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December 10, 2012

County of Santa Barbara Board of Supervisors
105 East Anapamu
Santa Barbara, CA 93101

RE: Appeal of the Montecito Planning Commission's Decision of November 28, 2012,
to Deny Crown Castle's Application to Upgrade its Coastal Distributed Antenna
System ("DAS")
Case #s 12CUP-00000-00018 and 12CDP-00000-00038

Dear Supervisors:

Crown Castle NG West ("Crown Castle"), formerly NextG Networks, appeals to the County of Santa Barbara Board of Supervisors' ("BOS") to overturn the decision of the Montecito Planning Commission made on November 28, 2012. Crown Castle is appealing the Montecito Planning Commission ("PC") denial because the PC's decision:

- 1) Is inconsistent with provisions of the County Zoning Ordinance and other applicable law;
- 2) Is not supported by the evidence presented for consideration;
- 3) Lacks fairness and impartiality;
- 4) Represents an error or abuse of discretion.

Crown Castle appeals to the BOS to overturn the PC decision and approve the Project so as to avert the irreparable harm that would be caused by the PC decision if it were allowed to stand.

Regulatory and Operational Background

Crown Castle holds a valid, full-facilities Certificate of Public Convenience and Necessity ("CPCN") from the California Public Utilities Commission ("CPUC"). Through its statewide franchise and the auspices of Section 7901 of the California Public Utilities Code, Crown Castle deploys fiber-based telecommunication networks that service its wireless telecommunication carrier clients. Crown Castle's network in Santa Barbara County, and specifically within Montecito, has been operational since 2010.

Crown Castle's current application is to upgrade its existing network nodes in Montecito so that the nodes can accommodate additional wireless carriers. Crown Castle has successfully secured Conditional Use Permits from the County Santa Barbara's Planning Commission for all other node upgrades, outside of Montecito, without appeal or incident.

The Decision of the PC is inconsistent with provisions of the County Zoning Ordinance and other applicable law

As stated in the Staff Report, Crown Castle's Project is fully in compliance with Section 35-172 of Article II Coastal Zoning Ordinance. The Project encourages collocation of new facilities [Montecito LUDCX Section 35.444.010 (E) (3)]. In addition, four out of the five node sites will have their equipment vaulted. Thus, ensuring that Crown Castle's Project is the least intrusive manner. The Project is consistent with the Comprehensive Plan, Montecito Community Plan, Coastal Land Use Plan and all applicable development standards.

The PC decision is not consistent with both federal and state law in this matter. In accordance with the Middle Class Tax Relief & Job Creation Act, local agencies must approve collocation on existing telecommunication facilities. Under State law Section 7901 of the California Public Utility Code, telephone companies are afforded access to the public right-of-way and local jurisdictions are limited to policing the time, place and manner in which the facility would be constructed. The PC's decision is not consistent with local, state or federal law.

The Decision of the PC is not supported by the evidence presented for consideration

No evidence was presented at the hearing that could substantiate the decision of the PC. Staff presented evidence of the Project's consistency with all laws and regulations. The facilities blend into the existing utility infrastructure that exists in these locations. The facilities are low visibility, vaulted, shrouded and painted to camouflage their appearance. No new antenna support structures would be required and the facilities are no more obtrusive than existing utility infrastructure in the area.

The Decision of the PC lacks fairness and impartiality

Commissioner Phillips stated into the record that the reason he voted to deny the Project was because he wanted to maintain the latitude to deny future wireless applications. Commissioner Phillips was unable to evaluate the Project on its merits and consistency with regulation, but instead the Project became hostage to Commissioner's personal perspective on wireless telecommunications. As a result, Crown Castle was denied a fair and impartial hearing.

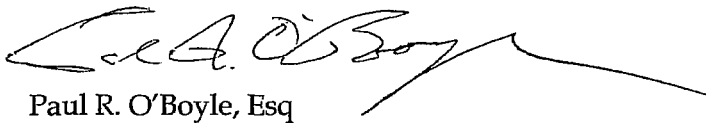
The Decision of the PC represents an error or abuse of discretion

The PC decision was made in error and represents an abuse of discretion. From the disregard of Staff's analysis and findings, to the inappropriate conduct of individual commissioners, the PC abused its discretion in denying Crown Castle's Project.

For all of the above-mentioned reasons Crown Castle respectfully requested that the BOS overturn the PC decision and approve the Project.

Should you have any questions concerning the content of this letter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul R. O'Boyle", with a long horizontal flourish extending to the right.

Paul R. O'Boyle, Esq



COUNTY OF SANTA BARBARA

Planning and Development

www.sbcountyplanning.org

Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of :

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions
- Planning & Development Director's decisions
- Zoning Administrator's decisions

THIS PACKAGE CONTAINS _____

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

AND, IF ✓'D, ALSO CONTAINS _____

South County Office 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	Energy Division 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2040 Fax: (805) 568-2522	North County Office 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	Clerk of the Board 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax : (805) 568-2249
Website: www.sbcountyplanning.org			

SUBMITTAL REQUIREMENTS

- _____ 8 Copies of the attached application.
- _____ 8 Copies of a written explanation of the appeal including:
 - If you are not the applicant, an explanation of how you are an “**aggrieved party**” (“Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.”);
 - A clear, complete and concise statement of the **reasons or grounds for appeal**:
 - Why the decision or determination is consistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; or
 - There was error or abuse of discretion;
 - The decision is not supported by the evidence presented for consideration;
 - There was a lack of a fair and impartial hearing; or
 - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- _____ 1 Check payable to Planning & Development.

✓
✓ Note: There are additional requirements for certain appeals including:

- a. **Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit’s conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. **Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



PLANNING & DEVELOPMENT APPEAL FORM

SITE ADDRESS: Public ROW in the Coastal Area of Montecito

ASSESSOR PARCEL NUMBER: Public Right of Way

PARCEL SIZE (acres/sq.ft.): Gross N/A Net N/A

COMPREHENSIVE/COASTAL PLAN DESIGNATION: _____ ZONING: 2-E-1, 7-R1, 20-R-1

Are there previous permits/applications? ☒no ☐yes numbers: _____
(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? ☒no ☐yes numbers: _____

1. **Appellant:** Crown Castle NG West, Inc Phone: 408-468-5553 FAX: _____
Mailing Address: 890 Tasman Drive Milpitas, CA 95035 sharon.james@crowncastle.com
Street City State Zip E-mail: _____

2. **Owner:** _____ Phone: _____ FAX: _____
Mailing Address: _____ E-mail: _____
Street City State Zip

3. **Agent:** _____ Phone: _____ FAX: _____
Mailing Address: _____ E-mail: _____
Street City State Zip

4. **Attorney:** _____ Phone: _____ FAX: _____
Mailing Address: _____ E-mail: _____
Street City State Zip

COUNTY USE ONLY

Case Number: _____	Companion Case Number: _____
Supervisory District: _____	Submittal Date: _____
Applicable Zoning Ordinance: _____	Receipt Number: _____
Project Planner: _____	Accepted for Processing: _____
Zoning Designation: _____	Comp. Plan Designation: _____

COUNTY OF SANTA BARBARA APPEAL TO THE :**_____ BOARD OF SUPERVISORS****X PLANNING COMMISSION: _____ COUNTY X MONTECITO**RE: Project Title Crown Castle Montecito Coastal DAS Upgrade _____Case No. 12CUP-00000-00018; 12CDP-00000-00038Date of Action 11/28/2012 _____I hereby appeal the _____ approval _____ approval w /conditions X denial of the:

_____ Board of Architectural Review – Which Board? _____

_____ Coastal Development Permit decision

_____ Land Use Permit decision

 X Planning Commission decision – Which Commission? Montecito _____

_____ Planning & Development Director decision

_____ Zoning Administrator decision

Is the appellant the applicant or an aggrieved party? X Applicant

_____ Aggrieved party – if you are not the applicant, provide an explanation of how you are and “aggrieved party” as defined on page two of this appeal form:

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

The decision of the MPC is not supported by the evidence presented and the MPC's alternative findings are a clear error of discretion.

With the exception of one location, the project is a modification of existing sites. On several of these locations, the changes would result in a lesser visual presence than exists today. Further,

The Montecito HOA Land Use Committee did not object to the project and The Montecito Board of Architectural Review approved the project. Lastly, staff made the correct findings there was no opposition.

Specific conditions imposed which I wish to appeal are (if applicable):

- a. _____
- b. _____
- c. _____
- d. _____

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Print name and sign – Firm

Date

Print name and sign - Preparer of this form

Date

Crown Castle NG West, Inc. Joseph Milone



12/07/12

Print name and sign - Applicant

Director of Government Relations

Date

Print name and sign - Agent

Date

Print name and sign - Landowner

Date

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