

**SANTA BARBARA MONTECITO PLANNING COMMISSION**  
**Commercial Telecommunications Ordinance Amendments**

**Hearing Date: March 23, 2011**  
**Staff Report Date: March 4, 2011**  
**Case Nos.: 11ORD-00000-00006**  
**11ORD-00000-00007**  
**Environmental Document: 97-ND-02**  
**and Addendum dated March 4, 2011**  
**pursuant to CEQA Guidelines § 15164**

**Deputy Director: Alice McCurdy**  
**Division: Development Review South**  
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## **1.0 REQUEST**

Hearing on the request of the Planning and Development Department that the Montecito Planning Commission consider and adopt:

1. A recommendation to the Board of Supervisors that they adopt an ordinance (Case No. 11ORD-00000-00006) amending Division 35.4, Montecito Standards for Specific Land Uses, and Division 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, as set forth in Attachment C; and
2. A recommendation to the Planning Commission to recommend to the Board of Supervisors that they adopt an ordinance (Case No. 11ORD-00000-00007) amending Division 7, General Regulations, and Division 2, Definitions, of Article II, the Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, as set forth in Attachment D,

The proposed ordinances would amend regulations allowing the installation and operation of commercial telecommunications facilities in the Montecito Community Plan area, and throughout the Coastal Zone.

## **2.0 RECOMMENDATION AND PROCEDURES**

- 2.1** Follow the procedures outlined below and recommend that the Board of Supervisors approve Case No. 11ORD-00000-00006 based upon the ability to make the appropriate findings. Your Commission's motion should include the following:
  - 2.1.1** Adopt the findings for approval including CEQA findings and recommend that the Board of Supervisors adopt the findings for approval of the proposed ordinance amendment (Attachment A);
  - 2.1.2** Accept 97-ND-02 (dated January 30, 1997) and Addendum dated March 4, 2011 as adequate environmental review pursuant to CEQA Guideline section 15164 included as Attachment B; and
  - 2.1.3** Adopt a Resolution recommending that the Board of Supervisors approve Case No. 11ORD-00000-00006, an ordinance amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment C).

- 2.2** Follow the procedures outlined below and recommend to the Planning Commission that the Board of Supervisors approve Case No. 11ORD-00000-00007 based upon the ability to make the appropriate findings. Your Commission's motion should include the following:
- 2.2.1** Adopt the findings for approval including CEQA findings and recommend to the Planning Commission that the Board of Supervisors adopt the findings for approval of the proposed amendment (Attachment A);
- 2.2.2** Accept 97-ND-02 (dated January 30, 1997) and Addendum dated March 4, 2011 as adequate environmental review pursuant to CEQA Guideline section 15164 included as Attachment B; and
- 2.2.3** Adopt a recommendation to the Planning Commission to adopt a Resolution recommending that the Board of Supervisors approve Case No. 11ORD-00000-00007, an ordinance amending Article II, the Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment D).

Refer back to staff if the Montecito Planning Commission takes other than the recommended actions for appropriate findings and conditions.

## **3.0 JURISDICTION**

### **3.1 Amending the Montecito Land Use Development Code**

#### **3.1.1 11ORD-00000-00006**

This project is being considered by the Montecito Planning Commission based upon Section 65855 of the Government Code, and Section 35.494.050 of the Santa Barbara County Montecito Land Use and Development Code (Montecito LUDC). The Montecito LUDC requires that the Montecito Planning Commission, as the designated planning agency for the unincorporated area of the County within the Montecito Community Plan Area, review and consider proposed amendments to the Montecito LUDC and provide a recommendation to the Board of Supervisors.

### **3.2 Amending the Coastal Zoning Ordinance (Article II)**

#### **3.2.1 11ORD-00000-00007**

County Code Section 2-25.2(b)(1) provides that the County Planning Commission retain jurisdiction over “[r]ecommendations regarding proposed amendments to Articles I, II, III, V and VII of Chapter 35 County Code, unless the property affected by a proposed amendment to Article II is solely located within the Montecito planning area as designated in the Montecito Community Plan.” “The Montecito Planning Commission may provide recommendations to the County Planning Commission on projects and matters identified above.” (County Code Section 2-25.2(b).)

## **4.0 ISSUE SUMMARY**

### **4.1 Ordinance Structure**

Commercial telecommunications facilities in Santa Barbara County are regulated by the LUDC Section 35.44.010, MLUDC Section 35.444.010 and Article II Section 35-144F, which are collectively referred to as the “Commercial Telecommunications Ordinance.” Each of these components contains the same permitting structure, development standards<sup>1</sup> and procedures. The Telecommunications Ordinance consistently contains the following sections: Applicability, Processing, Additional Development Standards, Post Installation Provisions, Public Notice, Additional Findings, and Application Requirements and Definitions<sup>2</sup>.

The Commercial Telecommunications Ordinance “Processing” requirements currently divides telecommunications facilities into four categories, referred to as “tiers.” The four-tiered permitting system requires: staff level review (Land Use/Coastal Development Permits) for Tier 1 facilities; Director review (Director Level Development Plans) for Tier 2 facilities; Zoning Administrator review (Minor Conditional Use Permits) for Tier 3 facilities; or Planning Commission review (Major Conditional Use Permits) for Tier 4. The theory behind this approach is that the review process for minor projects is minimized and streamlined while larger projects are given a higher level of review. That is, as the size and complexity of the facility and potential for environmental impacts or policy inconsistencies increases, the decision-making body shifts upward (e.g., from the Director to the Zoning Administrator).

### **4.2 Ordinance Amendment Objectives**

#### ***4.2.1 Board of Supervisors Objectives***

At the January 19, 2010 Board of Supervisors hearing, the County Board of Supervisors directed Planning & Development to revisit the County’s regulation of telecommunications facilities and revise the Commercial Telecommunications Ordinance. The Board directed staff to address three specific objectives: 1) requiring public hearings for Tier 1 facilities as currently defined, 2) increasing public noticing, and 3) establishing requirements for coverage and alternative siting information.

In response to the Board’s requests regarding public hearings and noticing, staff proposes a reorganization of where certain facilities fall within the current tier system. Since the higher tier levels require increased public noticing and opportunity for public hearings by virtue of their

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<sup>1</sup> Some additional standards and height restrictions apply to projects located in the Coastal Zone.

<sup>2</sup> Definitions are located in the Glossary section of each ordinance LUDC 35.110.020/ MLUDC 35.500.020/ Article II 35-58)

permit requirements, staff proposes moving the facilities currently defined in Tier 1 (i.e. very small facilities and tenant improvements) into Tier 2, which would require a Director Level Development Plan, as opposed to a Land Use/Coastal Development Permit. Director Level Development Plans are under the review authority of the Director. These projects require that a notice be mailed 10 days prior to the Director's decision (similar to the notice mailed 10 days before a public hearing). If during this time a public hearing is requested, the Director will not take an action on the project and the project will be heard by the Zoning Administrator/Montecito Planning Commission instead. The Zoning Administrator/Montecito Planning Commission hearing would also be noticed prior to the hearing itself. If a public hearing is not requested, the hearing is waived, and the Director may take action on the project. The Director's decision is appealable for 10 days from the decision date. Moving these facilities into Tier 2 would keep the processing requirements minimal, while providing the additional noticing required for discretionary projects as well as opportunity for a public hearing upon request.

Although this change would effectively eliminate the current Tier 1 category, staff proposes to retain this tier to provide for two types of minor facilities not currently captured in the ordinance. In the past several years, P&D has received requests for two types of facilities that were not addressed in the current ordinance: temporary mobile telecommunications facilities and hub sites. Since neither of these facilities require new construction and are more effectively "use" permits, staff recommends adding them into Tier 1. See Section 6.0 "Project Analysis" for further discussion of temporary mobile telecommunications facilities and hub sites.

In addition to moving "very small facilities" and "tenant improvements" into Tier 2, staff is also proposing to require that all facilities in residential zone districts be processed under Tier 4, which requires a Major Conditional Use Permit approval by the Planning Commission. This change is suggested in response to the Board's expressed interest to provide heightened public awareness of facilities proposed to be located in residential zone districts.

In response to the Board's request regarding coverage and alternative siting information, staff proposes to add two findings to the "Additional Findings" (MLUDC 35.444.010.G/Art. II 35-144F.7):

1. *"The applicant has demonstrated a need for service (i.e. coverage or capacity) and the area proposed to be served would not otherwise be served by the carrier proposing the facility."*
2. *"The applicant has demonstrated that the proposed facility design and location is the least intrusive means feasible for the carrier proposing the facility to provide the needed coverage."*

The first finding proposed to be added would ensure against redundant coverage by a single carrier by requiring the applicant to demonstrate their need for service. The second finding proposed to be added would ensure that alternative site locations and

alternative designs are explored prior to project approval, and that the applicant has demonstrated that the project being considered is the least intrusive means feasible for providing coverage.

#### ***4.2.2 State and Federal Concurrence Objectives***

Recent legislation and decisions have provided new clarification of state and federal requirements for telecommunications facilities. The proposed ordinance amendments attempt to provide consistency with recent decisions such as the California “Kehoe Act” 2007 (SB1627, regarding collocation); the FCC Declaratory Ruling of November 18, 2009 (regarding permit processing time requirements); the “Omnipoint Communications Enterprises v. Newtown Township” decision (regarding assessment of coverage gaps); and the Presidential Proclamation of December 8, 2009 (regarding the protection of cellular facilities, which were deemed “critical infrastructure,” during emergencies and natural disasters).

#### ***4.2.3 Objectives to Address Rising Issues***

In addition to the goals provided above, Planning & Development is taking this opportunity to address various items that have arisen in the past several years. Such items include making provisions for mobile temporary telecommunications facilities, and network server “hub” sites, addressing fire protection goals, and updating language.

## **5.0 PROJECT INFORMATION**

### **5.1 Background Information**

Santa Barbara County’s jurisdictional authority in regulating telecommunications facilities is restricted by Federal law, namely the Telecommunications Act of 1996, which sets the framework for a local agency’s regulatory authority. In addition to the Telecommunications Act, the County’s regulation of telecommunications facilities must also comply with the Federal Declaratory Ruling of November 18, 2009 (“Shot Clock Requirements”). The intent of the federal law is to encourage the deployment of telecommunications facilities, without discrimination between carriers, and ensure reasonable processing timelines for permits required by state and local jurisdictions.

#### ***5.1.1 Federal Telecommunications Act Limitations***

The Federal Telecommunications Act of 1996 amended the Communications Act of 1932 to establish federal regulatory authority over the deployment of telecommunications facilities across the nation. The Federal Act set health and safety emissions thresholds and specifically restricted the regulatory treatment of telecommunications facilities by local agencies (i.e. cities and counties) in that regard.

The Federal Telecommunications Act preempts local authorities from prohibiting any telecommunications service, stating “No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” (47 U.S.C.A. § 253 (b).)

However, the Federal Telecommunications Act acknowledges that although local authorities may not prohibit telecommunications facilities, their general local zoning authority is preserved “over decisions regarding placement, construction, and modification of personal wireless service facilities,”(47 U.S.C.A. § 332 (c)(7)) within certain limitations [emphasis added].

Although the County can influence siting and design of personal wireless service facilities, there are limitations as to the County’s authority to regulate such facilities. Specifically, the purview of local agencies to apply zoning requirements is limited by the Federal Telecommunications Act as follows:

*“LIMITATIONS.--*

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

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

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

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

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

*(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.” ( 47 U.S.C.A. § 332 (c)(7)(B).)*

These limitations not only ensure due process for wireless applications but they ensure each carrier’s rights to exercise their FCC licenses and provide full coverage to their network areas. In fact, denying a carrier the ability to provide full coverage may constitute a “prohibition” of wireless services with these limitations. In the *MetroPCS Inc. v. City & County of San Francisco* case in 2005, the Ninth Circuit determined that “[A] locality can run afoul of the Telecommunications Act ‘effective prohibition’ clause if it prevents a wire-less provider from closing a ‘significant gap’ in service coverage.” Should a local agency deny a facility, and the

applicant (carrier) challenges the denial in court, the applicant must show that they 1) are prevented from filling a significant gap in their own service coverage; and 2) their proposed way to fill that significant gap is the “least intrusive means.” If the applicant makes the above showing, the County, not the carrier, must then show “[S]ome potentially available and technologically feasible alternative sites;” which “close the gap” in coverage. New required findings will bring this discussion forward into the permit process.

### ***5.1.2 Federal “Shot Clock” Ruling November 18, 2009***

On November 18, 2009, the Federal Communications Commission adopted and released its Declaratory Ruling concerning provisions in 47 U.S.C. Sections 253 and 332(c)(7), regarding state and local review of wireless facility siting applications. This Declaratory Ruling provided direction that affects the County’s processing requirements.

The first major part of the Declaratory Ruling defined what is a presumptively “reasonable time” beyond which a local jurisdiction’s inaction on a siting application may constitute a prohibited “failure to act” under 47 U.S.C. Section 332(c)(7). The FCC found that a “reasonable period of time” is, presumptively:

- 90 days to process personal wireless service facility siting applications requesting collocations; and
- 150 days to process all other applications.

Accordingly, if state or local governments do not act upon applications within those timeframes, then a personal wireless service provider may claim that a prohibited “failure to act” has occurred and personal wireless service providers may seek redress in court within 30 days, as provided in 47 U.S.C. Section 332(c)(7)(B)(v). The state or local government, however, would have the opportunity to rebut the presumption of reasonableness. It is important to note however, that these timeframes commence upon determination of application completeness.

In addition to specifying shorter processing timeline for collocated facilities, the Declaratory Ruling clarified the FCC’s definition of what qualifies as a “collocated facility.” According to the FCC, “collocation” is defined as “the addition of an antenna to an existing tower or other structure.” This definition appears to consider the placement of as little as one antenna onto any existing structure (i.e. utility pole, stop light, building) as collocation, even if no other antennas currently exist on the structure. This definition of collocation is much broader than the County’s current definition.

To comply with these new processing standards, Planning & Development staff is proposing two substantive changes in the Telecommunications Ordinance. The first change is to amend the County’s definition of “collocated telecommunications facility” to reflect the FCC’s definition. The second change is to include a new processing tier specifically for collocated telecommunications facilities. In order to achieve the timelines prescribed, collocated facilities

are proposed to be placed under the Tier 2 processing category, requiring a Director level Development Plan, with opportunity for a requested hearing.

## 5.2 Project Description

The proposed ordinance amendments would amend processing requirements for “very small facilities” and “tenant improvement” facilities by reorganizing the current tier structure; add provisions for “temporary facilities,” “hub sites,” and “collocated facilities” not currently captured in the ordinance; move all new facilities located in residential zone districts under the jurisdiction of the Planning Commission, with required public hearings; add findings requiring demonstration of need for service and demonstration of efforts to reduce the intrusiveness of the facility through design and siting; amend existing definitions of “collocated telecommunications facility” and “substantially visible”; add new definitions of “hub site,” “mobile communications temporary facility,” and “vault”; and make other minor revisions to the existing procedures and development standards that regulate the construction and use of commercial telecommunications facilities.

The following sections describe the purpose of the ordinance changes proposed. The draft ordinances with proposed revisions are included as Attachments C and D.

### 5.2.1 *Summary of Changes to “Processing Requirements” (MLUDC 35.444.010.C/Article II 35-144.F.3)*

The following changes would be made to the processing requirements to account for the Board of Supervisor’s requests, the Federal Communications Commission processing timeframe requirements, and new standards to allow for temporary facilities and hub sites not currently addressed in the ordinance. These changes raise the processing requirements to discretionary review for all facilities except temporary facilities and hub sites.

- ***Temporary Facilities (added to Tier 1):*** Temporary facilities are not currently captured in the ordinance. However, recent events have generated more requests by carriers to put up temporary facilities during natural disasters (i.e. fires) or large events (e.g. Halloween in Isla Vista) when cell service is relied upon for the community’s health and safety. Since these facilities would only operate on temporary basis over a short period of time, they would be added to Tier 1.
- ***Hub Sites (added to Tier 1):*** Current technologies, such as Distributed Antenna System networks, require support equipment “hub” sites that comprise computer servers that connect to the larger network, without antennas. Hub sites are typically located in existing buildings. Should the hub site require construction of a new building or structure to house the equipment, the new structure would be subject to the zone district regulations, County policies and permits. Although these facilities qualify as part of a



telecommunications facility, they are not captured in the current ordinance. These facilities would be added to Tier 1.

- ***Very Small Facilities (moved to Tier 2):*** As discussed above, the “very small facilities” generated a substantial amount of public interest and necessitated additional research as a newer technology; therefore “very small facilities” in non-residential areas would be moved to Tier 2.
- ***Tenant Improvements (combined under Tier 2):*** Previously the ordinance provided two sets of development standards for tenant improvement facilities. This change would combine the two sets of standards into one category, under Tier 2.
- ***Collocated Facilities (added to Tier 2):*** Although collocated facilities are currently allowed, this change proposes the addition of a specific tier for collocated facilities to provide standards that are consistent with the new FCC Declaratory Ruling processing requirements.
- ***Agricultural Operations (removed from Tier 3):*** The ordinance currently distinguishes a separate category for “private facilities serving agricultural operations.” This category was carried over from provisions in Ordinance 661 that attempted to allow for advances in communication technology used for agricultural operations. However, this type of cellular system has not been used to date, and arguably would not be practical to install at this point in time. Therefore, this category would be removed.
- ***Very Small Facilities-Residential zones (included in Tier 4):*** Previously, very small facilities were allowed in all zone districts under a Tier 1 category. However, residential areas are prone to higher density of development with greater potential for aesthetic impacts. Similar to all other types of facility designs in residential areas, this change would require very small facilities in residential zone districts to also be processed under a Tier 4.

#### ***5.2.2 Summary of Changes to “Additional Development Standards” (MLUDC 35.444.010.D/ Article II 35-144F.4)***

The development standards would remain unchanged with the exception of adding clarification that landscaping requirements must make consideration for fire clearances required by the Fire Department.

#### ***5.2.3 Summary of Changes to “Post-Installation Provisions” (MLUDC 35.444.010.E/ Article II 35-144F.5)***

The Post-Installation Provisions section establishes the County’s standards for long-term management of telecommunications facilities. These standards ensure that the facilities provide opportunity for collocation, maintain compliance with federal emissions standards, and are generally maintained or properly abandoned. To ensure compliance with these standards, these provisions are adapted into conditions of approval and applied to projects. The changes proposed would modify the language in the post-installation provisions to give greater flexibility in adapting them as conditions, while maintaining their purpose.

**5.2.4 Summary of Changes to “Additional Findings” (MLUDC 35.444.010.G/ Article II 35-144F.7)**

When decision makers approve any commercial telecommunications facilities they must be able to make all of the findings listed in the “Additional Findings” section. These findings require telecommunications facilities to be designed in ways that reduce their prominence in the community, achieve compatibility with the landscape of the area, minimize their visibility from public views, comply with specific design standards established in the telecommunications ordinance, and so on. These findings have been successful in requiring carriers to be mindful of the siting and design of their facilities. However, these standards don’t necessarily *require* carriers to use the best possible design and location.

When a design and/or location for a particular project garners heightened controversy, carriers have often worked with the County to provide documentation of their efforts to design the facility to their best efforts to address the constraints of the area and propose a feasible facility design that is the least intrusive to the community. This documentation is often referred to as an “alternative site (or design) analysis.” One of the ordinance changes proposed would be to add a finding requiring all applicants to demonstrate efforts to design and site the proposed project in the “least intrusive means feasible” that would still provide their needed coverage. This finding would allow decision makers the benefit of having the applicant’s alternative site and/or design analysis and being able to assess whether the proposed design and location is the best feasible option.

In addition to design and siting, decision makers and residents have also expressed concern over the number of facilities being built in the County without an explicit requirement that the carriers demonstrate a need for service. To ensure against redundant coverage by a single carrier or unnecessary facilities being installed, an additional finding would be added that requires carriers to demonstrate their need for service, whether coverage or capacity, or other substantiated need. This would provide decision makers with the ability to justify approval of an additional facility if the area proposed to be served would not otherwise be served by the carrier proposing the facility.

Lastly, the changes would amend one of the existing findings of approval to provide greater clarity for decision makers. Currently, the findings require that all telecommunications facilities must comply with the development standards established in the telecommunications ordinance “unless an exception is granted.” However, what the findings fail to specify is that according to the telecommunications ordinance an exemption may only be granted under certain circumstances. Therefore, the finding would be amended to specify the three circumstances under which a decision maker may grant an exemption from the standards.

*The exemption:*

- 1) *Would not increase the visibility of the facility or decrease public safety, or*

- 2) *Is required due to technical considerations and if the exemption was not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility, or*
- 3) *Would avoid or reduce the potential for environmental impacts.*

#### **5.2.5 Summary of Changes to “Application Requirements” (MLUDC 35.444.010.G/ Article II 35-144F.8)**

The proposed changes to the application requirements section would provide greater clarification of the County’s requirements for applications for telecommunications facilities. Previously, the Board of Architectural Review requirements for telecommunications facilities were contained in a footnote to the permit processing table. The changes would move this language into the application requirements section. Additionally, the new requirements to provide demonstration of efforts to reduce the intrusiveness of the facility through design and siting and demonstration of a need for service would also be added to the application requirements.

#### **5.2.6 Summary of Changes to “Definitions” (MLUDC 35.500.020/ Article II 35-58)**

Changes to the definitions for telecommunications facilities would include both amendments to existing definitions as well as the addition of new definitions not currently captured in the ordinance. The purposes of the definitions being either amended or deleted are described below.

- ***Collocated Telecommunications Facility (amended):*** This definition would be amended to reflect the Federal Communications Commission’s definition, as provided in the Federal Declaratory Ruling’s processing timelines. Although the amended definition is broader than the current definition, these facilities would still be subject to the County’s development standards.
- ***Substantially Visible (amended):*** Currently this definition provides an exception for facilities that are disguised (faux water tanks, faux trees, etc.) as being considered substantially visible since the facility equipment itself (i.e. antennas, brackets, cabinets) is concealed within the faux structures. However the “faux structure” itself may be very visible to the naked eye. The proposed change would eliminate this exception, and would allow decision makers to take into consideration whether the structures/camouflaging used to conceal the facility are also substantially visible and therefore appropriate for a given site location. Although the development standards preclude substantially visible facilities in certain locations (i.e. scenic corridors), the decision makers would still retain the ability to exempt a project from those development standards, should the project qualify for an exemption.
- ***Hub Site (added):*** The current ordinance does not explicitly provide for hub sites. With the addition of the provisions allowed under the new Tier 1 category for these types of facilities, a definition describing the types of facilities that qualify as hub sites would be added.

- **Temporary Facility (added):** The current ordinance does not explicitly provide for temporary facilities. With the addition of the provisions allowed under the new Tier 1 category for these types of facilities, a definition describing the types of facilities that qualify as temporary facilities would be added.
- **Vault (added):** Although the current ordinance allows telecommunications facilities to place their equipment underground, the description of what qualifies as a vault was lacking and is therefore proposed to be added.

## 6.0 PROJECT ANALYSIS

### 6.1 Environmental Review

The County's telecommunications ordinance was first adopted under ordinance amendments 95-OA-008, -009, and -010. As part of these amendments Mitigated Negative Declaration 97-ND-02 was prepared. The Negative Declaration (ND) focused the environmental review on those projects which would require only a Land Use/Coastal Development Permit and therefore would not be subject to project specific environmental review. The ND identified potentially significant but mitigable effects on the environment in the following categories: Air Quality, Biological Resources, Ethnic Resources, Historic Resources, Noise, Aesthetic/Visual Resources, and Risk of Upset/Hazardous Materials.

The ND concluded that with the inclusion of the required mitigation measures, the proposed ordinance amendments would not result in significant environmental impacts. The mitigations measures were incorporated into the ordinance as development criteria and the ND was adopted on June 24, 1997.

97-ND-02 was subsequently amended in 2002 by an Addendum pursuant to Section 15162 of the State Guidelines for the Implementation of the California Environmental Quality Act (CEQA). The addendum was prepared to reflect ordinance amendment changes processed under 01-OA-005, -006, and -007, which simplified the permit process for telecommunication facilities and reduced the decision-maker level from the Planning Commission to the Zoning Administrator or Director of Planning and Development for certain facilities that were determined to be "fairly minor in nature." This addendum was approved on January 16, 2002.

The current proposed ordinance amendments 11ORD-00000-00006 and -00007 would require that "very small facilities" and "tenant improvements" undergo a discretionary review process. However, the amendments would allow "temporary telecommunications facilities" and "hub sites" with the approval of a Tier 1 Zoning Clearance, Land Use Permit or Coastal Development Permit.

The potential environmental impacts associated with these changes are addressed in an Addendum to 97-ND-02 pursuant to Section 15164 of the State Guidelines for the

Implementation of the California Environmental Quality Act (CEQA) and the County of Santa Barbara Guidelines for the Implementation of CEQA. The Negative Declaration 97-ND-02, with the Addendum prepared under Section 15164, is included as Attachment B.

## **6.2 Comprehensive Plan Consistency**

All telecommunications facilities are required to comply with all elements of the Comprehensive Plan, including the Local Coastal Plan and applicable community plans, such as the Montecito Community Plan. For projects that undergo a discretionary review process, consistency with County policies is assessed at a project specific level at the time of application. However, for those facilities that require a Land Use/Coastal Development Permit or Zoning Clearance, this analysis occurs at a programmatic level with the adoption of the ordinance. However, in order to approve an application for a Land Use/Coastal Development Permit or Zoning Clearance the specific project must also meet County policy and applicable ordinance standards.

As previously discussed, the proposed ordinance amendments would retain the four-tiered permit framework. Under this tiered permitting system only Tier 1 projects may be permitted with Land Use/Coastal Development Permit or Zoning Clearances. Projects in Tiers 2-4 undergo a discretionary review process with the approval of a Director Level Development Plan, Minor Conditional Use Permit, or Major Conditional Use Permit. Therefore, it is the projects that fall into the Tier 1 category that require upfront analysis of their consistency with the Comprehensive Plan. Under the proposed ordinance amendments, the facilities captured in Tier 1 are “temporary mobile telecommunications facilities” and “hub sites.” Therefore, the policy consistency analysis below will focus on those two types of facilities.

Along with the addition of “temporary mobile telecommunications facilities” and “hub sites” the proposed ordinance amendments would also include a number of other changes that would increase the permit requirements and development standards currently required for telecommunications facilities. These changes are described in greater detail in Section 5.2 above, and are included in Attachments C and D. Some of the changes included are: the increase in permit requirements for “very small facilities” and “tenant improvements” to a Director Level Development Plan, from a Land Use/Coastal Development Permit; increasing permit requirements for all facilities in residential zone districts to require Major Conditional Use Permits; amending the definition of “substantially visible” to allow decision makers to consider whether camouflage structures such as faux water tanks are in themselves substantially visible; adding two required findings for all telecommunications facilities that require the applicant demonstrate a need for service and demonstrate their efforts to site and design their facility in the best means feasible; and clarify that landscaping requirements must make consideration for fire clearances required by the Fire Department. Furthermore, the proposed ordinance amendments would not revise any of the adopted policies and development standards of the County’s Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan that the ordinance must comply with. Because the ordinance amendments would increase the permit review requirements and development standards, they would provide an increased protection of sensitive resources in the County, and would therefore be consistent with the

County policies identified below. Therefore further discussion of these changes is not included in the policy consistency analysis below.

REQUIREMENT	DISCUSSION
<p><b>Resources/Services</b></p> <p><i><b>LUE Development Policy 4:</b> “Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development...”</i></p> <p><i><b>CLUP Policy 2-6:</b> “Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development...”</i></p>	<p><b>Consistent:</b> Mobile temporary facilities are typically trailers or vans with antennas mounted on top, with support equipment located inside. These facilities would only operate on temporary basis over a short period of time. Approval of these facilities would be based on an assessment of need rising to the level of public health and safety. These facilities would be self-sustaining, and would use existing roadways, would not require any water or sewer service, and would not generate any significant traffic.</p> <p>Hub sites are computer servers and ancillary equipment located inside an existing/permitted building or structure that connects to a larger telecommunications network. Any new structures needed to house the hub site would be required to be separately permitted under the applicable ordinance standards. These facilities would be unstaffed and therefore would not generate any significant traffic or require any water or sewer service.</p> <p>Therefore, both types of telecommunication facilities would be served adequately.</p>
<p><b>Grading/Site Alterations</b></p> <p><i><b>LUE Hillside and Watershed Protection Policy 1:</b> “Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.”</i></p> <p><i><b>LUE Hillside and Watershed Protection Policy 2:</b> “All developments shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development</i></p>	<p><b>Consistent:</b> Temporary mobile facilities and hub sites could only be installed in or on a mobile vehicle using existing access or within existing buildings or structures respectively, and therefore would not require any grading or site alteration.</p>

REQUIREMENT	DISCUSSION
<p><i>because of known soil, geologic, flood, erosion or other hazards shall remain in open space.”</i></p> <p><b>LUE Hillside and Watershed Protection Policy 5:</b>  <i>“Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized as rapidly as possible with planting of native grasses and shrubs, appropriate non-native plants, or with accepted landscaping practices.”</i></p> <p><b>CLUP Policy 3-14:</b> <i>“All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.”</i></p>	
<p><b>Archaeology</b></p> <p><b>LUE Historical and Archaeological Sites Policy 1:</b>  <i>“All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.”</i></p> <p><b>LUE Historical and Archaeological Sites Policy 2:</b>  <i>“When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.”</i></p> <p><b>LUE Historical and Archaeological Sites Policy 3:</b>  <i>“When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California</i></p>	<p><b>Consistent:</b> Temporary mobile facilities would be mounted on a mobile vehicle, and hub sites would be located within existing building or structure. Neither of these facilities would require grading nor site alteration. Therefore, archaeological resources would not be disturbed. If a telecommunication facility is proposed to be installed in or on a historic building or structure, the project would be subject to review by the Historic Landmark Advisory Commission.</p>

REQUIREMENT	DISCUSSION
<p><i>Native American Heritage Commission.”</i></p> <p><b>LUE Historical and Archaeological Sites Policy 4:</b>  <i>“Off-road vehicle use, unauthorized collection of artifacts, and other activities other than development which could destroy or damage archaeological or cultural sites shall be prohibited.”</i></p> <p><b>LUE Historical and Archaeological Sites Policy 5:</b>  <i>“Native Americans shall be consulted when development proposals are submitted which impact significant archaeological or cultural sites.”</i></p> <p><b>CLUP Policy 10-1:</b> <i>“All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.”</i></p> <p><b>CLUP Policy 10-2:</b> <i>“When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.”</i></p> <p><b>CLUP Policy 10-3:</b> <i>“When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.”</i></p> <p><b>MCP Policy CR-M-2.1:</b> <i>“Significant cultural, archaeological and historic resources in the Montecito area shall be protected and preserved to the extent feasible.”</i></p>	
<p><b>Visual</b></p> <p><b>LUE Visual Resources Policy 2:</b> <i>“In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical</i></p>	<p><b>Consistent:</b> Temporary mobile facilities would operate only on temporary basis over a short period of time, limited to the duration of which a potential public health and safety issue exists.</p> <p>Hub sites would be integrated into the architectural design of the building/structure or fully concealed</p>



REQUIREMENT	DISCUSSION
<p><i>requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.”</i></p> <p><b>LUE Visual Resources Policy 3:</b> <i>“In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.”</i></p> <p><b>CLUP Policies 4-3:</b> <i>“In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the sky-line as seen from public viewing places.”</i></p> <p><b>CLUP Policies 4-5:</b> <i>“In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Bluff top structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff’s edge than the adjacent structures.”</i></p> <p><b>MCP Policy LU-M-2.1:</b> <i>“New structures shall be designed, sited, graded, and landscaped in a manner which minimizes their visibility from public roads.”</i></p> <p><b>MCP Policy VIS-M-1.1:</b> <i>“Development shall be subordinate to the natural open space characteristics of the mountains.”</i></p>	<p>within. Any new structures needed to house the hub site would be required to be separately permitted under the applicable ordinance standards.</p>

REQUIREMENT	DISCUSSION
<p><b>MCP Policy VIS-M-1.2:</b> <i>“Grading required for access roads and site development shall be limited in scope so as to protect the viewshed.”</i></p> <p><b>MCP Policy VIS-M-1.3:</b> <i>“Development of property should minimize impacts to open space views as seen from public roads and viewpoints.”</i></p>	
<p><b>Biology</b></p> <p><b>CLUP Policy 2-11:</b> <i>“All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.”</i></p> <p><b>CLUP Policy 9-1:</b> <i>“Prior to the issuance of a development permit, all projects on parcels shown on the land use plan and/or resource maps with a Habitat Area overlay designation or within 250 feet of such designation or projects affecting an environmentally sensitive habitat area shall be found to be in conformity with the applicable habitat protection policies of the land use plan...”</i></p> <p><b>MCP Policy BIO-M-1.1:</b> <i>“Designate and provide protection to important or sensitive environmental resources and habitats in the inland portion of the Montecito Planning Area.”</i></p> <p><b>MCP Policy BIO-M-1.4:</b> <i>“Monarch Butterfly roosting habitats shall be preserved and protected.”</i></p>	<p><b>Consistent:</b> Temporary mobile facilities and hub sites would either be installed in an existing building or would be in a mobile vehicle using existing access and therefore would not require the removal or any vegetation or environmentally sensitive habitat. Should a hub site need a new building or structure constructed to house the equipment, the structure would be subject to the zone district regulations and County policies and permits.</p>
<p><b>Air Quality</b></p> <p><b>Coastal LUP Policy 11-1:</b> <i>“The provisions of the Air Quality Attainment Plan shall apply to the coastal zone.”</i></p> <p><b>MCP Policy AQ-M-1.1:</b> <i>“Maintain consistency of all land use planning and development with the Air Quality Attainment Plan and subsequent Air Pollution Control District (APCD) air quality</i></p>	<p><b>Consistent:</b> Temporary mobile facilities and hub sites would be required to comply with adopted air quality policies and development thresholds.</p>

REQUIREMENT	DISCUSSION
<p><i>plans and guidelines.”</i></p> <p><b>Noise</b></p> <p><b>Noise Element Policy 1:</b> <i>“In the planning of land use, 65 dB Day-Night Average Sound Level should be regarded as the maximum exterior noise exposure compatible with noise-sensitive uses unless noise mitigation features are included in project designs.”</i></p> <p><b>Noise Element Policy 2:</b> <i>“Noise-sensitive land uses should be considered to include:</i></p> <ul style="list-style-type: none"> <li><i>a) Residential, including single and multifamily dwellings, mobile home parks, dormitories, and similar uses.</i></li> <li><i>b) Transient lodging, including hotels, motels, and similar uses.</i></li> <li><i>c) Hospitals, nursing homes, convalescent hospitals, and other facilities for long-term medical care.</i></li> <li><i>d) Public or private educational facilities, libraries, churches, and places of public assembly.”</i> <p><b>MCP Policy N-M-1.1:</b> <i>“Noise-sensitive uses (i.e., residential and lodging facilities, educational facilities, public meeting places and others specified in the Noise Element) shall be protected from significant noise impacts.”</i></p> </li></ul>	<p><b>Consistent:</b> Temporary mobile facilities and hub sites would be required to comply with adopted noise policies and development thresholds.</p>
<p><b>Fire/Risk</b></p> <p><b>Safety Element Fire Policy 4:</b> <i>“To reduce the potential for fire damage, the County shall continue to require consistency with County Fire Department Development Standards pursuant to the California Fire Code, Public Resource Code §4291, and Government Code §51175-51188.”</i></p> <p><b>Safety Element Fire Policy 5:</b> <i>“The County shall continue to require defensible space clearance around all structures in unincorporated Local Responsibility Areas pursuant to Public Resource Code §4291, and Government Code §51175-51188.”</i></p> <p><b>MCP Policy F-M-2.1:</b> <i>“The County shall</i></p>	<p><b>Consistent:</b> Temporary mobile facilities and hub sites could involve hazardous materials (e.g., fire suppression system). If the amount of materials stored at the facilities exceeds a prescribed level, a Hazardous Material Business Plan would be required which would reduce potential risk impacts to a less than significant level.</p>

REQUIREMENT	DISCUSSION
<p><i>cooperate with the Montecito Fire Protection District while reviewing Fire District requirements applied to ministerial and discretionary development projects regarding access, vegetation clearance, and improvements with the intent of protecting development from fire hazards while maintaining community character and quality of life and preventing adverse environmental impacts.”</i></p>	
<p><b>EMF</b></p> <p><i>MCP Policy E-M-1.1: “In reviewing permits for EMF sensitive uses (e.g., residential, schools, etc.), RMD shall require an adequate building setback from EMF-generating sources to minimize exposure hazards.”</i></p>	<p><b>Consistent</b> Temporary mobile facilities and hub sites would be required to comply with all applicable Federal/County radio frequency radiation (RFR) safety thresholds.</p>
<p><b>Agriculture</b></p> <p><i>Agricultural Element Policy IA: “The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses...”</i></p>	<p><b>Consistent:</b> Telecommunication facilities requiring only a ministerial permit would either be installed in an existing building or would be in a mobile vehicle and therefore are not anticipated to interfere with existing agricultural operations. Should a hub site need a new building or structure constructed to house the equipment, the structure would be subject to the zone district regulations and County policies and permits.</p>

## 7.0 PROCESSING PROCEDURE

The Montecito Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance to the Board of Supervisors for amendments applicable to the Montecito Land Use Development Code (Section 35-2), Case No. 11ORD-00000-00006.

The Montecito Planning Commission may recommend approval, approval with revisions, or denial of the proposed ordinance to the Planning Commission for amendments applicable to the Coastal Zoning Ordinance (Article II), Case No. 11ORD-00000-00007.

## 8.0 APPEALS PROCEDURE

Ordinance Amendments recommended for approval or denial are automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required.

## **ATTACHMENTS**

- A. Findings
- B. 15164 Letter with 97-ND-02
- C. Resolution and Proposed Ordinance - MLUDC
- D. Resolution and Proposed Ordinance - Coastal Zoning Ordinance (Article II)