

**APPEAL TO THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA**

Submit to: Clerk of the Board
County Administration Building
105 E. Anapamu Sreet, Suite 407
Santa Barbara, CA 93101

RE: Project Title Crown Castle DAS Montecito Inland and Coastal
Case Number 13CUP-00000-00009 and 13CUP-00000-000010 / 14CDP-00000-00002
Tract/ APN Number N/A Public Rights-of-Way
Date of action taken by Planning Commission, Zoning Administrator, or Surveyor May 21, 2014

I hereby appeal the Denial of the Montecito Planning Commission
(approval/ approval with conditions/ or denial) (Planning Commission/ Zoning Administrator/ or County Surveyor)

Please state specifically wherein the decision of the Planning Commission, Zoning Administrator, or Surveyor is not in accord with the purposes of the appropriate zoning ordinance (one of either Articles I, II, III, or IV), or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission, Zoning Administrator, or Surveyor. {References: Article I, 21-71.4; Article II 35-182.3, 2; Article III 25-327.2, 2; Article IV 35-475.3, 2}

Attach additional documentation, or state below the reason(s) for this appeal.

The Montecito Planning Commission(MPC) decision to deny the above state project
is not in accord with Article II of the Community Plan & CLUP. The MPC erred &
abused its discretion by disregarding the recommendations of the MBAR, County
Staff and County Counsel.

Specific conditions being appealed are:

Please see attached letter

Name of Appellant (please print): Sharon James, Manager Government Relations, Crown Castle

Address: 695 River Oaks Parkway

(Street, Apt #)

San Jose, CA 95134

(City/ State/ Zip Code)

(Telephone)

Appellant is (check one): ☒ Applicant ☐ Agent for Applicant ☐ Third Party ☐ Agent for Third Party

Fee \$ 648.26 {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature: _____ Date: _____

FOR OFFICE USE ONLY

Hearing set for: _____ Date Received: _____ By: _____ File No. _____



Crown Castle
695 River Oaks Parkway
San Jose, CA 95134

Toll-Free: 866-482-8890
www.crowncastle.com

May 30, 2014

County of Santa Barbara
Board of Supervisors
105 East Anapamu
Santa Barbara, CA 93101

RE: Appeal of the Montecito Planning Commission's Decision of May 21, 2014, to Deny Crown Castle's Application to Enhance its Coastal and Inland Distributed Antenna System ("DAS")
Case #s 13CUP-00000-00009 (Inland)
and 13CUP-0000-00010 / 14CDP-00000-00002 (Coastal)

Dear Supervisors:

Crown Castle NG West Inc. ("Crown Castle") appeals to the County of Santa Barbara Board of Supervisors' ("BOS") to overturn the decision of the Montecito Planning Commission made on May 21, 2014. Crown Castle is appealing the Montecito Planning Commission ("MPC") denial because the PC's decision:

- 1) Is inconsistent with provisions of the County Zoning Ordinance and contrary to State and Federal law;
- 2) And its accompanying Findings of Denial are not supported by the public record nor by any evidence presented for consideration;
- 3) Lacks fairness and impartiality;
- 4) Represents an error or abuse of discretion.

Crown Castle appeals to the BOS to overturn the MPC's decision, and to Approve the Project. This action would avert the irreparable harm that would be caused to Crown Castle, and would remove the effective prohibition on Crown Castle's deployment, if the MPC's decision were allowed to stand.

Regulatory and Operational Background

Crown Castle holds a valid, full-facilities Certificate of Public Convenience and Necessity ("CPCN") from the California Public Utilities Commission ("CPUC"). Through its statewide franchise and the auspices of Section 7901 of the California Public Utilities Code, Crown Castle deploys fiber-based telecommunication networks that service its wireless telecommunication carrier clients. Crown Castle's network in Santa Barbara County, and specifically within Montecito, has been operational since 2010.

Crown Castle's current application is to enhance its existing network by adding 29 additional nodes (11 in Coastal, 18 Inland) in Montecito so that the DAS network can provide capacity coverage.

For more than a year, Crown has actively and diligently engaged County staff and the community of Montecito in developing siting and design strategies whereby Crown could timely deploy its DAS network while accommodating, as much as practical, the concerns of the community. Crown has gone through three (3) separate submittals of the above-mentioned Project incorporating suggested design changes from County Planning before being deemed complete by the County on December 24, 2013. Crown has gone before the Montecito Board of Architectural Review ("MBAR") no fewer than seven times in the last six months. Throughout this entire process Crown willingly adopted the recommendations of Planning, MBAR, Montecito Association and the community, while also agreeing to extend the Federal "Shot Clock" twice so that additional community input could be received. The result of Crown's efforts is that MBAR conceptually approved the Project, the County's Staff Report to the MPC recommended approval of the Project, as did numerous residents who have voiced their support for the Project.

At the hearing of May 21, 2014, the MPC ignored and/or disregarded much of the work that had gone beforehand. The MPC ignored the advice of County Counsel as well as the recommendations of MBAR and County Staff. The MPC disregarded the expert testimony of wireless RF engineers, without supplying any contrary evidence, who stated that Crown's proposed nodes were required to fill a gap in capacity coverage in Montecito. The MPC denied Crown's Project because it created a "visual" blight primarily because the MPC did not like the SCE required ground mounted, electric meter pedestals. The MPC felt that the proliferation of ground equipment only added to the existing "visual clutter" in the public ROW. The MPC chose to deny the Project by inventing Findings not based on fact.

The County should note that Crown Castle has modified 17 nodes and relocated 6 other nodes in order to accommodate MBAR and community concerns. Crown Castle, however, has no authority to influence Southern California Edison's (SCE) electrical meter pedestal designs. Crown Castle's nodes can draw more than 6 amps of power, therefore a new meter pedestal is required at each location. This electrical pedestal, which is an ancillary or accessory use to Crown's node, is not regulated by the County Code. The County has limited, if any, authority to deny electrical service. Therefore, the County should evaluate Crown Castle's Project based on its own merits, not on an ancillary fixture that the Applicant has no authority to control.

The Decision of the PC is inconsistent with provisions of the County Zoning Ordinance and other applicable law

As stated in the Staff Report, Crown Castle's Project is fully in compliance with Article II of the Montecito Community Plan and Coastal Land Use Plan. The Project encourages collocation of new facilities on existing infrastructure [Montecito LUDCX Section 35.444.010 (E) (3)]. In fact, all of the nodes will be attached to existing poles in the public Right-of-Way ("ROW"). This ensures that Crown Castle's Project blends into the existing environment and uses the least intrusive means to provide coverage. The Project fills a significant gap in capacity coverage and is consistent with the Comprehensive Plan, Montecito Community Plan, Coastal Land Use Plan and all applicable development standards.

The MPC decision is not consistent with both federal and state law in this matter. In accordance with the Middle Class Tax Relief & Job Creation Act, local agencies must approve collocations. Under State law, Section 7901 of the California Public Utility Code, telephone companies are afforded access to the public right-of-way and local jurisdictions are limited to policing the time, place and manner in which the facility would be constructed. The MPC's decision is not consistent with local, state or federal law.

The Decision of the MPC, and its accompanying Findings of Denial, are not supported by the public record nor by evidence presented for consideration

No evidence exists in the public record, nor was any evidence presented at the hearing that could substantiate the decision of the MPC or its Findings. The Findings of denial issued by MPC cherry pick narrative sentences out of the Staff Report, take them out of content, and attempt to turn the Staff Report's narrative on its head. Good examples of this are included in CUP Findings 2.1.6; 2.2.1; 2.2.2 and 2.3.1. All of these Findings state that the components of the Project, and especially the ground mounted equipment, are "readily visible" to residents and travelers, creating visual blight in addition to the existing utility poles, and therefore not preserving the semi-rural character of the area.

The Staff Report actually goes on to state that because the existing infrastructure in the public ROW is "readily visible" that the proposed Project would blend into the existing utility infrastructure and would match the "utilitarian aesthetics" that exists at these locations. The proposed facilities are low visibility, vaulted, shrouded and painted to camouflage their appearance. The proposed facilities are better than, and definitely not more obtrusive than, existing utility infrastructure in the area.

The Decision of the MPC lacks fairness and impartiality

Several MPC Commissioners expressed the opinion that lacking additional time to review and modify the Project, they were compelled to deny the Project. The Project went before MBAR seven times for detailed design changes, however, the MPC Commission felt justified in requesting that Crown Castle extend the "Shot Clock" a third time. The very purpose of the Federal "Shot Clock" is to prevent local jurisdictions from manipulating applicants by extending the application process endlessly. The MPC was unable to evaluate the Project on its merits and consistency with regulations. Instead, the Project is hostage to the Commission's hard ball tactics of denial, unless the Applicant gives the MPC more time to review and rework the Project. As a result, Crown Castle was denied a fair and impartial hearing.

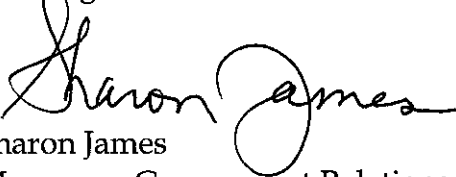
The Decision of the MPC represents an error or abuse of discretion

The MPC decision was made in error and represents an abuse of discretion. From the disregard of MBAR's and Staff's analysis and findings, to the inappropriate conduct of individual commissioners, the MPC abused its discretion in denying Crown Castle's Project. The MPC further abused its discretion by drumming up Findings of denial that purposely distort the actual evidence presented.

For all of the above-mentioned reasons Crown Castle respectfully requests that the BOS overturn the MPC decision and, Approve the Project.

Should you have any questions concerning the content of this letter, please do not hesitate to contact me.

Best Regards,



Sharon James
Manager - Government Relations
695 River Oaks Parkway
San Jose, CA 95134

Cc: Sharon James, Government Relations Counsel, Crown Castle NG West Inc
Joe Milone, Government Relations Director, Crown Castle NG West Inc
Michael Ghizzoni, Office of County Counsel, County of Santa Barbara
Zoraida Abresch, Planner, County of Santa Barbara
Megan Lowery, Development Review, South Division, County of Santa Barbara