



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: 3/2/10
Placement: Set Hearing
Estimated Time: 1.0 hour on 3/16/10
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: Set Hearing for the NextG Cellular Antenna ESB08 Appeal

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Set a hearing for March 16, 2010 to consider the NextG appeal of the Montecito Planning Commission's January 27, 2010 denial of the NextG Cellular Antenna ESB08 permit, Case No. 09LUP-00000-00317 located in the public right of way of Olive Mill Road (adjacent to APN 009-130-015) in Montecito, First Supervisorial District.

On March 16, 2010, your Board's action should include the following:

1. Uphold the appeal, Case No. 10APL-00000-00004, thereby overturning the Montecito Planning Commission's denial of 09LUP-00000-00317;
2. Make the required findings for approval of Case No. 09LUP-00000-00317, as shown in Attachment A of the Montecito Planning Commission Staff Report dated January 8, 2010, (included as Attachment 2 to this Board Letter);
3. Accept the Notice of Exemption to CEQA prepared and adopted by the Public Utilities Commission, the lead agency, on July 20, 2009, as adequate pursuant to sections 15061(b)(3), 15301b, 15301c, 15302c and 15304f of the CEQA Guidelines included as Attachment C of the Montecito Planning Commission Staff Report dated January 8, 2010, (included as Attachment 2 to this Board Letter); and

4. Grant *de novo* approval of Case No. 09LUP-00000-00317, subject to the conditions of approval, in Attachment B of the Montecito Planning Commission Staff Report dated January 8, 2010 as amended by the Errata Memo dated January 27, 2010, (both included as Attachment 2 to this Board Letter).

Refer back to staff for additional analysis (gap analysis and identification of alternative sites) if the Board of Supervisors takes other than the recommended action.

Summary Text:

NextG's application for 09LUP-00000-00317 was submitted on August 5, 2009. The project is a request by the agent, Sharon James, for the applicant, NextG Networks of California, Inc., for a Land Use Permit to allow construction and use of an unmanned, telecommunications facility under provisions of County Code zoning requirements for property zoned 2-E-1. The unmanned wireless facility would include one 26-inch whip omni antenna. The antenna is omnidirectional and would be mounted on an existing wood pole in the public right of way.

Planning & Development staff approved the permit application on December 4, 2009. An appeal by Susan Basham, on behalf of the appellant group, was timely filed on December 14, 2009. Staff brought the appeal case (09APL-00000-00036) before the Montecito Planning Commission on January 27, 2010.

At the January 27, 2010 hearing, the Montecito Planning Commission upheld Ms. Basham's appeal, and denied the project on the basis that the Land Use Permit Finding requiring that, "The proposed development conforms: (1) to the applicable provisions of the Comprehensive Plan including the Montecito Community Plan; and (2) with the applicable provisions of this Development Code or falls within the limited exception allowed in compliance with Section 35.491 (Nonconforming Uses, Structures, and Lots)" could not be made. The Commission made this finding for denial "based on lack of evidence that there was a thorough and complete review of the aesthetics and of the other information that should have been considered, and that this project was viewed as Tier 1 project when evidence would support that this should have been considered as a network, or a system as a whole."

An appeal of the Montecito Planning Commission's decision was timely filed by Patrick Ryan, on behalf of NextG Networks, on February 8, 2010 (see letter in Attachment 1). Staff will analyze the appeal issues in a separate Board Agenda Letter for the March 16, 2010 hearing.

Background:

NextG Networks submitted 39 Tier 1 applications (LUP/CDP/CDH) to the County on August 5, 2009. The applications are for the installation of 39 different "node" or antenna sites throughout the south coast, including areas in Goleta, Santa Barbara, Montecito and Summerland. NextG has also applied for, and obtained in some cases, similar permits from other local municipalities such as City of Goleta, City of Santa Barbara, and the City of Carpinteria.

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 \$1,820.00

(10 staff hours). These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-301 of the adopted 2009/2010 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 March 16, 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:

Attachment 1: NextG Appeal Letter dated February 5, 2010 (w/o enclosures)

Attachment 2: Montecito Planning Commission Staff Report dated January 8, 2010 and Errata Memo dated January 27, 2010.

Attachment 3: MPC action letter dated February 2, 2010

Authored by:

Megan Lowery, Planner II

cc:

Anne Almy, Planning Supervisor