



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: January 19, 2010
Placement: Departmental
Estimated Tme: 1 hour
Continued Item: Yes
If Yes, date from: December 1, 2009
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Glenn Russell Ph.D., Director, 568-2085
Director(s) Planning & Development
Contact Info: Dave Ward, Deputy Director, 568-2520
Development Review Division- South County

SUBJECT: Telecommunications Ordinance Amendment Work Plan

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- 1) **Approve and authorize** an ordinance amendment work program to revise the County's current telecommunications ordinance; and
- 2) **Approve and authorize** a funding source to provide for the staff and consultant time necessary to prepare the ordinance amendment.

Summary Text:

The amendment work plan would include amendments to Article II/Coastal LUDC, the County Inland LUDC and the Montecito LUDC. Completing amendments to these ordinances would require staff to devote approximately 38 weeks of staff time, the involvement of County Counsel staff, and review by a consulting telecommunications analyst. There are generally three steps involved in processing an ordinance amendment:

- 1) Research/Public Outreach – (Feb-Apr)

- 2) Draft Ordinance/ CEQA Review – (May-Aug)
- 3) Local Adoption MPC/PC/BOS – (Sep-Dec)

A detailed timeline of this schedule is included in Attachment A.

Background:

Planning and Development provided briefings on October 20, 2009 and December 1, 2009, to generally discuss the permitting framework of telecommunications facilities. At the December hearing, the Board directed staff to research process changes for telecommunications permitting, including the potential for an ordinance amendment to update the County telecommunications ordinance provisions.

The telecommunications industry has undergone a number of changes in recent years. These changes have come in the form of new legislation, increasing service demands, new cellular carriers, new technologies, and even new design approaches. All of these changes combined have caused an ever-increasing number of cellular facility applications and installations throughout Santa Barbara County. This increase in facilities has triggered a desire to reassess the County's permit requirements with the goal of ensuring that our ordinance provides for 1) sufficient public notice and involvement, 2) development standards that consider the land uses of the community, and 3) up-to-date concurrence with state and federal requirements. Some examples of ordinance changes for each of these goals are discussed below. However, these change suggestions may not represent the entire scope of changes proposed since additional public, departmental and legal input during the ordinance amendment work program may provide additional changes.

Sufficient Public Notice and Decision Maker Involvement

Suggested changes to the County's current notice and permitting requirements may include such things as increasing public noticing for telecommunications applications and changing the decision maker authority level on various permit tiers to allow for a public hearing for all tiers.

Land Use Consideration

Proposed changes to the County's development standards may include greater consideration of existing specific land uses and existing development. Namely, the ordinance might provide for prohibition of facilities near non-compatible land use areas such as residences, schools, daycares, or parks. Another change might consider more specific tools to assess the visual saturation of collocated sites. Additionally, updates to the permit application requirements for telecommunications facilities may include submittal additional information such as detailed coverage gap analyses and alternative siting analyses for all applications.

State and Federal Concurrence

Recent legislation and decisions have provided new clarification of state and federal requirements for telecommunications facilities. Changes to the County's development standards may include greater consistency with recent decisions such as the California "Kehoe Act" 2007 (SB1627, regarding collocation); the FCC Declaratory Ruling of November 18, 2009 (regarding permit processing time requirements); the "Omnipoint Communications Enterprises v. Newtown Township" decision (regarding

assessment of coverage gaps) the Presidential Proclamation of December 8, 2009 (regarding the protection of cellular facilities, which were deemed “critical infrastructure,” during emergencies and natural disasters).

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis: Rewriting the telecommunications ordinance was not anticipated work in the department’s 2009-2010 budget. The proposed work plan would be a one-time project cost, approximately 38 weeks in length that if initiated in the current fiscal year, would span both the 2009-2010 FY and 2010-2011 FY. Funding could be provided, should your Board decide to:

- 1) Allocate \$101,000.00 from the general fund (\$72,000.00 to Planning and Development and \$29,000.00 to County Counsel); or
- 2) Make an adjustment to the Long Range Planning work plan by postponing a project and adding this ordinance work plan.

Costs associated with the ordinance amendment work plan would require approximately 865 hours of staff time and 15 hours of consultant time. In addition, support from County Counsel is estimated at approximately 160 hours. Combined, these 1,040 hours of work at the associated billing rates would result in a total of approximately \$101,000.00. With the assumption that there will be more work in the initial phases, these hours would be slightly front-loaded into the current fiscal year, with \$60,000.00 designated to the 2009-2010 FY and the remaining \$41,000.00 to the 2010-2011 FY.

Staffing Impacts:

Legal Positions:

3

FTEs:

0.5

No new staffing positions would be required; however current staffing positions would need to be dedicated to the proposed work plan.

Special Instructions:

None.

Attachments:

Attachment A: Ordinance Amendment Schedule Detail

Authored by:

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568-2517

cc:

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568-2053

ATTACHMENT A

COUNTY TELECOMMUNICATIONS ORDINANCE AMENDMENT SCHEDULE DETAIL¹

Research (Weeks 1-8): Staff would spend time researching 6-8 other California jurisdiction's telecommunications ordinances to gain a greater perspective on other examples of successful permitting framework and development standards applied to telecommunications facilities. Staff would look for jurisdictions that constitute comparable communities.

Public Workshop Meetings (Week 9): Staff would hold public workshop meetings in both North and South County to provide an opportunity for public and industry input on ordinance changes.

Workshop Synthesis and Expert Review (Weeks 10-11): After the public workshops are conducted, staff would reassess the proposed ordinance work plan and would research any suggestions provided by the workshops. Also during this time, staff would consult with an expert telecommunications analyst to ensure that imposed standards are compliant with FCC regulations and provide for the best assessment of such standards.

Planning Commission Briefing (Weeks 12-14): Next, staff would brief the Montecito and County Planning Commissions for additional feedback on the proposed amendments.

Ordinance Drafting (Weeks 14-17): With the incorporation of Planning Commission comments, staff would draft a proposed ordinance amendment.

CEQA Analysis (Weeks 18-21): Next, staff would begin the CEQA analysis on the ordinance amendment, which would include preparation of an initial study, and presumed draft Mitigated Negative Declaration (MND). Once the Draft MND is completed, staff would circulate the document for public review and comment.

Hearing Preparation (Weeks 22-30): During the circulation of the Draft MND, staff would begin to review submitted comments and begin preparation of the Montecito Planning Commission, County Planning Commission and Board of Supervisors hearings.

Decision Hearings (Weeks 31-36): Staff would present the proposed ordinance amendments for review and approval at the Montecito Planning Commission, County Planning Commission and County Board of Supervisors public hearings.

Coastal Commission Hearing (Weeks 37-38): Staff would prepare and file a Local Coastal Plan amendment with the California Coastal Commission to effectuate ordinance amendments in the coastal zone.

¹ Weekly time estimates are approximate but represent the objective of ordinance amendment work during calendar year 2010.