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Agenda Date: 2/4/2009

Agenda Placement: 9C

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: John McDowell, Deputy Director - 299-1354
SUBJECT: Telecommunication Ordinance Update P08-00594-ORD

RECOMMENDATION

TELECOMMUNICATION FACILITIES ORDINANCE UPDATE - PROPOSED ORDINANCE P08-00594-ORD

CEQA Status: The project is Categorically Exempt from the provisions of California Environmental Quality Act pursuant to Section 14 CCR 15061(b)(3) - General Rule; Section 15305 - Class 5, Minor Alteration to a Land Use Limitation; and Section 15308 - Class 8, Action by Regulatory Agencies for the Protection of the Environment.

Request: Technical changes to the County Telecommunication Facilities Ordinance to comply with changes to State Law specifically related to simplifying processing requirements for new antennas collocated on existing facilities and eliminating the security deposit for removal of abandoned facilities.

Ordinance Title: *An Ordinance of the Board of Supervisors of the County of Napa, State of California, Amending Sections 18.08.605, 18.119.010, 18.119.015, 18.119.019, and 18.119.230, and Adding a New Section 18.119.215 Relating to Permitting Telecommunication Facilities.*

Staff Recommendation: Recommend adoption of the ordinance to the Board of Supervisors.

Staff Contact: John McDowell 299-1354, jmcdowel@co.napa.ca.us

CONTINUED FROM THE JANUARY 7, 2009 REGULAR MEETING.

EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission recommends to the Board of Supervisors that the proposed ordinance qualifies as a Class 5 Categorical Exemption, Section 15305, minor alterations to a land use limitation.
2. That the Planning Commission recommend to the Board of Supervisors adoption of the proposed ordinance.

Discussion:

As a result of changes to State Law, the County is required to make several minor technical changes to the County's Telecommunication Facilities, Satellite Dishes, and Other Antennas Ordinance found in Chapter 18.119. Changes consist of simplifying the process for new antenna's collocated onto existing antenna arrays; elimination of a security desposit to ensure removal of abandoned facilities; and elimination of a 10-year permit expiration clause.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The project is Categorically Exempt from the provisions of California Environmental Quality Act pursuant to Section 14 CCR 15061(b)(3) - General Rule; Section 15305 - Class 5, Minor Alteration to a Land Use Limitation; and Section 15308 - Class 8, Action by Regulatory Agencies for the Protection of the Environment.

BACKGROUND AND DISCUSSION**Current Ordinance**

Current County Code requires that applications for new wireless telecommunication facilities be acted upon by one of two methods:

- 1) If an application is considered minor and is consistent with a number of stringent environmental and appearance standards set forth in Section 18.119.200, said application can be approved on an administrative basis, subject to adequate public notification of the approval and an appeal period. This is called a "Site Plan Approval."
- 2) For applications that do not qualify for administrative approval, which are typically larger facilities and ridgeline facilities, a Use Permit is required to be approved by the Planning Commission.

The current ordinance, adopted in 1996, also requires that applicants for major telecommunication facilities , including but not limited to antennas greater than 10 feet in height, enter into a Maintenance and Removal Agreement with the County and make a \$4,000 deposit in the event the facility is later abandoned or falls into disrepair. Section 18.119.019 limits life of permits to a period of ten years.

Recent changes in State Law (SB 1627) now require local agencies to approve minor applications that are also considered "co-located sites" through the issuance of a building permit or similar non-discretionary permit. Approval of minor co-located applications through Site Plan Approvals, which is a discretionary approval, is not longer allowed.

The law defines co-located facilities as the placement of a second wireless telecommunication facility on or immediately adjacent to another existing similar facility. The same law also prohibits local agencies from requiring maintenance deposits as conditions of approval. Finally, the new law prohibits establishing a maximum time period on the approval of an wireless facility, as is currently done.

Proposed Ordinance Amendment

The proposed Ordinance Amendment would bring the County's Telecommunication Ordinance into conformity with SB 1627 by:

- 1) Removing the requirement for approval of a Site Plan Approval for minor, collocated wireless facilities. However, future applicants would still be required to meet stringent environmental, health and safety requirements and visual standards that are now imposed by the County.
- 2) Removing the requirement for payment of a maintenance deposits. However, the amendment would require that alternative security be provided to ensure that on-going maintenance continues to be provided.
- 3) Removing the 10-year period for life of telecommunication permits.

Also provided to the Commission is a revised version of the Maintenance/Removal Agreement that will be approved by the Board of Supervisors in conjunction with the proposed Ordinance.

Public Comments

Two interested members of the public discussed the proposed ordinance with staff over the course of the last month. The first was a property owner who has an existing Federally permitted facility who had questions on process and requirements for a private company to collocate on the existing facility. It was determined that the new private antenna would be subject to the requirements of the ordinance.

The second inquiry came from a person who expressed concerns that the current ordinance, and the costs associated with processing land use entitlements, are major impediments to internet service being made available in the rural areas of eastern Napa County. Staff encouraged the commenter to offer suggestions on how the ordinance could be modified. As of the printing of this report, Staff has not heard further from this commenter.

SUPPORTING DOCUMENTS

- A . Proposed Ordinance
- B . Telecommunication Facility Standard Maintenance Agreement

Napa County Planning Commission: Approve
Reviewed By: John McDowell