Board of Supervisors.

On October 20, 2009, after hearing public testimony, the Board of Supervisors voted to direct staff to explore, among other things, the "role of CEQA in the regulatory/permitting process, relocation of existing sites, issues related to third-party/peer review, conflict of interest/revolving door policies and laws, . . . [and] cumulative impacts of such facilities." The December 1, 2009 Agenda Letter did not address these concerns in any detail and Appellants do not believe that Staff's oral report expanded the response significantly.

Appellants understand that part of the Board's focus was the proposed moratorium on the processing of new permit applications, but the 39 NextG applications were pending and the information requested by the Board was as relevant to the substantive consideration of those permits as to the prospect of a moratorium ordinance. Had P&D presented an explanation of each of these areas of concern, it is possible that the processing of the permits would have been done with greater "transparency," as the Board suggested, and with greater attention to the matters that have resulted in flawed permits.

5. The County is responsible for protecting the property values of its citizens.

The California Constitution, Article XI section 7, establishes the County's authority to "make and enforce within its limits all local, police, and other ordinances and regulations not in conflict with general laws." This constitutional police power is an exercise of the sovereign right of the government to protect the lives, health, morals, comfort, and general welfare of the people. Under California law, a local government's exercise of police power is valid if its restrictions bear a reasonable relation to the general welfare. *City of Los Angeles v. County of Kern* (C.D.Cal. 2006) 462 F.Supp.2d 1105. One California court has described the police power as follows:

[P]olice power is not a circumscribed prerogative, but is elastic and, in keeping with the growth of knowledge and the belief in the popular mind of the need for its application, capable of expansion to meet existing conditions of modern life, and thereby keep pace with the social, **economic**, moral, and intellectual evolution of the human race.

Maintenance of property values in a community is essential to the welfare of a community. Real estate studies have clearly shown that installation of cell sites on, or near, a property can reduce the value of that property by 15% or more. In Montecito, the site of these permits, this represents a potential average loss of \$300,000.00 per home in the affected area. **We believe it is the responsibility of the County to act on behalf of its constituents to protect their economic welfare and land values from the deleterious effects of unwanted cell site installations.** Failure to do so would represent gross negligence with regard to the County's fiduciary responsibility to its citizens.

* * * * *

In summary, Appellants have concluded that P&D issued the permit in error because the NextG network, and the subject permit in particular, did not receive the full and complete review that state and County law and community policies require. Required findings were not made and, on the facts, cannot be made. Accordingly, P&D should have denied the permit. Appellants are continuing to investigate their concerns and remain open to considering additional information. We look forward to presenting their appeal in greater detail for your consideration at hearing.

Signed: John Abraham Powell
425 Lemon Grove Lane.
Montecito CA
93108

Montecito: A Rural Community Aesthetic Worth Preserving



Staff Report Findings

- Staff's aesthetic argument against the appeal hinges on their determination that *“the subject project constituting one 26-inch whip antenna...was determined by P&D to not have a significant visual impact...”*
- Staff may believe that these antennas blend into the streetscape, but the people who live next to them disagree.
- NextG has clearly demonstrated that they do not care about aesthetics with the sloppy work performed thus far.

NextG's Whip Antenna



Actual
un-permitted
installation
Picacho Lane:

Compatible with the character of Montecito?

Here is an example of NextG's work on Olive Mill Road at the entrance to Montecito.



Compatible with the character of Montecito?

Here is an example of what the previously shown whip antenna will look like on this site on Olive Mill Road...right at the entrance to Montecito.

Staff has found these antennas to be compatible with the “semi-rural” character of the Montecito?



Opening the Door for Future Installations

Staff clearly failed to consider the reasonably foreseeable environmental and aesthetic impacts of this project.

Once one antenna installation is approved, it will be extremely difficult for the County to deny another cell provider from installing like for like. . .



Consider the aesthetic impact of 5 antennas per pole!

Planning has already confirmed that up to 5 antennas can be located on each pole.

The aesthetic impact of five antennas is undeniable and must be considered in this case, because, once NextG has opened the door to these installations, other companies will follow.



The NextG Project Must Be Evaluated as a Network, Not as a Series of Individual Antennas.

Consider the cumulative effect of the entire network of antennas. . .

- 39 poles
- 5 antennas per pole
- Especially now that we are familiar with the quality of their work.



The NextG Project Must Be Evaluated as a Network, not as a Series of Individual Antennas.

- Staff decided that each antenna would receive only ministerial review.
- In so doing, they effectively determined that the entire project would receive no greater scrutiny than its smallest component part.
- That decision has resulted in a series of permits that ignore the full impact of the network as an integrated project.

The NextG Project Must Be Evaluated as a Network, Not as a Series of Individual Antennas.



The NextG Project Must Be Evaluated as a Network, Not as a Series of Individual Antennas.

**Staff failed to consider the full foreseeable
aesthetic impact of the project.**



The NextG Project Must Be Evaluated as a Network, Not as a Series of Individual Antennas.

This is not the visual aesthetic that Montecito has been working to preserve all these years.



How Could the County Allow Something Like This To Be Installed On Citizens' Property Against Their Will?

**HOW WOULD YOU FEEL IF ONE OF THESE
WAS INSTALLED IN YOUR FRONT YARD?**

WITHOUT FORMAL NOTICING?

WITHOUT YOUR PERMISSION?

**DO YOU THINK THIS ADDS VALUE TO THE
PROPERTY OR TAKES VALUE AWAY?**



Please Act Now!



**Uphold the Appeal
And Preserve Montecito's Rural Beauty
And Property Values**

Lee-Rodriguez, Nicole

From: Allen, Michael (COB)
Sent: Friday, March 12, 2010 10:33 AM
To: Lee-Rodriguez, Nicole; Board Letters
Subject: FW: PLEASE VOTE TO DENY NEXTG'S PERMITS & THEIR APPEAL

[& another...](#)

From: Jshefflin@aol.com [mailto:Jshefflin@aol.com]
Sent: Friday, March 12, 2010 8:58 AM
To: Allen, Michael (COB); SupervisorCarbajal; Wolf, Janet; Farr, Doreen; Gray, Joni; Centeno, Joseph
Subject: PLEASE VOTE TO DENY NEXTG'S PERMITS & THEIR APPEAL

Michael Allen - Chief Deputy Clerk of the Board
Salud Carbajal - Supervisor 1st District
Janet Wolf, Vice Chair - 2nd District
Doreen Farr - 3rd District
Joni Gray - 4th District
Joseph Centeno, Chair 5th District

March 11, 2010

Dear Mr. Allen and Supervisors,

I am one of many residents totally opposed to the NEXTG applications.

I am requesting the Board of Supervisors to uphold the Appeals currently filed for several of the currently permitted sites. I also request that, no other antenna sites be permitted in Santa Barbara County until the citizens of Santa Barbara have the opportunity for a full public review of any and all potential antenna site as a full-scope of work project.

Currently, the County Ordinance allows cell antenna installations next to homes and schools **without any neighborhood oversight or control**. Indeed, some antennas have already been installed within Public Utility Easements on homeowners' properties **with no notification to the homeowner and without their consent**.

Reasons for opposing NEXTG's applications:

1. **Aesthetics:**

In a semi-rural community that has rejected street-lamps and sidewalks, antennas and metal boxes on the side of utility poles will be an eye-sore and a visual blight. The appearance of Montecito is tightly controlled by its residents who even go as far as to fund its simple, wooden street signs in keeping with its fiercely protected rural nature.

It is highly likely that other companies could come and ask NextG for co-location on these poles which means the visual blight could grow considerably worse.

2. Under grounding of utilities:

Furthermore, approval of pole mounted infrastructure will severely frustrate our continuing community efforts to achieve under grounding of all utilities. Montecito Association and Montecito Planning Commission has long term goals to underground electric utilities for aesthetic, safety and electrical reliability reasons. The County should be supporting the under grounding of electric utilities rather than approving projects that will empower other commercial interests to oppose our community goal. This piggy-backing on the overhead electric poles and wires will frustrate, delay and make under grounding in Montecito more costly and harder to achieve.

3. No coverage gap:

The public is already well served for cell phone coverage in Montecito. Cell phone service is provided by at least 3 other carriers in this area and unless NextG can document the need for additional wireless services, their applications should be denied. We neither need nor want blanket coverage which is what we would be getting if these antennas were approved. It should be noted that other jurisdictions have denied wireless facility applications based on failure to demonstrate a significant gap in coverage.

4. Detrimental to property values:

Installations are proposed in very close proximity to two story homes and will loom over gardens and second floor bedrooms. Because people are becoming more aware of the health risks involved in living near to these RF emitting antennas, potential house buyers will not be willing to live in close proximity to an antenna. **This will result in substantial property devaluation.** In Europe it is now estimated that living close to an antenna can knock between 15% and 25% off the value of a home. **At the Montecito Association meeting held on Tuesday, November 10, a local Resident stood up to say, his house fell out of escrow specifically due to its close proximity to one of the proposed cell antennas! He said the buyers decided not to buy his home due to their concerns regarding the proposed cell antenna! This greatly concerns all home owners and our home values! We do not want Next G diminishing our equity for their gain!**

5. Cumulative analysis of this project is lacking:

It is a circumvention of our community planning process to treat the NextG applications as 39 individual applications that have no relationship to each other. They are clearly part of one overall project and as such a complete cumulative project description and with supporting maps, graphics and description of each application is needed and the cumulative impacts of the system-wide project should be assessed before further application processing is conducted. There is no cumulative visual analysis for the installation - there will be many miles of overhead fiber optic cable that will be strung under the electric distribution wires.

6. The applications and supporting documentation are inconsistent and contradictory:

The report provides calculations for only one carrier (multiple carriers and antennas are

possible according to the applications) the RF estimates are for one story rather than two story residences and buildings whereas the higher RF levels will be at two story height and the report fails to show maximum levels. The County should request RF emissions information and not just compliance evaluations. The administrative record should be complete and accurate.

7. **Structural integrity of poles is questionable:**

The poles proposed for many of the installations are riddled with woodpecker holes and will be inadequate for any long-term infrastructure needs. NextG should provide information documenting the suitability and structural integrity of each pole and indicate which poles are likely to require replacement in the foreseeable future. These poles are located beside recreational trails (San Leandro Lane) and directly opposite schools, playgrounds and parks used for children (San Ysidro Road and San Leandro).

8. **Health Issues:**

Despite the stealth way the cell phone companies managed to get a bill passed in 1996 (before most people had cell phones), (the Telecommunications Act of 1996), which does not allow opposition of their cell antennas and towers due to health concerns, I personally know of several people who have gotten cancer due to the use of their cell phone.

The data that the FCC is using to set its standards is outdated (1985). The FCC set a limit for thermal effects. They deferred the setting of biological limits (non-thermal) to the nations health agencies (EPA, FDA, OSHA, etc.). This sounds appropriate, but at the same time they cut the funding of research into these health effects to zero. **They also made the local governments responsible for making sure the wireless companies comply with the FCC limits** (in the past the FCC would check for compliance). **Most local governments don't know that they are responsible for this.**

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

We in Sant Barbara are relying on our Government Officials to make sure that outside companies cannot take control of our community, put our citizens at risk and reduce our property values for their personal gain!

With kind regards,

Joanne Shefflin
995 Lilac Dr.
Montecito, CA 93108

March 11, 2010

Santa Barbara County Board of Supervisors:

I am writing to express my extreme concern about NextG's plan to install wireless cellular antennas next to our homes and schools throughout Santa Barbara County.

These cell antennas represent a real and significant threat to our communities on multiple fronts, aesthetics, property values, and health being but three of the most important.

Currently, the County Ordinance allows cell antenna installations next to homes and schools without any neighborhood oversight or control. Indeed, **some antennas have already been installed within Public Utility Easements on homeowners' properties with no notification to the homeowner and without their consent.** Because these antennas and related equipment represent a visual blight and raise serious health concerns, it has been conclusively shown that the presence of a cell antenna on or near a property can reduce that property's value by 15% or more. Thus, I strongly believe that cell antennas need to be sited very carefully to protect the best interests of the community, and that residents should have the right to determine whether a cell tower or antenna is installed on their property.

I am aware that the applications submitted by NextG to install cell antennas throughout our county represent but the first wave of such installations. Should NextG be permitted unfettered license to install antennas wherever they see fit, it will inevitably open the door to other companies who wish to do the same thing. This means that we could soon be seeing these antennas going up on literally any and all utility poles throughout our county, and we, the residents, will have absolutely no say in the matter.

This kind of antenna proliferation would drastically change the way our streets and neighborhoods look and feel, and to allow it is tantamount to permitting outside corporate control over community property values and aesthetics. The County has the right and duty to regulate installations of this kind based on aesthetics and protection of property value.

I beseech the Board to act NOW, before it is too late. Please vote to deny NextG's permits and their appeal on March 16th, 2010.

Signed: Julie Teufel

Date: March 12, 2010