BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	Planning & Development
Department No.:	053
For Agenda Of:	9/21/10
Placement:	Departmental
Estimated Tme:	0.4 hours
Continued Item:	Yes
If Yes, date from:	3/16/10; 8/3/10
Vote Required:	Majority

TO: Board of Supervisors

FROM:

Department Director	Glenn Russell Ph.D., Director, 568-2085 Planning and Development
Contact Info:	Dianne Black, Development Services Director, 568-2086 Development Review Division-South County

SUBJECT: **NextG Cellular Antenna ESB09 Appeal**
10APL-00000-00003; Right-of-Way of San Ysidro Road

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: N/A

Other Concurrence:
As to form: N/A

Recommended Actions:

That the Board of Supervisors consider the NextG appeal, (Case No. 10APL-00000-00003) of the Montecito Planning Commission's January 27, 2010 denial of the NextG Cellular Antenna ESB09 permit, Case No. 09CDP-00000-00055 located in the public right of way of N. Jameson Lane at its intersection with San Ysidro Road (adjacent to APN 009-262-003) in Montecito, First Supervisorial District, and take the following actions:

1. Uphold the appeal, Case No. 10APL-00000-00003, thereby overturning the Montecito Planning Commission's denial of 09CDP-00000-00055;

2. Make the required findings for approval of Case No. 09CDP-00000-00055, included in Attachment A of this Board Letter;

3. Accept the exemptions to CEQA described in the Notices of Exemption prepared and adopted by the Public Utilities Commission, the lead agency, as adequate for this project pursuant to sections 15061(b)(3), 15301(b), 15301(c), 15302(c), 15303, and 15304(f) of the CEQA Guidelines included in Attachment B; and

4. Grant *de novo* approval of Case No. 09CDP-00000-00055 as revised, subject to the conditions of approval of the permit, included as Attachment C.

Refer back to staff for additional analysis if the Board of Supervisors takes other than the recommended action.

Summary Text:

The subject appeal was initially brought before your Board on March 16, 2010. Upon consideration of the project details, your Board continued the item and "directed staff to conduct a 'significant gap' analysis, including thorough use of a 3rd-party consultant, an analysis of alternative sites, if needed and to return to the Board as appropriate with draft findings for denial."

Staff conducted the requested analysis and returned on August 3, 2010 with findings for denial based on the objectionable aesthetics of the facility design which proposed to mount equipment directly on the pole within plain sight of public views in Montecito which is a community esteemed for its semi-rural character including the semi-rural character of the roadways. Staff's research and analysis concluded that because NextG could feasibly underground the highly visible equipment in an underground vault as it had in the past in other locations, the proposed project design did not meet the zoning standards, requiring that support facilities be located underground, if feasible.

At the August 3, 2010 hearing, NextG offered to comply with staff's analysis, and as suggested, underground the equipment box at this location. As a result, the project was continued with direction to return with the revisions discussed. NextG submitted revised plans for the proposed underground vault to house the equipment. The equipment vault would be approximately 3'x 5'x 3' and would be flush with the ground. However, in addition to the vault itself, two 2'x 4'x 3' air vents would also need to be installed on either side of the vault to provide necessary ventilation for the equipment. A foot of gravel base would also be installed around the vault to prevent sinking and ensure the vault remains level over time. The total footprint of the vault with gravel base and air vents combined would result in a ground disturbance and minor vegetation removal of a 4'x 14' area in the utility easement in the road right-of-way.

After review of the proposed plans, staff concluded that indeed, undergrounding the equipment box is feasible and would require removal of ruderal weeds and grass from the right of way, as demonstrated in the photo simulation included in Attachment D. Undergrounding would significantly reduce the visibility of the facility and therefore would achieve preservation of the existing streetscape and semi-rural character. Conditions of approval would require that the top of the vault be painted brown to match the surrounding ground plane to further minimize the visibility of the vault. Therefore, the proposed redesign may be found in compliance with the goals and policies of the Montecito Community Plan and conforms to all applicable regulations of Article II. Findings of approval to support this conclusion are included in Attachment A.

Performance Measure:

N/A

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The costs for processing appeals are partially offset through payment of a fixed appeal fee of $643 ($500 of which covers P&D costs). The total estimated cost to process this appeal is approximately $7,280.00 (40 staff hours). These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-330 of the adopted 2010/2011 fiscal year budget.

Staffing Impacts:

None.

Special Instructions:

None.

Attachments:

A) Findings
B) Notices of Exemption
C) Permit with Conditions of Approval
D) Project Plans and Photosimulations
E) Bushberg Emissions Report, dated April 29, 2009
F) NextG Letter, dated August 24, 2010

Authored by:

Megan Lowery, Planner II

cc:

Anne Almy, Planning Supervisor

ATTACHMENT A: FINDINGS

1.0 CEQA

1.1 CEQA Guidelines Exemption Findings

1.1.1 The proposed project was found to be exempt from environmental review pursuant to Sections 15061(b)(3), 15301(b), 15301(c), 15302(c), 15303 and 15304(f) of the Guidelines for Implementation of the California Environmental Quality Act (CEQA) by the California Public Utilities Commission (CPUC). Please see the Notices of Exemption, prepared by the CPUC on July 29, 2009 and August 19, 2010 included as Attachment B.

2.0 ARTICLE II ZONING ORDINANCE

2.1 Coastal Development Permit Findings (Sec. 35-169.5)

2.1.1 The proposed development conforms: (1) To the applicable provisions of the Comprehensive Plan, including the Coastal Land Use Plan; and (2) With the applicable provisions of this Article or the project falls within the limited exceptions allowed under Section 35-161 (Nonconforming Use of Land, Buildings and Structures).

The proposed project would include mounting a single 26-inch omni whip antenna on a bracket attached to the existing utility pole and vaulting the support equipment. The vault would be approximately 3 ft. x 5 ft. and would have two 2 ft. x 4 ft. vents on either side, installed at grade in the right-of-way, and would require only minor ground disturbance and vegetation removal of non-native plants. Additionally, all components of the facility are located outside of designated sensitive resource areas. This design would reduce the visibility of the facility by the public to the maximum extent feasible by utilizing existing infrastructure for the antenna support and eliminating the support equipment from view by placing it underground. The minimalistic design preserves the existing semirural character of the roadway and surrounding area. Lastly, the facility would operate well within the Federal health and safety standards established by the Federal Communications Commission. With these features, the proposed project would be in conformance with all applicable provisions of Article II, Comprehensive Plan and the Coastal Land Use Plan. Therefore this finding can be made.

2.1.2 The proposed development is located on a legally created lot.

The proposed project is located within the public right-of-way therefore this finding can be made.

2.1.3 The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).

The utility pole upon which the antenna would be mounted was legally erected and does not constitute a zoning violation. Additionally, the provisions for telecommunications facilities in Section 35-144F.4.1.a.2 of Article II specifically states that "underground equipment (e.g., equipment cabinet) may be located within the setback area and rights-of-way provided that no portion of the facility shall obstruct existing or proposed sidewalks, trails, and vehicular ingress

or egress." The proposed vault would be installed flush with grade and therefore would not obstruct access at this location. Therefore this finding can be made.

2.2 Commercial Telecommunication Facility Findings (Sec. 35-144F.7)

2.2.1 *The facility will be compatible with existing and surrounding development in terms of land use and visual qualities.*

The facility is designed to retain the visual character of the area by utilizing the existing utility pole and utilizing an antenna that conforms to the Tier 1 "very small facilities" requirements. Furthermore, the antenna would be painted brown to blend with the pole, and the equipment box would not be visible since it would be vaulted underground. Therefore the proposed project preserves the existing streetscape character of the area and this finding can be made.

2.2.2 *The facility is located so as to minimize its visibility from public view.*

The facility support equipment would be placed underground in a vault, and therefore would not be visible to the public. The top of the vault would be painted brown to blend in with the ground plane. The proposed antenna would be mounted on an existing operational utility pole and would blend with the existing infrastructure. Therefore the facility has been located so as to minimize its visibility from public view and this finding can be made.

2.2.3 *The facility is designed to blend into the surrounding environment to the greatest extent feasible.*

The proposed antenna design uses a 26-inch omni whip antenna that would be painted brown and mounted on a bracket attached to the existing utility pole. Mounting the antenna on the existing pole would effectively blend the antenna with the existing utility infrastructure. Furthermore, the support equipment would be placed in an underground vault and would therefore not be visible in the existing environment. The top of the vault would be painted brown to blend in with the ground plane. Therefore this finding can be made.

2.2.4 The facility complies with all required development standards unless granted a specific exemption by the decision-maker as provided in Section 35-144F.4.

The telecommunications facility development standards require facilities be designed to protect the public safety; utilize existing infrastructure; reduce visibility from public viewing areas; preserve ridgelines, existing vegetation, historic structures, environmentally sensitive habitats, prime agricultural soils, etc. As discussed above, the proposed antenna would be collocated on an existing operational utility pole in the road right of way and the equipment would be placed in an underground vault. This design is consistent with the development standards since the facility is collocated, the support equipment is undergrounded, no sensitive resources (including biological habitats, historic structures, prime agricultural soils, etc.) are impacted, and the facility would be secured from public tampering and would operate within the FCC public health and safety standards. Lastly, conditions of approval have been included to minimize vegetation removal associated with installation of the equipment vault and require protection and replacement of surrounding vegetation in the event that the ground disturbance causes surrounding vegetation to subsequently die. As such, the project meets all of the development standard requirements and therefore no exemption is required from the decision-maker and this finding can be made.

2.2.5 ***The applicant has demonstrated that the facility will be operated within the allowed frequency range permitted by the Federal Communications Commission and complies with all other applicable health and safety standards.***

The applicant submitted a projected emission report by Jerrold Bushberg, Ph.D., dated April 29, 2009, as a part of the project application for 09CDP-00000-00055.[1] The report concludes that RF exposure from the proposed telecommunications facility would be less than 0.3% of the applicable FCC public exposure limit at ground level (approximately 26 feet) and therefore the facility is well within the FCC's health and safety limits. Therefore this finding can be made.

2.3 Montecito Community Plan Overlay District Findings (Sec. 35-215)

2.3.1 ***In addition to the findings that are required for approval of a development project (as development is defined in the Santa Barbara County Coastal Plan), as identified in each section of Division 11 - Permit Procedures of Article II, a finding shall also be made that the project meets all the applicable development standards included in the Montecito Community Plan of the Coastal Land Use Plan.***

The project has been designed to retain the semi-rural character of the Montecito Community by utilizing existing infrastructure and eliminating major components from public view by placing them in an underground vault. Additionally, the facility also complies with the Federal health and safety standards required and therefore the location of the facility does not require any additional setbacks or buffers. Therefore the proposed project would be in conformance with all applicable provisions of the Montecito Community Plan of the Coastal Land Use Plan and this finding can be made.

2.3.2 ***For projects subject to discretionary review, a finding shall be made that the development will not adversely impact recreational facilities and uses.***

The proposed project is located in the public right-of-way on N. Jameson Lane at its intersection with San Ysidro Road, which is zoned residential (20-R-1). No parks or recreational facilities exist within the immediate vicinity of the proposed project, although designated trail easements are located on N. Jameson Lane and San Ysidro Road. The proposed project has been designed to be minimally invasive by utilizing existing infrastructure and removing major components from public view by placing them in an underground vault. The vault would be installed at grade, and would not impede traffic or use of the right-of-way. Therefore this finding can be made.

2.4 Water and Other Public Services Findings (Sec. 35-60)

2.4.1 ***Prior to issuance of a Coastal Development Permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.***

The proposed project consists of an unmanned wireless telecommunications facility. Construction and operation of the proposed facility would not require any water or sewer services. The antenna would be mounted on an existing operational utility pole in the public

[1] See Attachment E.

right of way along N. Jameson Lane, to which access will be provided. Therefore this finding can be made.

ATTACHMENT B: NOTICES OF EXEMPTION

ATTACHMENT C: PERMIT WITH CONDITIONS OF APPROVAL

ATTACHMENT D: PROJECT PLANS AND PHOTOSIMULATION

ATTACHMENT E: EMISSIONS REPORT

ATTACHMENT F: NEXTG LETTER