



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: 8/3/10
Placement: Departmental Letter
Estimated Tme: 0.5 hours
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell Ph.D., Director, 568-2085
Director Planning and Development
Contact Info: Dave Ward, Deputy Director, 568-2520
Development Review Division-South County

SUBJECT: NextG Trenching ESBUFFK39 Appeal
10APL-00000-00015; Right-of-Way of N. Jameson Lane to San Leandro Lane

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-00000-00015) of the Montecito Planning Commission's June 10, 2010 denial of the NextG Trenching ESBUFFK39 permit, Case No. 10CDH-00000-00012 located in the public road rights-of-way of N. Jameson Lane, Ortega Hill Road, Sheffield Drive and San Leandro Lane, in the Montecito area, First Supervisorial District, and take the following actions:

1. Grant the appeal, Case No. 10APL-00000-00015, thereby overturning the Montecito Planning Commission's denial of 10CDH-00000-00012;
2. Make the required findings for approval of the project, included in Attachment A of this Board Letter;
3. Determine the project to be exempt pursuant to the exemption prepared by the California Public Utilities Commission, July 20, 2009, included as Attachment B, citing the State CEQA Guidelines Sections 15061(b)(3), 15301(b), 15301(c), 15302(c), and 15304(f); and
4. Approve the project subject to the conditions included as Attachment C.

Summary Text:

NextG's application for 10CDH-00000-00012 was submitted on March 31, 2010. The project is a request by the agent, Sharon James, for the applicant, NextG Networks of California, Inc., for a Coastal Development Permit for the boring, trenching and installation of approximately 1,295 feet of underground conduit along Sheffield Drive, Ortega Hill Road, North Jameson Lane and San Leandro Lane to support a new distributed antenna system. The project would require approximately 769 feet of directional drilling (boring) and 526 feet of traditional trenching. The trench would have a maximum depth of three (3) feet and a width of 18 inches. Approximately 120 cubic yards of material would be excavated.

The proposed project is located in the Coastal Commission Appeals Jurisdiction, and therefore required a public hearing under the jurisdiction of the Zoning Administrator. In the Montecito area, the Montecito Planning Commission acts as the Zoning Administrator. At the June 15, 2010 hearing, the Montecito Planning Commission denied the project on the inability to make the required CEQA Finding. The Commission found that the California Public Utilities Commission's exemption determination for the proposed project did "not constitute adequate environmental review under CEQA because the cited exemptions are inapplicable when the cumulative impact of successive projects of the same type, in the same place, over time, is significant; and because the Applicant's submission of its project improperly split the whole of its project into multiple segments." An appeal of this decision was timely filed by Patrick Ryan on June 15, 2010.

Background:

GROUND'S FOR APPEAL

The grounds for appeal are specified in Mr. Ryan's letter included in the appeal application. Responses to Mr. Ryan's letter are provided below under each appeal issue area. Please see Attachment F for a complete copy of the appeal application and letter, dated May 7, 2010.

I. CEQA Findings

Staff concurs that the California Public Utilities Commission (CPUC), who assumed the lead agency status for purposes of CEQA, reviewed the proposed antenna and equipment installation as part of a larger "project" under CEQA that included all of the components of the Distributed Antennas System network (i.e. cabling, trenching, equipment boxes, antennas, etc.) across the South Coast of Santa Barbara County (including the cities of Goleta, Santa Barbara, and Carpinteria). On July 20, 2009, the CPUC found the entirety of the "project" exempt under guidelines sections 15061(b)(3), 15301(b), 15301(c), 15302(c), and 15304(f) and was not challenged.

II. NextG's Proposed Trenching Meets All Other Local And Coastal Zone Requirements

Staff concurs that the proposed project meets the applicable requirements of the Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan, in addition to requirements of the Article II Coastal Zoning Ordinance. As Mr. Ryan stated, "the Commission itself did not call into question P&D's findings that the project meets all of the requirements for this type of development in the coastal zone," and "no opposition was voiced at the hearing or submitted to the Commission."

III. CPUC Section 7901 Grants NextG The Authority to Occupy the Public Rights of Way

Staff concurs that NextG has rights defined in CPUC Section 7901 to deploy its facilities “in such manner and at such points as not to incommode the public use of the road or highway.” Although the temporary construction in the right of way would require traffic control measures, the aesthetic benefit of undergrounded utilities verses aerial-strung wires would provide the best alternative solution to address aesthetic policies in the Montecito Community Plan and the County’s Coastal Land Use Plan.

Fiscal Analysis:

The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission. Therefore a fee is not required to file an appeal of this Coastal Development Permit. The total estimated cost to process this appeal is approximately \$2,366.00 (13 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:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on August 3, 2010. The notice shall appear in the Santa Barbara Daily Sound. The Clerk of the Board shall fulfill the noticing requirements. Mailing labels for the mailed notice are attached. A minute order and a copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

- A) Findings
- B) CEQA Notice of Exemption
- C) Conditions of Approval
- D) Staff Report, Montecito Planning Commission Hearing June 10, 2010
- E) Action Letter dated June 14, 2010
- F) Appeal Application and Letter dated June 14, 2010

Authored by:

Megan Lowery, Planner II

cc:

Anne Almy, Planning Supervisor