



**UNAPPROVED
PLANNING COMMISSION
SPECIAL MEETING MINUTES
WEDNESDAY, MAY 27, 2009**

4:00 P.M.
City Hall
130 Cremona Drive, Suite B
Goleta, California

Members of the Planning Commission

*Brent Daniels, Chair
Julie Kessler Solomon, Vice Chair
Doris Kavanagh
Bill Shelor
Jonny Wallis*

*Patricia Miller, Secretary
Tim W. Giles, City Attorney
Linda Gregory, Recording Clerk*

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 4:00 p.m. by Chair Daniels followed by the Pledge of Allegiance.

ROLL CALL OF PLANNING COMMISSION

Present: Planning Commissioners Daniels, Kavanagh, Shelor, and Solomon.
Absent: Commissioner Wallis.

Staff present: Current Planning Manager Patricia Miller, Senior Planner Alan Hanson, Assistant Planner Shine Ling, City Attorney Tim W. Giles, Legal Counsel Jonathan Kramer, and Recording Clerk Linda Gregory.

PUBLIC FORUM

No speakers.

AMENDMENTS OR ADJUSTMENTS TO AGENDA

None.

A. ADMINISTRATIVE AGENDA

A.1 Planning Commission Minutes for the Planning Commission meeting of May 11, 2009.

Recommendation:

- A. Approve the Planning Commission minutes for the Planning Commission meeting of May 11, 2009.

MOTION: Commissioner Kavanagh moved/seconded by Commissioner Shelor, to approve the Planning Commission minutes of May 11, 2009, as submitted.

VOTE: Motion carried by the following voice vote: Ayes: Chair Daniels; Vice Chair Solomon; Commissioners Kavanagh, and Shelor. Absent: Commissioner Wallis. Noes: None.

B. PUBLIC HEARING

B-1. 09-035-OA: Telecommunications Facilities Regulations – Goleta Municipal Code, Chapter 35, Article II (Coastal Zoning Ordinance) and Article III (Inland Zoning Ordinance) Amendments; Citywide.

Recommendation:

- 1. Adopt Planning Commission Resolution No. 09-__ (Attachment 1), entitled “A Resolution of the Planning Commission of the City of Goleta, California, Recommending to the City Council Approval of Amendments to Goleta Municipal Code, Chapter 35, Article II (Coastal Zoning Ordinance) and Article III (Inland Zoning Ordinance) Pertaining to New Telecommunications Facilities Regulations, Case No. 09-035-OA, Applicable Throughout the City of Goleta”.

Staff speakers:

Alan Hanson, Senior Planner
Shine Ling, Assistant Planner
Patricia Miller, Current Planning Manager
Tim Giles, City Attorney
Jonathan Kramer, Legal Counsel

Documents: 1) Memorandum from staff, dated May 27, 2009, Subject: Draft Telecommunication Facilities Ordinances; and 2) Copy of letter submitted dated May 5, 2009, from Gregory W. Sanders of Nossaman LLP, Re: Comments On Proposed Amendments of City of Goleta Municipal Code, Articles II and III – Regulation of Wireless Telecommunications Facilities.

Tim Giles, City Attorney, provided an overview and background information.

Jonathan Kramer, Legal Counsel, discussed technical and legal aspects, and responded to questions.

Alan Hanson, Senior Planner, presented the staff report and PowerPoint.

Shine Ling, Assistant Planner, stated that the proposed regulations implement provisions in Senate Bill 1627.

Patricia Miller, Current Planning Manager, stated that a Memorandum from staff, dated May 27, 2009, Subject: Draft Telecommunication Facilities Ordinances, was distributed that includes amendments to the staff recommendation, for consideration.

Tim Giles, City Attorney, suggested amending the language in Sec. 35-144F.4.3.c to specify that no facility that is substantially visible from a public viewing area shall be installed closer than two miles from another substantially visible facility within the City unless it is an existing co-located facility.

PUBLIC HEARING OPENED AT 4:50 P.M.

Clark Harris, Senior Development Manager, T-Mobile USA, commented on items of concern as follows: 1) Regarding Senate Bill 1627, clarification is requested because their legal counsel believes that project review is every ten years vs. every five years. 2) More clear objective standards and consistency is requested because it appears the ordinance is open to broad interpretation and allows for a lot of discretion from the Director's point of view. 3) Clarification is requested regarding the language "not limited to" with regard to changed circumstances in reviewing existing CUPs. 4) The definition of "service" is requested with regard to justification by the applicant to provide telecommunication facilities. 5) Expressed concern that the ordinance may not allow for some of the best designs; for example, placing a canister on top of a light pole, or placing a cupola on top of an existing building which can integrate the architecture better. Clarification is requested with regard to ensuring that these kinds of architectural elements can be added that could extend above zone district maximum structure height limits. 6) In conclusion, he requested that the telecommunications facilities regulations item be continued for a short time so they can work with staff and have their questions answered. He provided copies of a letter from Nossman LLP, dated May 5, 2009, with concerns, that was submitted previously to the City Attorney, and photographs of examples of wireless facilities.

Barbara Massey, Goleta, strongly supported the proposed telecommunications facilities regulations, stating that it is a great improvement over the current ordinance. She made the following suggestions: 1) Consider expanding the distance of the setback from residential areas. She recommended that the setback should be 500 feet, stating that people throughout the country are concerned that wireless facilities are installed 100 feet from their residences. 2) Consider adding a requirement that all co-location facilities should be full before another location can be established.

Jay Higgins, Santa Barbara, commented as follows: 1) Regarding Sec. 35-144F.3.1.b.1, he suggested that this issue be discussed further by the industry representatives and staff to determine what would be included in the 1.5 volume measurement and what would work. He expressed some concern that the designated volume is arbitrary and may prevent some carriers from utilizing that administrative process in the code. 2) Requested that a provision be added that the requirement in Sec. 35-144F.4.1.b could be waived. For example, if a very small cabinet facility is installed in a discreet location, placing another barrier or fence would add more of a

visual impact than necessary. 3) Regarding Section 35-144F.4.2.d, requested clarification of the term "feasibility" pertaining to the placement of equipment underground, stating that some flexibility is needed. 4) He does not believe that the section pertaining to a project review every five years is consistent with Senate Bill 1627 and requested that the review be conducted every ten years unless there is an obvious violation. 5) Requested further clarification with regard to the requirement for mock-up demonstration of the plans, which he believes is somewhat burdensome. 6) Requested that the requirement that the applicant submit structural plans be delayed until the plan check.

Tricia Knight, Verizon, requested that a study session be set within the next thirty days to allow more feedback from the industry and provide language with more clarification from staff with regard to how and why the numerical standards were chosen.

Patrick Ryan, NextG Networks of California, Inc., provided the following comments: 1) Requested clarification with regard to whether or not the types of facilities that NextG proposes will be subject to ministerial review. 2) Suggested that the definition of co-location include the type of co-location option proposed by NextG, and that a pathway and incentive for ministerial review be provided. 3) Regarding Sec. 35-144F.4.2.a, he expressed concern that the requirement would be cost prohibitive for NextG (regarding the requirement that any new utility line extension longer than 50 feet installed primarily to serve the facility shall be located underground). 4) The actual process of undergrounding facilities would be disruptive to the City streets and residential neighborhoods. 5) Regarding Sec. 35-144F.4.2.d, he suggested that the provision that support facilities shall be located underground, if feasible, should apply to cases where there is a proposal that will not fit on a pole. 6) Many of the comments are questions of interpretation which may not necessarily require an amendment, but a clarification. 7) A letter with additional concerns was submitted previously to the City.

Tim Giles, City Attorney, stated that current timeframe for consideration of the proposed telecommunications facilities regulations includes presenting the Planning Commission recommendation to the City Council on June 16, 2009. He stated that there has been an ongoing dialogue between staff and the industry representatives, and that this opportunity can continue for staff to receive comments which will be evaluated until the staff report is prepared for the City Council.

Patricia Miller, Current Planning Manager, stated that the public hearing comments will be considered by staff.

PUBLIC HEARING CLOSED AT 5:37 P.M.

Staff responded to questions from the Planning Commissioners.

Vice Chair Solomon commented in support of the staff recommendation. She noted that there will be the possibility of making changes to address this fast-moving industry.

Chair Daniels requested that staff respond to the comments from the public hearing.

Jonathan Kramer, Legal Counsel, commented: 1) Sec. 35-144F.5.2 does not offend Senate Bill 1627 with regard to project review, in his legal judgment. 2) With regard to the request for the definition of “service”, there is no FCC requirement that defines the minimum level of capacity, which would be difficult to regulate. This item could be addressed in the future if further guidance is provided. 3) Each industry carrier may have different and varying factors that are the basis of their operations.

Patricia Miller, Current Planning Manager, clarified that there is recommended language that would allow the Director’s discretion with regard to requirements that include Contents of an Application and mock-up presentations.

Alan Hanson, Senior Planner, stated that information with regard to wind load calculations for proposed large structures needs to be known by staff early in the process.

Tim Giles, City Attorney, commented that there are different types of industry carriers that have different access rights to the public right-of-way.

Chair Daniels stated that many of the comments from the public hearing were requests for clarity and questions of interpretation, most of which were discussed by staff. He believes that keeping the ordinance up-to-date with the industry will be an evolving process as the technology continues to move forward.

Commissioner Kavanagh commented that the wireless industry is an industry of the future and it is important to ensure that the technology is available for businesses, the community and individuals.

Prior to voting on the motion, Commissioner Kavanagh encouraged that the comments from the speakers at the public hearing who requested additional time be included with the Planning Commission recommendation to be presented to the City Council.

MOTION: Commissioner Solomon moved/seconded by Commissioner Shelor, to adopt Resolution No. 09-09 (Attachment 1), entitled “A Resolution of the Planning Commission of the City of Goleta, California, Recommending to the City Council Approval of Amendments to Goleta Municipal Code, Chapter 35, Article II (Coastal Zoning Ordinance) and Article III (Inland Zoning Ordinance) Pertaining to New Telecommunications Facilities Regulations, Case No. 09-035-OA, Applicable Throughout the City of Goleta”, as amended by Memorandum from staff dated May 27, 2009, Subject: Draft Telecommunication Facilities Ordinances; and to include the staff recommendation that the language in Sec. 35-144F.4.3.c be amended to specify that no facility that is substantially visible from a public viewing area shall be installed closer than two miles from another substantially visible facility within the City unless it is an existing co-located facility.

VOTE: Motion carried by the following voice vote: Ayes: Chair Daniels; Vice Chair Solomon; Commissioners Kavanagh and Shelor. Absent: Commissioner Wallis. Noes: None.

C. DIRECTOR'S REPORT

Patricia Miller, Current Planning Manager, distributed the Planning Commission – Projection Report revised May 27, 2009. The Housing Element study session will be held at the regular meeting on June 8, 2009. The following items are scheduled for the regular meeting on June 22, 2009: a) Public Hearing on the Taylor Parcel Map Project; and b) Conceptual Review of the Kenwood Village Project. Staff is in the process of scheduling a public hearing date before the City Council to consider an appeal filed by the applicant of the Planning Commission decision to uphold the appeal of Design Review Board Approval of 7837 Langlo Ranch Road.

D. PLANNING COMMISSION COMMENTS

Vice Chair Solomon stated that she will be absent from the regular Planning Commission meeting on June 22, 2009.

E. ADJOURNMENT: 6:20 P.M.