

February 2, 2010

Susan Basham
Price, Postel & Parma
200 E. Carrillo Street
Santa Barbara, CA 93101

MONTECITO PLANNING COMMISSION
HEARING OF JANUARY 27, 2010

RE: Appeal of NextG Networks Cellular Antenna #ESB03; 10APL-00000-00001

Hearing on the request of Susan Basham of Price, Postel and Parma LLP, on behalf of named appellants, to consider the Appeal, Case No. 10APL-00000-00001 [appeal filed on January 14, 2010] of the Director's decision to approve 09LUP-00000-00381, in compliance with Chapter 35.492 of the Montecito Land Use and Development Code on property located in the 2-E-1 Zone; and acknowledge that the California Public Utilities Commission is the appropriate agency for CEQA compliance on this project and the California Public Utilities Commission filed a Notice of Exemption on July 20, 2009 pursuant to California Environmental Quality Act sections 15061(b)(3), 15301(b), 15301(c), 15302(c), and 15304(f). The application involves the public right-of-way adjacent to AP No. 007-120-013, located on Park Lane in the Montecito area, First Supervisorial District.

Dear Ms. Basham:

At the Montecito Planning Commission hearing of January 27, 2010, Commissioner Eidelson moved, seconded by Commissioner Burrows and carried by a vote of 5 to 0 to accept late submittals into the record from Susan Basham and Cindy Feinberg.

Commissioner Burrows moved, seconded by Commissioner Phillips and carried by a vote of 5 to 0 to:

1. Uphold the appeal Case No. 10APL-00000-00001, thereby denying the Planning and Development Department's approval of Land Use Permit No. 09LUP-00000-00381, with verbal revised findings supporting the denial.

The following findings were articulated by the Montecito Planning Commission supporting denial of the Land Use Permit:

2.0 MONTECITO LAND USE DEVELOPMENT CODE

2.1 Land Use Permit Findings

- 2.1.1 *The proposed development conforms: (1) To the applicable provisions of the Comprehensive Plan including the Montecito Community Plan; and (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.491 (Nonconforming Uses, Structures, and Lots).***

This finding cannot be made based on lack of evidence that there was a thorough and complete review of the aesthetics and of the other information that should have been considered, and that this project was viewed as Tier 1 project when evidence would support that this should have been considered as a network, or a system as a whole.

The action of the Montecito Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Montecito Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Montecito Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on February 8, 2010 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$643 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA at the same time the appeal is filed.

Sincerely,

Dianne M. Black
Secretary to the Montecito Planning Commission

cc: Case File: 10APL-00000-00001
Montecito Planning Commission File
Attorney: Susan Basham, Price, Postel & Parma, 200 E. Carrillo Street #400, Santa Barbara, CA 93101
Appellant: Susan and Don Fuhrer, 619 Park Lane, Santa Barbara, CA 93108
Appellant: Cindy Feinberg, 1350 Arroyico Lane, Santa Barbara, CA 93108
Appellant: John Abraham Powell, 425 Lemon Grove Lane, Santa Barbara, CA 93108
Appellant: Carla and Shaun Tomson, 214 Middle Road, Santa Barbara, CA 93108
Appellant: Joanne Shefflin, 995 Lilac Drive, Santa Barbara, CA 93108
Appellant: Montecito Association, 1469 East Valley Road, Santa Barbara, CA 93108
Applicant: NextG Networks, Sharon James, 5720 Thornwood Drive, Goleta, CA 93117
County Chief Appraiser
County Surveyor
Fire Department
Flood Control
Park Department
Public Works
Environmental Health Services
APCD
Supervisor Carbajal, First District

Commissioner Eidelson
Commissioner Burrows
Commissioner Phillips
Commissioner Overall
Commissioner Gottsdanker
Rachel Van Mullem, Deputy County Counsel
Megan Lowery, Planner

Attachments: Attachment A - Findings

DMB/dmv

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ATTACHMENT A - FINDINGS

Findings for Denial

3.0 MONTECITO LAND USE DEVELOPMENT CODE

3.1 Land Use Permit Findings

- 3.1.1** *The proposed development conforms: (1) To the applicable provisions of the Comprehensive Plan including the Montecito Community Plan; and (2) With the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Chapter 35.491 (Nonconforming Uses, Structures, and Lots).*

This finding cannot be made based on lack of evidence that there was a thorough and complete review of the aesthetics and of the other information that should have been considered, and that this project was viewed as Tier 1 project when evidence would support that this should have been considered as a network, or a system as a whole.