

Goolsby Appeal of the Verizon Wireless Facility at the Montecito Switch Station

Board of Supervisors
August 21, 2012

12APL-00000-00011

Legal Background

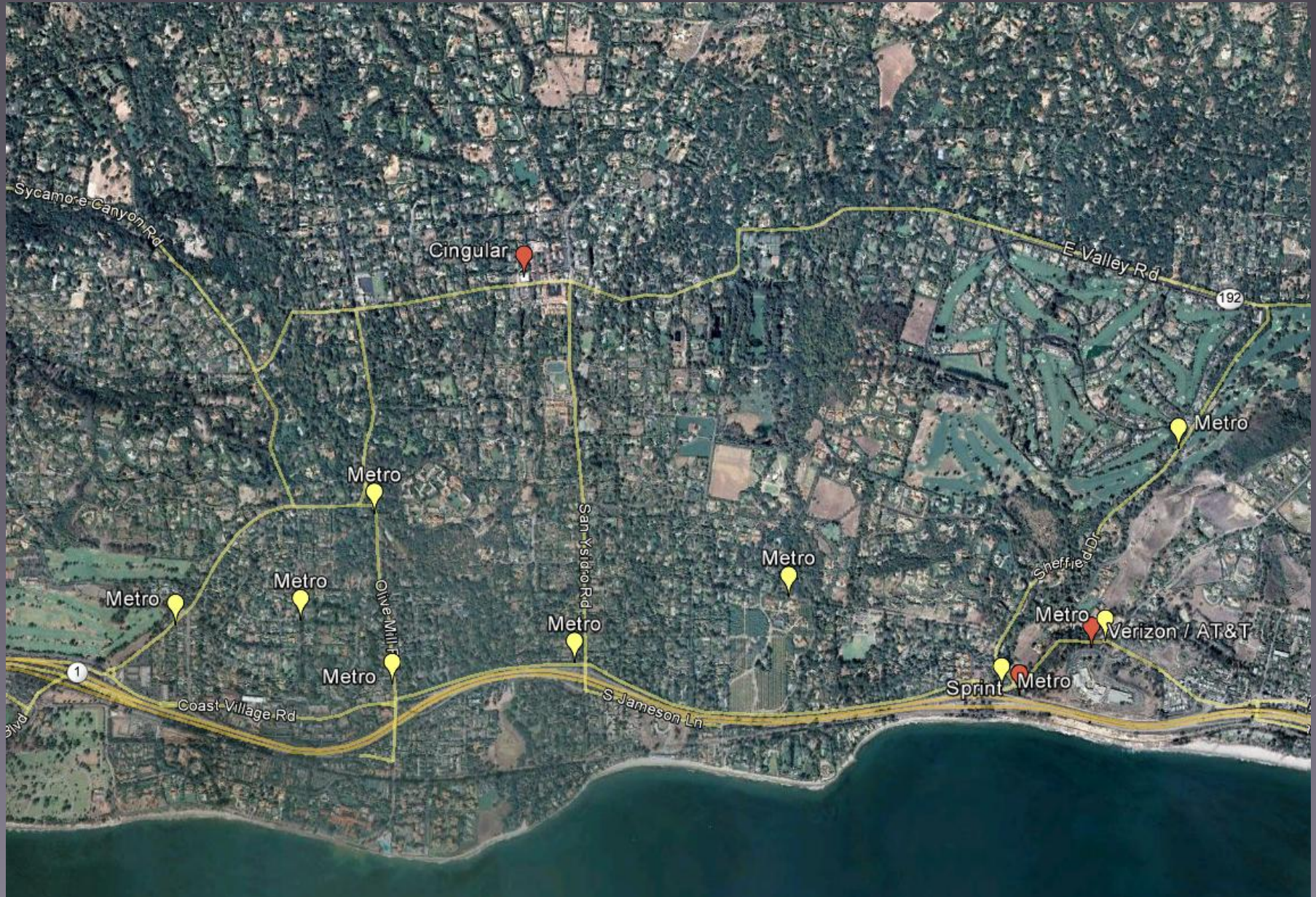
- County regulation of telecommunications facilities is limited by the Federal Telecommunications Act
 - > “Shall not prohibit or have the effect of prohibiting”
 - > “Shall act...within a reasonable period of time”
 - > “Shall not regulate...on basis of perceived health effects”
- County can deny a wireless communication facility permit application for aesthetic reasons, if both:
 - > Substantial evidence supports its decision; and
 - > Not an “effective prohibition” on providing wireless service

Project Background

- Verizon's existing coverage of the Montecito area is provided by the facility at QAD (Ortega Hill Road) that is being decommissioned
- The County's ordinance encourages collocation

Development Standard 2(c): *“Collocation on an existing support structure shall be required”* unless it is not reasonably feasible

Existing Telecommunications Facilities in Montecito



PROPOSED PROJECT SITE

512 Santa Angela Lane

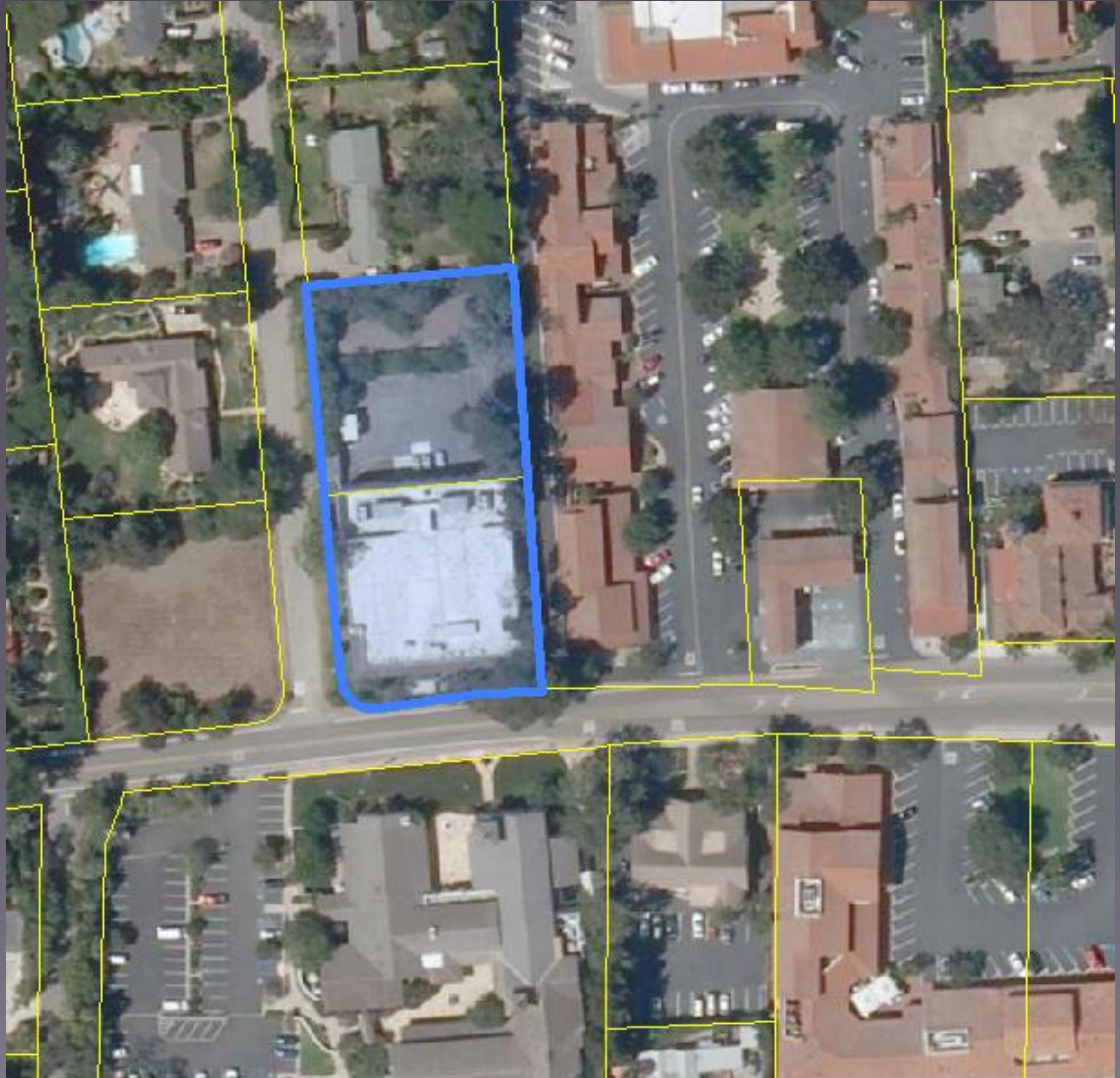
Zoned 20-R-1

Site: 0.87 acres

Montecito Community
Plan area: Urban, Inland

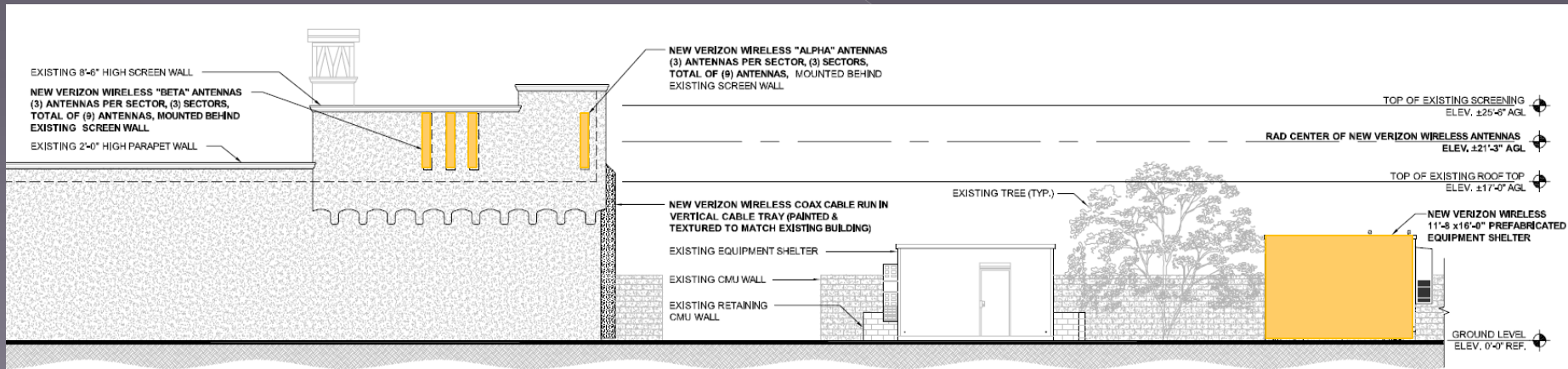
Current use:
Switch station operation
building for Verizon
California Inc. (landline)
65-CP-041
(1965)

Cingular cellular facility
02CUP-00000-00050
(2002)



Proposed Project

- Collocate with existing Cingular facility
- Add (9) panel antennas to the rooftop
 - > Behind existing parapet façade
- Add (1) equipment shelter



Appeal Issue #1:

MLUDC zone district requirements and telecom. dev. standards

- ◎ 20-R-1 zone district requirements
 - > Telecom is a permitted use in all zone districts
 - > Height: 35-feet, and 2 stories
 - > Setbacks: 50 feet from centerline
 - Modification to allow 35 feet – consistent with previous approvals

- ◎ Telecom development standards
 - > Project would be collocated with existing telecom facility
 - No new utilities needed, use existing parking, complies with noise standards
 - > No visual change to the building, blends with design

Appeal Issue #2:

Additional findings for telecom. facilities

- ⦿ Compatible with existing and surrounding development
 - > Collocating with existing Cingular telecom. facility
 - > No visual impacts to surrounding development
 - > Emissions meet the FCC health and safety requirements
- ⦿ Coverage needed due to loss of facility at QAD property
- ⦿ Least intrusive means--no visual impact, existing infrastructure

Appeal Issue #3:

Radio frequency emissions report adequacy

- “No State or local government or instrumentality thereof may regulate...on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations”
- Per report by Hammett & Edison dated 5/2/12 cumulative RF emissions would be 9.5% of the applicable FCC limit
- New issues raised regarding adequacy of the report
 - > Peer review by Jonathan Kramer
 - > Conclusion: the issues are unfounded--the report appropriately assessed the emissions per FCC standards and is adequate to base findings on

Appeal Issue #4:

Setbacks from EMF sensitive uses

- “No State or local government or instrumentality thereof may regulate...on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations”
- County cannot require additional setbacks (buffers) for telecommunications facilities IF a project complies with FCC regulations
- Per report by Hammett & Edison dated 5/2/12 cumulative RF emissions would be 9.5% of the applicable FCC limit, therefore no additional setbacks are required

Staff Recommendation:

- Deny the appeal, Case No. 12APL-00000-00011, thereby upholding the Montecito Planning Commission's approval of the project;
- Make the required findings for the project, including CEQA findings;
- Determine the project is exempt from CEQA pursuant to Section 15301 and 15303 of the State Guidelines for the Implementation of the California Environmental Quality Act; and
- Approve de novo the Conditional Use Permit for the proposed telecommunications facility, 12CUP-00000-00007, subject to the conditions.