

**CALIFORNIA COASTAL COMMISSION**

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# Th9a

## ADDENDUM

December 8, 2020

TO: California Coastal Commissioners and Interested Public

FROM: South Central Coast District Staff

SUBJECT: **ADDENDUM TO ITEM Th9a, County of Santa Barbara LCP Amendment No. LCP-4-STB-19-0157-1 (2019 General Package) FOR THE COMMISSION MEETING OF THURSDAY, DECEMBER 10, 2020.**

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The purpose of this addendum is to attach and respond to correspondence received from the County of Santa Barbara and to make a minor revision to page 17 of the staff report dated November 19, 2020 in order to correct an inadvertent error. The County submitted a letter dated December 4, 2020 in which County staff states their intention to recommend acceptance of the certification of the Local Coastal Program Amendment (LCPA) with the suggested modifications to the County Board of Supervisors. In addition, the County provides clarification on statements that were made within the findings section of the staff report.

The first clarifying statement is in response to Suggested Modifications 1 and 2 which would restore the public hearing requirement for certain appealable telecommunications projects. As described in the staff report, the required CDP for certain telecommunication facility projects can be approved by the County's Planning Director without a public hearing, unless the facility is in the appeals jurisdiction of the Coastal Commission and a public hearing is requested by a member of the public. In these cases, the County would need to process the application more quickly in order to comply with the federal deadline for County action, to account for the potential need for a public hearing under the LCP if a hearing is requested by a member of the public receiving notice of the County's decision. In their December 4<sup>th</sup> letter, County staff express that they have already streamlined their permitting process and reiterate the difficulty that they will have meeting the federal deadlines set forth in the Spectrum Act if the hearing requirement is maintained. While Commission staff understands the challenge of meeting the federal deadlines imposed by the Spectrum Act, the hearing requirement will only apply to a subset of projects located within the Commission's geographic appeal jurisdiction area and in cases that a noticed recipient requests a public hearing. In addition, Section 13566 of the Commission's regulations requires public participation in the form of at least one public hearing for all appealable CDP's, and Section 30624.9 of the Coastal Act only allows public hearing requirements to be waived for minor development that meets certain requirements after public notice is provided. Section 30624.9 also provides for public participation in the form of a public hearing if a noticed recipient requests a hearing. Therefore, although Commission staff understands the difficulty of holding a hearing within the federal timeframes, only a limited subset of appealable projects will require a hearing and the hearing requirement is necessary to comply with the Coastal Act and the California Code of Regulations.

The second clarification is in regards to Suggested Modification 1 and the permit requirements for certain Spectrum Act telecommunication facility modifications. As described in the staff report, the County proposes to process Spectrum Act facility modification projects through a ministerial Zoning Clearance, rather than a CDP, in order to expedite these projects to meet the federal deadline. However, a Zoning Clearance is not a type of CDP action under the County's LCP and not all qualifying facility modifications projects may be exempt from the requirement to obtain a CDP pursuant to the County's LCP, the Coastal Act, and the Commission's Regulations. Suggested Modification 1 clarifies that a CDP is required for Spectrum Act facility modifications, unless they are determined to be exempt from the requirement to obtain a CDP.

In their December 4<sup>th</sup> letter, County staff indicate that in order to exempt any facility modification projects from obtaining a CDP, Section 35-51B.B.2 of the County's Implementation Plan/Coastal Zoning Ordinance (IP/CZO) would need to be amended in the future to specifically identify which Spectrum Act facility modification projects may be exempt from the requirement to obtain a CDP. Commission staff would note that Section 13253 of the Commission's Regulations exempts certain improvements to existing structures that do not involve a risk of adverse environmental effect, adversely affect public access, or involve a change in intensity of use. Section 35-51B.B.2 of the County's IP/CZO mirrors the language of Section 13253 of the Commission's regulations, but also includes a list of specific improvements to existing structures that may be exempt improvements to an existing structure even when the development is not directly attached to the existing structure, such as detached storage sheds or pergolas that do not exceed 120 sq. ft., for example. Although the Commission does not interpret the specific improvements listed in that section of the County's IP/CZO to be an exhaustive list, to the extent that the County does interpret the list to be exhaustive, Commission staff would welcome a future amendment to clear up any discrepancy between this LCP amendment and the intent of the Commission and County. Commission staff is supportive of the County pursuing a focused IP/CZO amendment in the future to identify certain Tier 1(b) projects as exempt under Section 35-51B.B.2.

Lastly, the County's letter points out an inadvertent error within the findings section of the staff report. On page 17 is an explanation of Suggested Modification 1 that states that certain Tier 1(b) Spectrum Act facility modifications, when determined to be exempt, would require a Zoning Clearance. As pointed out by the County, Suggested Modification 1 would not allow this alternative permit option; rather, this modification simply replaces the County proposed Zoning Clearance requirement with the CDP requirement. The mention of a Zoning Clearance was an inadvertent error to be deleted as shown below.

**The following revision to the first sentence on Page 17 of the staff report is made as follows (language to be inserted is shown underlined and language to be deleted is shown in ~~line-out~~):**

Therefore, to be consistent with the permitting requirements of the LCP and Coastal Act and to adequately protect coastal resources, Suggested Modification 1 is necessary to clarify that a CDP is required for Tier 1(b) Spectrum Act facility modifications, unless determined to be exempt from the requirement to obtain a CDP, in which case, only a Zoning Clearance would be required.



# County of Santa Barbara Planning and Development

**Lisa Plowman, Director**  
Jeff Wilson, Assistant Director  
Steve Mason, Assistant Director

December 4, 2020

California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001-2801

*Sent via email to [SouthCentralCoast@coastal.ca.gov](mailto:SouthCentralCoast@coastal.ca.gov)*

Re: Comments Regarding Suggested Modifications to Santa Barbara County Local Coastal Program Amendment No. LCP-4-STB-19-0157-1 (2019 General Package) [“County’s LCPA”]

Dear Commissioners:

The County of Santa Barbara Planning and Development Department (P&D) reviewed the staff report and suggested modifications for the County’s LCPA. We appreciate the courtesy and opportunity that Coastal Commission staff afforded us by allowing us to review and discuss the suggested modifications to the LCPA, prior to release of the staff report. P&D staff intends to recommend to the County Board of Supervisors (Board) that the Board accept certification of the LCPA with the suggested modifications; however, P&D staff identified the following statements set forth in the staff report that require clarification.

First, the suggested modifications would restore a hearing requirement for certain appealable telecommunications projects (i.e., those deemed appealable due to certain geographic locations). The County proposed to remove the hearing requirement in order to streamline the permit process to comply with new timelines required by federal legislation and rules. Coastal Commission staff states on pages 4 and 18 of the staff report that “County staff will need to process the application more quickly to meet the 60 and 90 day deadlines.” County staff discussed with Coastal Commission staff the difficulty with meeting the 60 and 90 day federal timelines if a hearing is required to approve these small projects. The County has already streamlined administrative practices to process these applications as efficiently as possible; to simply state that County staff will need to process these applications more quickly does not recognize the inherent time constraints associated with bringing a project to hearing and a decision to require a hearing could inhibit the Department’s ability to meet these timelines.

Second, clarification is needed regarding the effect of Suggested Modification 1. Suggested Modification 1 revises the permit requirement for the County-proposed Tier 1(b) projects from a

Zoning Clearance to a Coastal Development Permit (CDP). As discussed in the staff report, the County proposed a ministerial Zoning Clearance as Tier 1(b) projects consist of minor additions to existing, permitted facilities, or replacement or removal of equipment. Additions or replacements would be limited in size and scope based on the requirements of the Spectrum Act. Page 16 of the staff report states that it is likely that many Tier 1(b) projects would qualify for an exemption but that some may not. Page 17 of the staff report states:

***Suggested Modification 1** is necessary to clarify that a CDP is required for Tier 1(b) Spectrum Act facility modifications, unless determined to be exempt from the requirement to obtain a CDP, in which case, only a Zoning Clearance would be required.*

The staff report suggests that this modification would allow the County to exempt some Tier 1(b) projects and approve them with a Zoning Clearance, while requiring a CDP for non-exempt Tier (b) projects. However, Suggested Modification 1 would not allow this alternative permit option; rather, this modification simply replaces the County proposed Zoning Clearance requirement with the CDP requirement. Furthermore, to exempt these projects (with or without the requirement of a Zoning Clearance), the County Coastal Zoning Ordinance would need to be amended to identify some Tier 1(b) projects as exempt under Subsection 35-51B.B.2.

The County will continue to explore alternatives to expedite processing telecommunication projects within the Coastal Zone in order to comply with federal mandates and will discuss options with Coastal Commission staff in the future. Thank you for your consideration of these comments on the suggested modifications. If you have any questions regarding this letter, please contact Julie Harris of my staff at (805) 568-3543.

Sincerely,



Lisa Plowman  
Director, Planning and Development Department

cc: Jeff Wilson, Assistant Director, Planning and Development Department  
Daniel T. Klemann, Deputy Director, Planning and Development Department

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# Th9a

**Date:** November 19, 2020

**To:** Commissioners and Interested Persons

**From:** Steve Hudson, District Director  
Barbara Carey, District Manager  
Deanna Christensen, District Supervisor  
Joy Lester, Coastal Program Analyst

**Subject:** **County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-19-0157-1 (2019 General Package) for December 10, 2020 Commission Meeting**

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## SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, reject proposed Santa Barbara County LCP Amendment No. LCP-4-STB-19-0157-1, as submitted, and approve the amendment only if modified pursuant to two suggested modifications. The suggested modifications are necessary to ensure that the proposed Implementation Plan/Coastal Zoning Ordinance (IP/CZO) amendment is consistent with and adequate to carry out the policies of the County's certified Land Use Plan (LUP). The motions and resolutions for Commission action can be found starting on **page 7**. The recommended suggested modifications language can be found in **Exhibit 1**.

The proposed amendment includes a number of changes to clean up different parts of the existing IP/CZO; however, the primary component of the amendment request involves modifying the processing and permitting requirements for certain types of commercial telecommunication facilities. The amendment is designed to make the LCP consistent with recent federal legislation (Middle Class Tax Relief and Job Creation Act of 2012, otherwise known as the Spectrum Act, 47 U.S.C. § 1455) and its associated implementing regulations (47 C.F.R. Sections 1.6001–1.6100). This staff report will refer to both collectively as the "Spectrum Act". The Spectrum Act includes provisions to restrict local governments from imposing a discretionary permitting process for certain modifications to existing telecommunication facilities that do not substantially change the physical dimensions of an existing wireless tower or base station and that involve co-location of new transmission equipment, or the removal or replacement of transmission equipment. The amendment also includes permit procedure changes related to small wireless facilities to ensure consistency with the Spectrum Act's limits on a local jurisdiction's ability to regulate the deployment of "small wireless facilities" and reduces the time period (or "shot clock") that a local government has to take action on permit applications for such facilities. This shot clock is 60 days for collocated small

wireless facilities and 90 days for locating small wireless facilities on new structures.

The Commercial Telecommunications section of the existing IP/CZO (Section 35-144F) currently divides telecommunications facilities into four categories or “tiers.” Tier 1 projects, which are non-exempt temporary facilities and hub sites that are located within an existing building and do not require new construction, are required to obtain Coastal Development Permits (CDPs) that can be approved by the Planning Director without a public hearing in some cases (unless the facility is in the appeals jurisdiction of the Coastal Commission and a public hearing is not waived or is requested). Tier 2 projects consist of certain very small facilities, tenant improvements, and collocated facilities and are required to obtain a Development Plan (a discretionary permit) in addition to a CDP. These may be approved by the Director without a public hearing in some cases, unless a public hearing is requested, in which case a noticed public hearing would be held before the Zoning Administrator or the Planning Commission. Tier 3 and Tier 4 projects consist of the larger and more complex telecommunication projects that require a Conditional Use Permit (CUP) in addition to a CDP that must be approved by the Zoning Administrator or the Planning Commission in a noticed public hearing.

The primary issues raised by the amendment request relate to the proposed changes to the CDP and public hearing procedures for certain Tier 1 and Tier 2 commercial telecommunication projects designed to expedite these projects to meet the federal deadlines discussed above. The proposed amendment would add a new Tier 1 project category (1(b)) to the tiered permitting structure of IP/CZO Section 35-144F for commercial telecommunication facilities to allow for modifications to an existing eligible wireless telecommunication facility with a ministerial Zoning Clearance action. As provided in the Spectrum Act and proposed in this amendment, an eligible facility request can only modify an existing wireless facility that has already been permitted by the County for such use, and that involves either the collocation of new transmission equipment or the removal or replacement of transmission equipment, as long as the proposed modifications would not “substantially change” the physical dimensions of the existing wireless tower or base station, as defined by the Spectrum Act. Federal law requires local governments to approve eligible Spectrum Act facility modifications within 60 days of application submittal. To meet this deadline, the County proposes to process these Tier 1(b) Spectrum Act facility modification projects through a ministerial Zoning Clearance, rather than a CDP, in order to expedite these projects to meet the federal deadline. However, a Zoning Clearance is not a type of CDP action under the County’s IP/CZO and not all facility modifications that qualify as Tier 1(b) projects may be exempt from the requirement to obtain a CDP pursuant to the County’s certified IP/CZO, the Coastal Act, and the Commission’s Regulations. Section 35-51B of the County’s IP/CZO and Section 13253 of the Commission’s Regulations identify the classes of development associated with improvements to existing structures that require a CDP because they involve a risk of adverse environmental effect.

Facility modifications that involve collocation of new transmission equipment or the removal or replacement of transmission equipment in certain locations can have the potential to result in impacts to coastal resources. The modifications can impact public views of the coast and the ocean, or if located within or immediately adjacent to environmentally sensitive habitat areas (ESHA), can result in both direct and/or indirect impacts to surrounding habitat and wildlife, such as creating a predator perch, shadow

effects, or noise disturbance. Projects that involve a risk of such impacts require approval of a CDP because it is through the review and approval of a CDP that the policies of the certified LCP are invoked, impacts are assessed, project alternatives are considered, and mitigation measures are incorporated. Without this process, adequate coastal resource protection cannot be assured. Therefore, to be consistent with the permitting requirements of the LCP and Coastal Act, and to adequately protect coastal resources, Staff is recommending Suggested Modification 1 to clarify that a CDP is required for Tier 1(b) Spectrum Act facility modifications, unless they are determined to be exempt from the requirement to obtain a CDP. When a CDP is required for eligible Tier 1(b) projects, it can be approved by the Director without a public hearing, unless the facility is in the appeals jurisdiction of the Coastal Commission and a public hearing is not waived by County staff or a hearing is requested by a member of the public. In cases where a facility modification is proposed within the appeals jurisdiction of the Coastal Commission, the County would need to process the application more quickly in order to comply with the 60-day deadline for County action under federal law and to account for the potential need for a public hearing under the LCP if a hearing is requested by a member of the public receiving notice of the County's decision to waive the hearing requirement ("noticed recipient").

The proposed amendment also includes expanding the scope of telecommunication facilities that may be processed as Tier 2(a) projects through a Director-approved Development Plan and CDP. Instead of Tier 2(a) projects being limited to "very small facilities" in non-residential zones only, the proposed amendment would allow slightly larger "small wireless facilities" in all zones, including residential zones, subject to size limitations and additional standards as defined by the FCC Order. Currently, for all wireless facilities proposed within residential zones, no matter how small the facility, they are classified as Tier 4 projects that require a major CUP and CDP with a public hearing before the County or the Montecito Planning Commission. The proposed amendment would serve to streamline the permit process for small wireless facilities in order to comply with the requirements of the FCC Order. Although the proposed amendment includes size limitations regarding what facilities may be processed as a Tier 2(a) project, instead of a Tier 3 or 4 project, the maximum allowable height for any antennas and associated support structures for such facilities would not change, and the requirement for a CDP would not change. The only difference is in how the permit is processed and the hearing requirement.

The proposed amendment would also revise the public hearing requirement for all eligible Tier 2 projects (small wireless facilities, tenant improvements, and collocated facilities) to remove the ability for a noticed recipient to request a public hearing. As such, the proposed amendment would allow Director-level approval of the CDP and Development Plan for Tier 2 projects without an opportunity for public hearing upon request. However, Section 13566 of the Commission's regulations requires public participation in the form of at least one public hearing for all appealable CDP's, and Section 30624.9 of the Coastal Act only allows public hearing requirements to be waived for minor development that meets certain requirements after public notice is provided. Section 30624.9 also provides for public participation in the form of a public hearing if a noticed recipient requests a hearing. To comply with the public hearing mandate of the Coastal Act for CDP's, Staff is recommending Suggested Modifications

1 and 2 to restore the public hearing requirement and noticing language for Tier 2 project applications that is proposed to be deleted from Subsection B of Section 35-144F (Commercial Telecommunications Facilities) and Section 35-181.8 (Contents of Notice) of the County's IP/CZO. These sections provide that the Director shall act as the decision-maker on a Development Plan and CDP for Tier 2 projects, unless a public hearing is requested. Public notice of a Director-level decision must be mailed 10 days prior to the Director's decision, and if a public hearing is requested during that time, the Director will not take an action on the project and the project will be heard by the Zoning Administrator or the Planning Commission in a noticed public hearing. Suggested Modifications 1 and 2 also clarify that this hearing provision is only applicable to facilities that are appealable to the Coastal Commission since the Coastal Act requires at least one public hearing to be held for appealable development if one is requested. In cases where a Tier 2 facility is proposed within the appeals jurisdiction of the Coastal Commission, the County would need to process the application more quickly in order to comply with the 60 and 90 day deadlines for County action under federal law and to account for the potential need for a public hearing under the LCP if a hearing is requested by a noticed recipient. The suggested modifications were developed in cooperation with County staff.

For the reasons described in this report, Staff recommends that the Commission find the proposed IP/CZO amendment, only if modified as suggested, consistent with and adequate to carry out the policies of the County's certified LUP and related Coastal Act requirements.



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### **EXHIBITS**

[Exhibit 1 - Suggested Modifications to the Proposed Coastal Zoning Ordinance Amendment](#)

[Exhibit 2 – County of Santa Barbara Ordinance No. 5095 - Proposed Amendment Text](#)

## **I. PROCEDURAL OVERVIEW**

### **A. Standard of Review**

The Coastal Act provides:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...*

*...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)*

*The Commission may suggest modifications... (Section 30513)*

The standard of review for the proposed amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of the County of Santa Barbara's certified Local Coastal Program (LCP), pursuant to Sections 30513 and 30514 ("proposed amendments to a certified [LCP] shall be submitted to, and processed by, the commission in accordance with the applicable procedures ... specified in Sections 30512 and 30513...") of the Coastal Act, is that the Commission must approve it unless the proposed IP/CZO amendment is not in conformance with, or is inadequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified County of Santa Barbara LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County of Santa Barbara LUP as guiding policies pursuant to Policy 1-1 of the LUP.

### **B. Procedural Requirements**

If the Commission certifies the LCP amendment as submitted, no further Board of Supervisors action will be necessary pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the Board of Supervisors, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the Board of Supervisors may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the Board of Supervisors' acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at a subsequent Commission meeting if

the Commission concurs with the Executive Director's Determination that the Board of Supervisors' action in accepting the suggested modifications approved by the Commission for this LCP Amendment is legally adequate. If the Board of Supervisors does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

### **C. Public Participation**

Section 30503 of the Coastal Act requires the provision of maximum opportunities for public input in preparation, approval, certification and amendment of any LCP. The County held a series of public hearings regarding the amendment. The hearings were noticed to the public consistent with Section 13515 of Title 14 of the California Code of Regulations. Notice of the Commission's consideration of the subject amendment has been distributed to all known interested parties.

## **II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS FOR THE IMPLEMENTATION PLAN AMENDMENT**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

### **A. Denial of the Implementation Plan Amendment As Submitted**

#### MOTION I:

**I move that the Commission reject County of Santa Barbara Implementation Plan Amendment No. LCP-4-STB-19-0157-1 as submitted.**

#### STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan Amendment No. LCP-4-STB-19-0157-1 and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

#### RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED:

The Commission hereby **denies** certification of the County of Santa Barbara's Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-STB-19-0157-1, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan Amendment, as submitted, does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen

the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.

## **B. Certification of the Implementation Plan Amendment with Suggested Modifications**

### MOTION II:

**I move that the Commission certify County of Santa Barbara Implementation Plan Amendment No. LCP-4-STB-19-0157-1 if it is modified as suggested in this staff report.**

### STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a **YES** vote. Passage of this motion will result in certification of Implementation Plan Amendment No. LCP-4-STB-19-0157-1 with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby **certifies** the County of Santa Barbara Implementation Plan Amendment No. LCP-4-STB-19-0157-1, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Ordinance Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

## **III. FINDINGS FOR DENIAL, AS SUBMITTED, AND APPROVAL OF THE AMENDMENT, AS SUGGESTED TO BE MODIFIED**

The following findings support the Commission's denial of the proposed Implementation Plan/Coastal Zoning Ordinance (IP/CZO) Amendment as submitted, and approval of the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) Amendment if modified as indicated in **Exhibit 1 (Suggested Modifications)** of this staff report. The Commission hereby finds and declares as follows:

### **A. Amendment Description and Background**

The County of Santa Barbara is requesting an amendment to the IP/CZO portion of its certified Local Coastal Program (LCP) to implement new regulations and revisions

regarding commercial telecommunications facilities, recordable documents, time extensions, and to make other minor corrections and revisions. The full text of the County's proposed changes to the IP/CZO are included as Exhibit 2 of this report, and are summarized below:

### **Commercial Telecommunications Facilities**

The proposed amendment would modify processing and permitting requirements for certain types of commercial telecommunication facilities. The amendment is designed to be consistent with recent federal legislation (Middle Class Tax Relief and Job Creation Act of 2012, otherwise known as the Spectrum Act, 47 U.S.C. § 1455) which includes provisions to restrict local governments from imposing a discretionary permit process for certain modifications to existing telecommunication facilities that do not substantially change the physical dimensions of an existing wireless tower or base station and that involve co-location of new transmission equipment, or the removal or replacement of transmission equipment. The amendment also includes permit procedure changes related to small wireless facilities to ensure consistency with a new Federal Communications Commission Order. On September 26, 2018, the FCC adopted the Declaratory Ruling and Third Report and Order 18-133 (FCC Order) and promulgated 47 C.F.R. Sections 1.6001–1.6100 in order to implement the above legislation. For the purposes of this report, the Spectrum Act and its implementing regulations will be referred to collectively as the "Spectrum Act." The Spectrum Act limits a local jurisdiction's ability to regulate the deployment of "small wireless facilities." It establishes new standards for permit fees and aesthetic requirements for small wireless facilities, and reduces the time period (or "shot clock") that a local government has to take action on permit applications for such facilities—60 days for collocated small wireless facilities and 90 days for locating small wireless facilities on new structures.

The Commercial Telecommunications section of the existing IP/CZO (Section 35-144F) currently divides telecommunications facilities into four categories or "tiers." Tier 1 projects, which are non-exempt temporary facilities and hub sites that are located within an existing building and do not require new construction, are required to obtain Coastal Development Permits (CDPs) that can be approved by the Planning Director without a public hearing in some cases (unless the facility is in the appeals jurisdiction of the Coastal Commission and a public hearing is not waived by the County or a hearing is requested by a member of the public). Tier 2 projects consist of certain very small facilities, tenant improvements, and collocated facilities and are required to obtain a Development Plan (a discretionary permit) in addition to a CDP that may be approved by the Planning Director without a public hearing in some cases (unless a public hearing is requested). Public notice of a Director-level decision must be mailed 10 days prior to the Director's decision, and if a public hearing is requested during that time, the Director will not take an action on the project and the project will be heard by the Zoning Administrator or the Planning Commission in a noticed public hearing. Tier 3 and Tier 4 projects consist of larger and more complex telecommunication projects that require a Conditional Use Permit (CUP) in addition to a CDP that must be approved by the Zoning Administrator or the Planning Commission in a noticed public hearing.

*Proposed Tier 1 Permit Structure Changes*

Under the proposed amendment, a new subsection would be added to the tiered permitting structure of Section 35-144F for commercial telecommunication facilities. Tier 1 projects consist of the most basic project types that generally have little potential for environmental impacts, and are permitted through a Coastal Development Permit (CDP) only. With this amendment, a new Tier 1 project category would be added to allow for modifications to an existing eligible wireless telecommunication facility with to be approved with only a ministerial Zoning Clearance, in compliance with the Spectrum Act. As provided in the Spectrum Act and proposed in this amendment, an eligible facility request can only modify an existing wireless facility (i.e. a structure built for the sole purpose of supporting FCC-licensed antennas and associated facilities, or a base station) that has already been permitted by the County for such use (i.e. permitted by a Development Plan, Minor Conditional Use Permit (CUP), or Major CUP, along with a concurrent CDP), and that involves either the collocation of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment. Such modifications would not qualify as a Tier 1 project with a ministerial Zoning Clearance if the proposed modifications would substantially change the physical dimensions of the existing wireless tower or base station, as defined by the Spectrum Act. The addition of the new permit tier would allow for any modifications that would not substantially change the dimensions of the facility to be processed through a Zoning Clearance, as they would substantially conform to the existing CDP, and Development Plan, Minor CUP, or Major CUP.

*Proposed Tier 2 Permit Structure Changes*

The proposed amendment also includes two changes to the Tier 2 project permit structure. Currently, Tier 2 projects consist of smaller types of facilities located in any zone except residential, and are permitted with a Development Plan and concurrent CDP approved by the County's Planning Director. The first change for this tier is to the size and scope of Tier 2(a) projects from their current designation of "very small facilities" (antennas and associated above ground equipment of not more than a combined volume of one cubic foot), to include slightly larger "small wireless facilities" with size limitations and additional standards defined by 47 C.F.R. § 1.6002(l) (antennas no more than three cubic feet in volume and associated equipment no more than 28 cubic feet in volume). The amended Tier 2(a) includes two standards carried over from "very small facilities"; new objective standards regarding colors and materials, and a new requirement for architectural integration if an antenna were to be mounted on the façade of a building. The permit requirement would continue to be a Director-approved Development Plan with a concurrent CDP. The second change to the Tier 2 permit structure would allow Tier 2(a) small wireless facilities to be permitted in all zones, including residential. Currently, for all wireless facilities proposed within residential zones, no matter how small the facility, they are permitted under Tier 4 and require a major CUP and CDP, which requires a public hearing before the County or the Montecito Planning Commission. These proposed changes would serve to streamline the permit process for small wireless facilities in order to comply with the requirements of the Spectrum Act.

*Proposed Public Hearing and Noticing Requirement Changes for Tier 2 Projects*

As mentioned previously, one of the main purposes of this amendment is to modify permit procedures to allow the County to comply with the deadlines imposed by the Spectrum Act. Currently, the required CDP and Development Plan for Tier 2 facility projects may be acted upon by the Director and do not mandate a public hearing unless a public hearing is requested. A notice of a pending decision must be mailed ten days prior to the Director's decision and include a statement that the person to whom the notice was mailed may request a public hearing. If a public hearing is requested during the ten day noticing period, the Director will not take an action on the project and the project will be heard by the Zoning Administrator or the Planning Commission in a noticed public hearing. The County has stated that the current hearing process does not provide adequate time for the County to process Tier 2 telecommunication facility projects within the 60 or 90 day timelines required by the FCC Order; thus, the amendment also proposes to revise the Tier 2 permit requirements to remove the option for a noticed recipient to request a public hearing for Tier 2 facility projects. The County asserts that holding a public hearing upon request would not be feasible within the 60 or 90 day deadlines for action that are mandated by the federal regulations. As such, the proposed amendment would allow a Director-level approval of the CDP and Development Plan for Tier 2 projects without an opportunity for public hearing upon request. However, all other noticing requirements and the ability to appeal a Director's decision would remain unchanged.

*Proposed Changes to Required Findings for Telecommunication Projects*

In order to bring the telecommunication facility regulations of IP/CZO Section 35-144F into accordance with the Spectrum Act, the amendment proposes to remove the "significant gap" and "least intrusive means" findings from the required findings to approve a telecommunications facility. Currently, the LCP requires applicants to demonstrate, and decision makers to find, that (1) the approval of a wireless facility in a certain location is necessary to provide coverage for an area that would not otherwise be served by the carrier proposing the facility, and (2) the applicant has demonstrated that the proposed facility design and location are the least intrusive means feasible of filling that gap in coverage or capacity. These findings were adopted on the bases of the test applied by the 9th Circuit Court of Appeal in *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 995-99 (9th Cir. 2009) to determine if a local regulation prohibits, or has the effect of prohibiting, personal wireless service under the Telecommunications Acts of 1996. In implementing these regulations, the FCC rejected the use of the 9th Circuit's "significant gap/least intrusive means" test, and instead reaffirmed the test set forth in the FCC's *California Payphone* decision (*California Payphone Ass'n*, 12 FCC Rcd 14191 (1997)), which determined that a local regulation must "materially limit or inhibit the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment" in order to constitute an "effective prohibition." Therefore, the amendment deletes the "significant gap" and "least intrusive means" findings from Section 35-144F of the IP/CZO in order to bring it into conformance with the 2018 FCC Order.

### **Recordable Documents**

Another component of the proposed amendment request is to add a new Recordable Documents section (Section 35-179D) to the IP/CZO to authorize the recordation of certain documents with the Santa Barbara County Clerk-Recorder to ensure consistency with state law. California Government Code Section 27201(a)(1)(A) allows the County Clerk-Recorder to record documents authorized by local ordinance and this law is the basis for the County to record certain Notices to Property Owners (NTPO) that are not otherwise statutorily authorized. The County, through mitigation measures and conditions of approval on permits, currently requires the recordation of a variety of documents, including NTPOs. Some of these documents are statutorily authorized while others are not, nor are they authorized by a local ordinance. This inconsistency with state law has led to complications when a property owner attempts to record a document in compliance with permit conditions of approval and the County Clerk-Recorder determines that the documents can't be recorded because it is not authorized by statute or local ordinance. The proposed amendment would add a new section (Section 35-179D) to the IP/CZO, which authorizes the recordation of NTPOs and other documents (such as notices and agreements) when required pursuant to permit conditions of approval. The amendment also identifies uses for which permit conditions of approval typically require the recordation of said documents.

### **Time Extensions Due to Economic Hardship**

As part of the subject amendment request, an expired provision regarding time extensions due to economic hardship will be deleted from the IP/CZO. Following the economic downturn of the late 2000s, a new provision (Section 35-179B.D.8) was added to the IP/CZO, which allowed the Director to extend the expiration of a planning permit or entitlement for an additional 24-month period, provided the Director determined it was necessary due to an economic hardship. Included within the provision of Section 35-179B.D.8 was the stipulation that the subsection "shall expire, and be of no further force or effect, on January 12, 2015, unless extended by ordinance". The subject amendment proposes to delete these provisions, as they were not extended by ordinance and have not been in effect since January 12, 2015.

### **Floor Below Grade Adjustment Figures**

The LCP amendment also includes a change to Section 35-191 (Summerland Community Plan Overlay) of the certified IP/CZO which currently includes Figures 13-1, 13-2, and 13-3 that illustrate the calculation of the floor below grade adjustment. This adjustment is used to determine the amount of floor area of a "floor below grade" (a basement or other floor of living space that is wholly or partially located below the existing grade of the project site) that must be included in the total floor area of a residence for the purpose of conforming to the maximum total floor area standard in the Summerland Community Plan area of the County. The amendment includes minor revisions to these figures to provide a clearer and more illustrative example of the floor below grade adjustment. The proposed changes would also renumber and title the figures as Figure 13-1. The methodology to calculate the floor area would not change.



## **Other Minor Changes**

The proposed amendment also includes other minor changes, such as amending Section 35-58 (Definitions) of the IP/CZO to add a new definition (“Telecommunication Facility, Base Station”) to comply with federal telecommunication regulations, and to reorder and renumber Division 15 (Montecito Community Plan Overlay District), Division 16 (Toro Canyon Plan Overlay District), and Division 18 (Gaviota Coast Plan Overlay) of the IP/CZO to Division 15 (Toro Canyon Plan Overlay District), Division 16 (Montecito Community Plan Overlay District), and Division 17 (Gaviota Coast Plan Overlay). No other text changes are proposed within any of these Divisions. All corresponding references to those Divisions in the LCP would be corrected.

## **B. Background Federal Preemption**

A primary component of the subject LCP amendment includes changes to the regulation of wireless service facilities that are also regulated by federal law. The proposed amendment was necessitated by changes in federal law enacted prior to the submission of this LCP amendment and which affect the County’s ability to process commercial telecommunications projects in a timely manner. With this understanding, the consideration of this LCP amendment must take into account changes in federal law, as further discussed below.

The Federal Telecommunications Act of 1996 (the Telecommunications Act) established federal regulatory authority over the deployment of personal wireless telecommunications facilities across the nation. The Telecommunications Act preserved local zoning authority over the placement, construction, and modification of personal wireless service facilities. That local authority is subject to several limitations, including that local regulation must not “prohibit or have the effect of prohibiting” the provision of personal wireless services, and local governments must act on applications to deploy personal wireless facilities “within a reasonable period of time”. In 1997, the County adopted a tiered permitting structure in order to comply with the new regulations. In 2011, the County amended the tiered permitting structure to increase public hearings for certain projects, increase public noticing, and establish requirements and findings regarding the existence of a gap in coverage or capacity and alternative siting (least intrusive means analysis).

In November of 2009, the FCC adopted and released a Declaratory Ruling concerning provisions in 47 U.S.C. Sections 253 (Removal of Barriers to Entry) and 332(c)(7), regarding state and local review of wireless facility siting options and interpreting the requirement that local governments act on applications “within a reasonable period of time”. This Declaratory Ruling provided direction that affected the County’s processing requirements. The FCC found that a “reasonable period of time” was presumptively 90 days for collocated facilities applications and 150 days for all other applications. If state or local governments do not act upon applications within those timeframes, then a personal wireless service provider may claim that a prohibited “failure to act” under 47 U.S.C. Section 332(c)(7) has occurred and personal wireless service providers may seek redress in court within 30 days, as provided in 47 U.S.C. Section 332(c)(7)(B)(v). The state or local government would have the opportunity to rebut the presumption of

reasonableness. In addition, under California Government Code Section 65964.1, an application for a personal wireless facility may be deemed approved if the County does not take action on the application in accordance with the time periods and procedures established by the FCC. The federal government has since enacted a new law and promulgated new regulations that affect the County's review of wireless telecommunications facilities, which have required the County to amend the zoning ordinance to comply with these regulations. The Spectrum Act required that local governments ministerially approve an "eligible facilities request" for a modification of an "existing wireless tower or base station" that does not "substantially change the physical dimensions" of that facility. The Spectrum Act also established new timeframes (known as "shot clocks") for these applications, requiring the County to approve the modification requests within 60 days of application submittal. The Spectrum Act did not modify the original shot clocks for other collocated facilities applications (90 days) and applications for facilities that are not collocated (150 days).

Additionally, on September 16, 2018, the FCC adopted the Declaratory Ruling and Third Report and Order 18-133 (FCC Order). The FCC Order limits a local jurisdiction's ability to regulate the deployment of "small wireless facilities", and establishes new standards for permit fees and aesthetic requirements for small wireless facilities. The Order also reduces the shot clocks to 60 days for collocated small wireless facilities and 90 days for small wireless facilities located on new structures. The goal of the new FCC Order is to ensure that the deployment of small wireless facilities is not materially impeded by local government regulations. According to the County, the proposed amendment modifies permit processing procedures to comply with the recent FCC Order regarding shorter processing time requirements, through revisions to the tiered permitting structure and to the contents of notice. As described further below, the suggested modifications would change the processing requirements to conform with the coastal development permit public hearing requirements of the Coastal Act while also allowing compliance with the shorter processing timelines required by the FCC Order.

## **C. Consistency Analysis**

The standard of review for the proposed amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) of the certified Local Coastal Program (LCP), pursuant to Section 30513 and 30514 of the Coastal Act, is whether the IP/CZO, with the proposed amendment, would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of Santa Barbara County's certified LCP. The proposed amendment's consistency with the certified LUP is detailed below.

### **Commercial Telecommunication Facilities**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Section 30250(a) of the Coastal Act states:

**New residential, commercial, or industrial development, except as**

**otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.**

In order to ensure that new development is sited in areas able to accommodate it and where it will not have significant cumulative impacts on coastal resources, as required by Section 30250 of the Coastal Act (incorporated by reference into the certified LUP), the siting and design of new development must adhere to the requirements of other applicable policies of the certified LUP. Such policies include but are not limited to, policies and provisions regarding coastal protection and the protection of agricultural productivity, bluff top development, environmentally sensitive habitat areas, public access, visual resources, and shoreline processes and development.

The County's LUP does not contain details about CDP processing and procedures, as those details are addressed in the IP/CZO. The LUP does, however, provide policies and provisions to protect coastal resources, and the processing of CDPs is one of the key means of implementing these protection policies. Since the proposed amendment modifies the processing provisions of CDPs related to commercial telecommunication facilities, those portions of the amendment must also be reviewed for consistency with the relevant permit processing requirements of the Coastal Act and the Commission's Regulations.

The proposed amendment would add a new Tier 1 project category, Tier 1(b), to the tiered permitting structure of IP/CZO Section 35-144F for commercial telecommunication facilities. This new category would allow for modifications to an existing eligible wireless telecommunication facility without a CDP and with only a ministerial Zoning Clearance, in an attempt to comply with the Spectrum Act. As provided in the Spectrum Act and proposed in this amendment, an eligible facility request can only modify an existing wireless facility (i.e. a structure built for the sole purpose of supporting FCC-licensed antennas and associated facilities, or a base station) that has already been permitted by the County for such use (i.e. permitted by a Development Plan, Minor Conditional Use Permit (CUP), or Major CUP, along with a concurrent CDP), and that involves either the collocation of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment.

Such modifications would not be allowed to be processed as a Tier 1(b) project (i.e. with just a ministerial Zoning Clearance) if the proposed modifications would "substantially change" the physical dimensions of the existing wireless tower or base station, as defined by the Spectrum Act (47 C.F.R. § 1.6100). For wireless towers located within a public right-of-way or base station, a substantial change would exist if (1) the

modification increases the height of the structure by more than 10 percent, or by more than 10 feet, whichever is greater, or (2) the modification adds an appurtenance to the body of the structure by more than six feet, or (3) the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or (4) the modification involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure. 47 C.F.R. § 1.6100(b)(7)(i). For wireless towers not located within the public right-of-way, a substantial change would exist if (1) the modification increases the height of the structure by more than 10 percent, or by the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet, whichever is greater, or (2) the modification adds an appurtenance to the body of the tower by more than twenty feet, or by more than the width of the tower structure at the level of the appurtenance, whichever is greater. 47 C.F.R. § 1.6100(b)(7)(ii).

When proposed modifications to an existing wireless tower or base station do not exceed the physical dimensions identified above, federal law requires local governments to approve or deny<sup>1</sup> the modifications within 60 days of application submittal. The County proposes to process these Tier 1(b) Spectrum Act facility modification projects through a ministerial Zoning Clearance, rather than a CDP, in order to expedite these projects to meet the federal deadline. However, a Zoning Clearance is not a type of CDP action under the County's IP/CZO and not all facility modifications that qualify as Tier 1(b) projects may be exempt from the requirement to obtain a CDP pursuant to the permit exemptions identified in the County's certified IP/CZO as well as in Section 30610 of the Coastal Act and further specified in Chapter 6 of the Commission's regulations. Section 35-51B of the County's IP/CZO and Section 13253 of the Commission's regulations identify the classes of development associated with improvements to existing structures that require a CDP because they involve a risk of adverse environmental effect.

While it is likely that many projects that fall under the guidelines of 47 C.F.R. § 1.6100(b)(7)(i)-(ii) will also qualify for an exemption, some may not. Facility modifications that involve collocation of new transmission equipment or the removal or replacement of transmission equipment in certain locations can have the potential to result in impacts to coastal resources. The modifications can impact public views of the coast and the ocean, or if located within or immediately adjacent to environmentally sensitive habitat areas (ESHA), can result in direct and/or indirect impacts to surrounding habitat and wildlife, such as creating a predator perch, shadow effects or noise disturbance. Projects that involve a risk of such impacts require approval of a CDP because it is through the review and approval of a CDP that the policies of the certified LCP are invoked, impacts are assessed, project alternatives are considered, and mitigation measures are incorporated. Without this process, adequate coastal resource protection cannot be assured.

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<sup>1</sup> 47 C.F.R. § 1.6100(c) says, "A State or local government may not deny and shall approve any eligible facilities request" and Subsection (c)(4) says, "In the event the reviewing State or local government fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted."

Therefore, to be consistent with the permitting requirements of the LCP and Coastal Act and to adequately protect coastal resources, **Suggested Modification 1** is necessary to clarify that a CDP is required for Tier 1(b) Spectrum Act facility modifications, unless determined to be exempt from the requirement to obtain a CDP, in which case, only a Zoning Clearance would be required. When a CDP is required for eligible Tier 1(b) projects, it can be approved by the Director without a public hearing, unless the facility is in the appeals jurisdiction of the Coastal Commission and a public hearing is not waived by the county or a hearing is not requested by a member of the public. In cases where a facility modification is proposed within the appeals jurisdiction of the Coastal Commission, the County would need to process the application more quickly in order to comply with the 60 day deadline for County action under federal law and to account for the potential need for a public hearing under the LCP if a hearing is requested by a noticed recipient.

The proposed amendment also includes expanding the scope of telecommunication facilities that may be processed as Tier 2(a) projects through a Director-approved Development Plan and CDP. Instead of Tier 2(a) projects being limited to “very small facilities” in non-residential zones only, the proposed amendment would allow slightly larger “small wireless facilities” in all zones, including residential zones, subject to size limitations and additional standards as defined by the Spectrum Act. Currently, all wireless facilities proposed within residential zones, no matter how small the facility, are permitted as Tier 4 projects that require a major CUP and CDP with a public hearing before the County or the Montecito Planning Commission. The proposed amendment would serve to streamline the permit process for small wireless facilities in order to comply with the requirements of the Spectrum Act. Although the proposed amendment includes size limitations regarding what facilities may be processed as a Tier 2(a) project, instead of a Tier 3 or 4 project, the maximum allowable height for any antennas and associated support structures for such facilities would not change, and the requirement for a CDP would not change. The only difference is in how the permit is processed and the hearing requirement.

Currently, the required CDP and Development Plan for Tier 2 facility projects may be acted upon by the Planning Director and do not mandate a public hearing unless a public hearing is requested by a noticed recipient. A notice of a pending decision must be mailed to residents of property located within a 300 foot radius of the parcel at least ten days prior to the Director decision and include a statement that the person to whom the notice was mailed may request a public hearing. If a public hearing is requested during the ten day noticing period, the Director will not take an action on the project and the project will be heard by the Zoning Administrator or the Planning Commission in a noticed public hearing. The County has stated that the current hearing process does not provide adequate time for the County to process Tier 2 telecommunication facility projects within the 60 or 90 day timelines required by the Spectrum Act. This shot clock is 60 days for collocated small wireless facilities and 90 days for locating small wireless facilities on new structures. The amendment would revise the Tier 2 permit requirements to remove the option for a noticed recipient to request a public hearing for Tier 2 facility projects. As such, the proposed amendment would allow a Director-level approval of the CDP and Development Plan for Tier 2 projects without an opportunity for public hearing upon request.

However, Section 13566 of the Commission's regulations requires public participation in the form of at least one public hearing for all appealable CDP's, and Section 30624.9 of the Coastal Act also provides for public participation in the form of a public hearing if a noticed recipient requests a hearing. However, Section 30624.9 also allows public hearing requirements to be waived for minor development that meets certain requirements after public notice is provided.. To comply with the public hearing mandate of the Coastal Act for CDP's, **Suggested Modifications 1 and 2** are necessary to restore the public hearing requirement and noticing language for Tier 2 project applications that is proposed to be deleted from Subsection B of Section 35-144F (Commercial Telecommunications Facilities) and Section 35-181.8 (Contents of Notice) of the County's IP/CZO. These sections provide that the Director shall act as the decision-maker on a Development Plan and CDP for Tier 2 projects, unless a public hearing is requested. Public notice of a Director-level decision must be mailed 10 days prior to the Director's decision, and if a public hearing is requested during that time, the Director will not take an action on the project and the project will be heard by the Zoning Administrator or the Planning Commission in a noticed public hearing.

**Suggested Modifications 1 and 2** also clarify that this hearing provision is only applicable to facilities that are appealable to the Coastal Commission since the Coastal Act requires at least one public hearing to be held for appealable development if one is requested. In cases where a Tier 2 facility is proposed within the appeals jurisdiction of the Coastal Commission, the County would need to process the application more quickly in order to comply with the 60 and 90 day deadlines for County action under federal law and to account for the potential need for a public hearing under the LCP if a hearing is requested by a noticed recipient. The Commission finds that only if modified as suggested above, the proposed amendment will be consistent with, and adequate to carry out, the relevant permit processing requirements of the Coastal Act and the Commission's Regulations as incorporated by reference into the LUP.

The proposed amendment to the commercial telecommunication facilities section of the County's IP/CZO also includes other minor changes to conform with the Spectrum Act. There are existing standards in the LCP for telecommunication projects regarding the protection of visual resources, environmentally sensitive habitat, agricultural resources, and public access, and those would not change as part of this amendment request. However, the subject amendment includes additional standards regarding colors, materials, and architectural integration for Tier 2 projects in compliance with the Spectrum Act, and these would serve to strengthen existing standards and protect visual impacts consistent with the visual resource protection policies of the certified LUP.

Therefore, for the reasons discussed above, the Commission finds that only if modified as suggested will the IP/CZO amendment regarding commercial telecommunication facilities conform with and be adequate to carry out the applicable policies of the certified LUP and the relevant permit processing requirements of the Coastal Act and the Commission's Regulations.

## **Recordable Documents and Other Minor Changes**

### **Recordable Documents**

The IP/CZO requires the recordation of Notice to Property Owners (NTPOs) for certain structures and/or uses identified in the zoning ordinance. Some examples include agriculture employee dwellings (Section 35-144R.G), guest houses (35-120.11), and home occupations (35-121.3.2). Some of these documents are statutorily authorized while others are not, nor are they authorized by a local ordinance. The County has experienced complications when a property owner attempts to record a document in compliance with permit conditions of approval and the County Clerk-Recorder determines that the documents can't be recorded because it is not authorized by statute or local ordinance. The amendment to the IP/CZO would add a new Recordable Documents section to the IP/CZO (Section 35-179D), to authorize the recordation of certain documents with the Santa Barbara County Clerk-Recorder when required pursuant to permit conditions of approval. The intent is to ensure consistency with California Government Code Section 27201(a)(1)(A), which allows the County Clerk-Recorder to record documents authorized by local ordinance and this law is the basis for the County to record certain Notices to Property Owners (NTPO) that are not otherwise statutorily authorized. As such, the amendment clarifies the broad types of documents that can be recorded, so as to allow the County Clerk-Recorder to record necessary documents for permits. These proposed changes do not create any adverse impacts to coastal resources and are consistent with, and adequate to carry out, the policies of the certified LUP.

### **Other Minor Changes**

The proposed amendment also includes other minor changes, such as amending Section 35-58 (Definitions) of the IP/CZO to add a new definition ("Telecommunication Facility, Base Station") to comply with federal telecommunication regulations, and reordering and renumbering Division 15 (Montecito Community Plan Overlay District), Division 16 (Toro Canyon Plan Overlay District), and Division 18 (Gaviota Coast Plan Overlay) of the IP/CZO to Division 15 (Toro Canyon Plan Overlay District), Division 16 (Montecito Community Plan Overlay District), and Division 17 (Gaviota Coast Plan Overlay). No text would be modified within any of these three Divisions. All corresponding references to these Divisions in the LCP would also be corrected.

In addition, an expired provision regarding time extensions due to economic hardship would be deleted from the IP/CZO. Following the economic downturn of the late 2000s, a new provision (Section 35-179B.D.8) was added to the IP/CZO, which allowed the Director to extend the expiration of a planning permit or entitlement for additional 24-month period, provided the Director determined it was necessary due to an economic hardship. Included within the provision of Section 35-179B.D.8 was the stipulation that the subsection "shall expire, and be of no further force or effect, on January 12, 2015, unless extended by ordinance". The subject amendment proposes to delete these provisions, as they were not extended by ordinance and have not been in effect since January 12, 2015.

Section 35-191 (Summerland Community Plan Overlay) of the certified IP/CZO

currently includes Figures 13-1, 13-2, and 13-3 that illustrate the calculation of the floor below grade adjustment, which is used to determine the amount of floor area of a floor below grade to include in the total floor area of a residence in the Summerland Community Plan area of the County. The amendment includes minor revisions to these figures to provide a clearer and more illustrative example of the floor below grade adjustment. This adjustment is used to determine the amount of floor area of a “floor below grade” (a basement or other floor of living space that is wholly or partially located below the existing grade of the project site) that must be included in the total floor area of a residence for the purpose of conforming to the maximum total floor area standard in the Summerland Community Plan area of the County. The proposed changes would also renumber and title the figures as Figure 13-1. The methodology to calculate the floor area would not change.

None of these revisions would fundamentally alter the intent of the existing IP/CZO and would not affect the consistency of the IP/CZO with the policies of the LUP or its ability to carry out any of the other policies or provisions of the LUP or IP/CZO. Therefore, the Commission finds that these proposed changes are consistent with and adequate to carry out the policies of the LUP.

#### **D. California Environmental Quality Act**

Section 21080.9 of the California Public Resources Code—within the California Environmental Quality Act (CEQA)—exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission; however, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP action.

Nevertheless, the Commission is required, in approving an LCP submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f) and 13555(b).

The County's LCP amendment consists of an IP/CZO amendment. As discussed above, the IP/CZO amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the LUP. The Commission has, therefore, suggested modifications to the proposed IP/CZO to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the



proposed IP/CZO amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP/CZO amendment into conformity with the LUP consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts, and the proposed IP/CZO amendment conforms with CEQA.

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT 89 S.  
CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



# Th9a

**LCP-4-STB-19-0157-1 (2019 General Package)**

**December 10, 2020**

## EXHIBITS

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**EXHIBIT 1**  
**SUGGESTED MODIFICATIONS TO THE PROPOSED**  
**IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT**  
**LCP Amendment No. LCP-4-STB-19-0157-1 (2019 General Package Amendment)**

Existing language of the certified Implementation Plan/Coastal Zoning Ordinance is shown in straight type. The County’s proposed amendment language to the certified Implementation Plan/Coastal Zoning Ordinance is shown in ~~strikeout~~ and underline. Language recommended by Commission staff to be inserted is shown in double underline. Language recommended by Commission staff to be deleted is shown in ~~double strikeout~~. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in *italics*.

**SUGGESTED MODIFICATION 1**

*Subsection B (Applicability) of Section 35-144F (Commercial Telecommunications Facilities) shall be modified as follows:*

**B. Applicability.**

- 1. Affected facilities and equipment.** The provisions of this Section shall apply to commercial telecommunication facilities that transmit or receive electromagnetic signals (e.g., radio, television, and wireless communication services including personal communication, cellular, and paging). This Section shall not be construed to apply to handheld, vehicular, or other portable transmitters or transceivers, including cellular phones, CB radios, emergency services radio, and other similar devices.
- 2. Allowable zones and permit requirements.** The following table, Allowable Zones and Permit Requirements for Commercial Telecommunications Facilities, below, establishes the allowable zones, permit requirements, and development standards applicable to commercial telecommunications facilities as allowed by this Section. Different permit processes shall be required depending on the type of the commercial telecommunication facility being proposed and whether the facility complies with different development standards.
  - a. Coastal Development Permit processing requirement.**
    - 1) Unless exempt in compliance with Section 35-169.2 (Applicability), all development requires a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits).
    - 2) A Coastal Development Permit shall be processed concurrently and in conjunction with a Conditional Use Permit or Development Plan in compliance with Section 35.169.4 (Processing).

**Allowable Zones and Permit Requirements for Commercial Telecommunications Facilities**

Project Level Tier	Zones Where Allowed	Permit Requirements	Development Standards
<b>Tier 1 (a) Project</b> - Temporary Facilities	Allowed as a “Permitted Use” in all zones	Coastal Development Permit	35-144F.C.1.a

<b>Tier 1 (b) Project - Spectrum Act Facility Modifications</b>	All zones	<del>Zoning Clearance</del> Coastal Development Permit	35-144F.C.1.b 35-144F.D
<b>Tier 1 (bc) Project - Hub sites</b>	Allowed as a "Permitted Use" in all zones	Coastal Development Permit	35-144F.C.1.bc 35-144F.D
<b>Tier 2 (a) Project - <del>Very s</del>Small wireless facilities</b>	Allowed as a "Permitted Use" in all <del>nonresidential</del> zones	Development Plan approved by the Director <del>(2)</del> and concurrent Coastal Development Permit	35-144F.C.2.a 35-144F.D
<b>Tier 2 (b) Project - Tenant improvements</b>	Allowed as a "Permitted Use" in all nonresidential zones	Development Plan approved by the Director <del>(2)</del> and concurrent Coastal Development Permit	35-144F.C.2.b 35-144F.D
<b>Tier 2 (c) Project - Collocated Facilities</b>	Allowed as a "Permitted Use" in all nonresidential zones	Development Plan approved by the Director <del>(2)</del> and concurrent Coastal Development Permit	35-144F.C.2.c 35-144F.D
<b>Tier 3 (a) Project - Facilities not exceeding 50 ft. in height (1)</b>	Allowed as a "Use Permitted with a Minor Conditional Use Permit" in nonresidential zones, except not allowed in the Recreation (REC) zone	Minor Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.3.a 35-144F.D
<b>Tier 3 (b) Project - Satellite ground station facilities, relay towers, towers or antennas for radio/television transmission and/or reception</b>	Allowed as a "Use Permitted with a Minor Conditional Use Permit" in nonresidential zones	Minor Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.3.b 35-144F.D
<b>Tier 3 (c) Project - Facilities that comply with the zone height limit (1)</b>	Allowed as a "Use Permitted with a Minor Conditional Use Permit" in nonresidential zones, except not allowed in the Recreation (REC) zone	Minor Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.3.c 35-144F.D
<b>Tier 4 (a) Project - Facilities that are not allowed in compliance with Tier 1 through Tier 3</b>	Allowed as a "Use Permitted with a Major Conditional Use Permit" in all zones	Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.4.a 35-144F.D
<b>Tier 4 (b) Project - Other facilities that are subject to regulation by the FCC or CPUC, e.g., AM/FM radio stations, television stations</b>	Allowed as a "Use Permitted with a Major Conditional Use Permit" in nonresidential zones	Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.4.b 35-144F.D

**Notes:**

(1) Not allowed in or within 300 feet of a residential zone.

~~(2) (2) For development that is appealable to the Coastal Commission, (The Director shall act as the decision-maker unless a public hearing is requested in compliance with Section 35-181 (Noticing) and Section 35-174 (Development Plans), in which case the Zoning Administrator or Montecito Planning Commission shall be the decision-maker.~~

**SUGGESTED MODIFICATION 2**

*Subsection 2 (Notice for projects that require a public hearing or discretionary decision-maker action) of Section 35-181.8 (Contents of Notice) shall be modified as follows:*

**2. Notice for projects that require a public hearing or discretionary decision-maker action.** The following shall be included in all notices for projects that require a public hearing or discretionary action by a decision-maker not including notices that are required to be posted by the applicant.

- a. All information required by Subsection 1 (Notice for all projects), above.
- b. The place, date, and general time of the hearing at which the project will be heard by the decision-maker, if the action requires a public hearing. If the project does

not require a public hearing, then only the date of pending action or decision of the decision-maker is required.

- c. A general description of the County procedures concerning the conduct of public hearings and local actions, including the submission of public comments either in writing or orally before the hearing or local decision, and requirements regarding the procedure to appeal the decision.
- d. The procedure for Coastal Commission appeals, including any required appeal fees, if applicable.
- e. ~~Notice of a pending decision by the Director to approve, conditionally approve or deny a Development Plan for a telecommunications facility that is appealable to the Coastal Commission in compliance with Section 35-144F (Commercial Telecommunications Facilities) shall include a statement that the person to whom the notice was mailed may request a public hearing on the proposed Development Plan by submitted a written request to the Department within 10 days of the date of such notice. If a written request is received, the public hearing shall be conducted in compliance with Section 35-181.10 (Hearing Procedure) below.~~

**EXHIBIT 2**  
**COUNTY OF SANTA BARBARA ORDINANCE NO. 5095 PROPOSED**  
**IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT TEXT**  
**LCP Amendment No. LCP-4-STB-19-0157-1 (2019 General Package Amendment)**

**ATTACHMENT 10: ARTICLE II CZO AMENDMENT**

**ORDINANCE NO. 5095**

AN ORDINANCE AMENDING ARTICLE II, THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, OF CHAPTER 35, ZONING, OF THE SANTA BARBARA COUNTY CODE (ARTICLE II), TO IMPLEMENT NEW REGULATIONS REGARDING TELECOMMUNICATION FACILITIES AND RECORDABLE DOCUMENTS, TO DELETE TIME EXTENSIONS DUE TO ECONOMIC HARDSHIP, AND TO MAKE OTHER MINOR CLARIFICATIONS, CORRECTIONS AND REVISIONS BY AMENDING: DIVISION 2, DEFINITIONS; DIVISION 7, GENERAL REGULATIONS; DIVISION 11, PERMIT PROCEDURES; DIVISION 12, ADMINISTRATION AND DIVISION 13, SUMMERLAND COMMUNITY PLAN OVERLAY.

Case No. 19ORD-00000-00005

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

**SECTION 1:**

DIVISION 2, Definitions, of Article II is hereby amended to revise 35-58, Definitions, to add the following new definition of “Telecommunication Facility, Base Station,” to read as follows:

**Telecommunication Facility, Base Station.** A structure or equipment at a fixed location that enables Federal Communication Commission-licensed or authorized wireless communications between user equipment and a communications network, which does not encompass a tower or any equipment associated with a tower, and as further defined by 47 C.F.R. Section 1.6100(b)(1), as amended.

**SECTION 2:**

DIVISION 7, General Regulations, of Article II is hereby amended to revise Section 35-144F, Commercial Telecommunication Facilities, to read as follows:

**Section 35-144F. Commercial Telecommunications Facilities.**

- A. Purpose and intent.** This Section establishes the permit requirements and standards for the siting and development of commercial telecommunication facilities. The intent is to promote their orderly development and ensure they are compatible with surrounding land uses in order to protect the public safety and visual resources.
- B. Applicability.**
  - 1. Affected facilities and equipment.** The provisions of this Section shall apply to commercial telecommunication facilities that transmit or receive electromagnetic signals (e.g., radio, television, and wireless communication services including personal communication, cellular, and paging). This Section shall not be construed to apply to handheld, vehicular, or other portable transmitters or transceivers, including cellular phones, CB radios, emergency services radio, and other similar devices.
  - 2. Allowable zones and permit requirements.** The following table, Allowable Zones and Permit Requirements for Commercial Telecommunications Facilities, below, establishes the allowable

zones, permit requirements, and development standards applicable to commercial telecommunications facilities as allowed by this Section. Different permit processes shall be required depending on the type of the commercial telecommunication facility being proposed and whether the facility complies with different development standards.

**a. Coastal Development Permit processing requirement.**

- 1) Unless exempt in compliance with Section 35-169.2 (Applicability), all development requires a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits).
- 2) A Coastal Development Permit shall be processed concurrently and in conjunction with a Conditional Use Permit or Development Plan in compliance with Section 35.169.4 (Processing).

**Allowable Zones and Permit Requirements for Commercial Telecommunications Facilities**

Project Level Tier	Zones Where Allowed	Permit Requirements	Development Standards
<b>Tier 1 (a) Project</b> - Temporary Facilities	Allowed as a “Permitted Use” in all zones	Coastal Development Permit	35-144F.C.1.a
<b>Tier 1 (b) Project</b> - Spectrum Act Facility Modifications	All zones	Zoning Clearance	<del>35-144F.C.1.b</del> 35-144F.D
<b>Tier 1 (bc) Project</b> - Hub sites	Allowed as a “Permitted Use” in all zones	Coastal Development Permit	<del>35-144F.C.1.b</del> 35-144F.D
<b>Tier 2 (a) Project</b> - <del>Very s</del> Small wireless facilities	Allowed as a “Permitted Use” in all <del>nonresidential</del> zones	Development Plan approved by the Director ( <del>2</del> ) and concurrent Coastal Development Permit	35-144F.C.2.a 35-144F.D
<b>Tier 2 (b) Project</b> - Tenant improvements	Allowed as a “Permitted Use” in all nonresidential zones	Development Plan approved by the Director ( <del>2</del> ) and concurrent Coastal Development Permit	35-144F.C.2.b 35-144F.D
<b>Tier 2 (c) Project</b> - Collocated Facilities	Allowed as a “Permitted Use” in all nonresidential zones	Development Plan approved by the Director ( <del>2</del> ) and concurrent Coastal Development Permit	35-144F.C.2.c 35-144F.D
<b>Tier 3 (a) Project</b> - Facilities not exceeding 50 ft. in height (1)	Allowed as a “Use Permitted with a Minor Conditional Use Permit ” in nonresidential zones, except not allowed in the Recreation (REC) zone	Minor Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.3.a 35-144F.D
<b>Tier 3 (b) Project</b> - Satellite ground station facilities, relay towers, towers or antennas for radio/television transmission and/or reception	Allowed as a “Use Permitted with a Minor Conditional Use Permit ” in nonresidential zones	Minor Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.3.b 35-144F.D
<b>Tier 3 (c) Project</b> - Facilities that comply with the zone height limit (1)	Allowed as a “Use Permitted with a Minor Conditional Use Permit ” in nonresidential zones, except not allowed in the Recreation (REC) zone	Minor Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.3.c 35-144F.D
<b>Tier 4 (a) Project</b> - Facilities that are not allowed in compliance with Tier 1 through Tier 3	Allowed as a “Use Permitted with a Major Conditional Use Permit ” in all zones	Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.4.a 35-144F.D
<b>Tier 4 (b) Project</b> - Other facilities that are subject to regulation by the FCC or CPUC, e.g., AM/FM radio stations, television stations	Allowed as a “Use Permitted with a Major Conditional Use Permit ” in nonresidential zones	Conditional Use Permit and concurrent Coastal Development Permit	35-144F.C.4.b 35-144F.D

**Notes:**

- (1) Not allowed in or within 300 feet of a residential zone.
- (2) ~~The Director shall act as the decision maker unless a public hearing is requested in compliance with Section 35-181 (Noticing) and Section 35-174 (Development Plans), in which case the Zoning Administrator or Montecito Planning Commission shall be the decision maker.~~



**C. Processing.** Permits for commercial telecommunication facilities shall be approved in compliance with the following requirements, including the requirements of Subsection D through Subsection H unless otherwise specified. Modifications to regulations in compliance with Section 35-169 (Coastal Development Permits), Section 35-172 (Conditional Use Permits) or Section 35-174 (Development Plans) may be allowed for telecommunication facilities only as specified in this Section.

1. **Tier 1 projects.** Commercial telecommunication facilities that comply with the following may be permitted as a Tier 1 commercial facility:
  - a. **Standards for Tier 1 projects, temporary facilities.** Temporary telecommunications facilities may be permitted in compliance with Section 35-137.3.1.
  - b. **Standard for Tier 1 projects, Spectrum Act facilities.** Pursuant to Section 6409 of the federal Spectrum Act (47 U.S.C. Section 1455) and its implementing regulations (47 C.F.R. Section 1.6100), as amended, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall be allowed. The terms used in this subsection shall have the meaning ascribed to them in 47 C.F.R. Section 1.6100(b), as amended.
    - 1) Pursuant to 47 C.F.R Section 1.6100, as amended, the request shall comply with the following:
      - a) **Eligible facilities request.** The project must be a request for modification to an existing wireless tower or base station that involves:
        - i) Collocation of new transmission equipment;
        - ii) Removal of transmission equipment; or
        - iii) Replacement of transmission equipment.
      - b) The wireless tower or base station is existing at the time of permit application, supports existing antennas, and was permitted in compliance with this Development Code.
      - c) The wireless tower is any structure built for the sole purpose of supporting any Federal Communications Commission (FCC)-licensed antennas and associated facilities.
    - 2) **Substantial change.** Pursuant to 47 C.F.R Section 1.6100, as amended, a modification shall not be allowed pursuant to this section if it substantially changes the physical dimensions of an existing wireless tower or base station. A modification substantially changes the physical dimensions if it meets any of the following criteria:
      - a) **Wireless towers not located within the public right-of-way.**
        - i) The modification increases the height of the tower by more than 10 percent, or by the height of one additional antenna array with separation from the nearest antenna not to exceed 20 feet, whichever is greater.
        - ii) The modification adds an appurtenance to the body of the tower that would protrude from the edge of the tower by more than 20 feet, or by more than the width of the tower structure at the level of the appurtenance, whichever is greater.
      - b) **Wireless towers located within the public right-of-way and base stations.**
        - i) The modification increases the height of the structure by more than 10 percent, or by more than 10 feet, whichever is greater.
        - ii) The modification adds an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.

- C. Processing.** Permits for commercial telecommunication facilities shall be approved in compliance with the ground if there are no pre-existing ground cabinets associated with the structure.
- iv) The modification involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure.
  - c) The modification involves installation of more than the standard number of equipment cabinets for the technology involved, but not to exceed four cabinets.
  - d) The modification entails excavation or deployment outside of the current site.
  - e) The modification would defeat the concealment elements of the support structure.
- c. Standards for Tier 1 projects, hub sites.** Wireless telecommunication facilities that comply with all of the following may be allowed:
- 1) The facility qualifies as a hub site.
  - 2) No antennas are proposed except as follows:
    - a) One Global Positioning System (GPS) may be allowed.
  - 3) The facility is located within a permitted building.
  - 4) The facility may be subject to review by the Board of Architectural Review (Section 35-184) in compliance with Section 35-184.2 (Applicability).
- 2. Tier 2 projects.** Commercial telecommunication facilities that comply with the following may be permitted as a Tier 2 commercial facility:
- ~~a. Standards for Tier 2 projects, very small facilities.~~ Wireless telecommunication facilities that comply with the following may be allowed:
- ~~1) Antennas shall be limited to panel antennas or omnidirectional antennas. Antennas and associated above ground equipment shall not exceed a combined volume of one cubic foot.~~
  - ~~2) The antenna shall be mounted on either an existing operational public utility pole or similar support structure (e.g., street light, traffic light, telephone pole, existing wooden pole) that is not being considered for removal, as determined by the Director, or the roof of an existing structure or vaulted underground.
    - ~~a) More than two antennas shall not be located on a single utility pole or similar structure unless it is determined by the decision maker that there will not be a negative visual impact. If at a later date the utility poles are proposed for removal as part of the undergrounding of the utility lines, the facility shall be removed prior to undergrounding and the permit for the facilities shall be null and void.~~~~
  - ~~3) The highest point of the antenna either does not exceed the height of the existing utility pole or similar support structure that it is mounted on, or in the case of an omnidirectional antenna, the highest point of the antenna is no higher than 40 inches above the height of the structure at the location where it is mounted.~~
  - ~~4) The placement of multiple, interconnected, very small facilities to establish a new network (i.e. four or more within a square mile) shall be reviewed as a whole project including all components that result in a physical change to the environment (e.g., antennas, equipment, cabling, trenching, boring, vaults, poles, hub sites).~~
- a. Standards for Tier 2 projects, small wireless facilities. “Small wireless facilities,” as that term is defined in 47 C.F.R. Section 1.6002(l), as amended, that comply with the following may

be allowed:

- 1) The facilities:
    - a) are mounted on structures 50 feet or less in height including antennas as defined in 47 C.F.R. Section 1.1320(d);
    - b) are mounted on structures no more than 10 percent taller than other adjacent structures; or
    - c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
  - 2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume.
  - 3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.
  - 4) The facility does not require antenna structure registration under Part 17 of Title 47 C.F.R., or its successor regulations (i.e., Federal Communications registration due to extreme height or proximity to an airport).
  - 5) The facility is not located on Tribal lands, as defined under 36 C.F.R. Section 800.16(x), or its successor regulation.
  - 6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. Section 1.1307(b), or its successor regulation.
  - 7) The antenna shall be mounted on either an existing operational public utility pole or similar support structure (e.g., streetlight, traffic light, telephone pole, existing wooden pole) that is not being considered for removal, as determined by the Director, or the roof of an existing structure, or vaulted underground, unless technical requirements dictate otherwise.
    - a) If technical requirements dictate that the antenna cannot be mounted on an existing operational public utility pole or similar support structure, the antenna may be mounted on a new pole or similar support structure provided the new pole or support structure replicates the materials, color, and finish of existing infrastructure nearby.
  - 8) The placement of multiple, interconnected, small wireless facilities to establish a new network (i.e., four or more within a square mile) may be reviewed as a whole project including all components that result in a physical change to the environment (e.g., antennas, equipment, cabling, trenching, boring, vaults, poles, hub sites.)
  - 9) **Colors and materials.** Colors and materials shall be chosen to minimize visibility, using textures and colors to match or blend with the primary background.
  - 10) **Façade-mounted antennas.** Antennas mounted to the façade of a building or structure shall be architecturally integrated into the building or structure design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted antennas shall not protrude more than two feet horizontally from the façade.
- b. Standards for Tier 2 projects, tenant improvements.** Wireless telecommunication facilities that comply with the following may be allowed. ~~Additions to existing structures that a facility~~

~~is proposed to be located on or within may be allowed in order to comply with the following.~~

- 1) The facility qualifies as a tenant improvement that does not otherwise qualify as a small wireless facility under C.2.a, above.
- 2) Antennas, associated antenna support structures, and equipment shelters shall comply with the height limit of the zone that the project is located in subject to the limitations and exceptions provided below. ~~If the facility is located in an agricultural zone as identified in Section 35-52 (Zoning District Designations and Applicability), the height limit is that which applies to residential structures in that location.~~ Modifications to the height limit in compliance with Section 35-174.8 (Conditions, Restrictions, and Modifications) shall not be allowed.
- 3) Antennas, associated antenna support structures, and equipment shelters may exceed the height limit of the zone that the project is located in under any of the following circumstances:
  - a) The antenna, associated antenna support structure, and equipment shelter is located within an existing structure.
  - b) The antenna is mounted on an exterior wall of an existing structure, and the highest point of either the antenna or the antenna support structure does not extend above the portion of the wall, including parapet walls and architectural façades, that the antenna is mounted on.
  - c) The antenna or equipment shelter is located on the roof of an existing structure behind a parapet wall or architectural façade and the highest point of the antenna or equipment shelter does not protrude above the parapet wall or architectural façade.
  - d) The portion of the facility that would exceed the height limit is located within an addition that qualifies as an architectural projection.
- 4) Antennas and associated antenna support structures proposed to be installed on the roof or directly attached to an existing structure shall be fully screened or architecturally integrated into the design of the structure. The highest point of the antenna and associated antenna support structure shall not extend above the portion of the structure, including parapet walls and architectural façades, that it is mounted on and shall not protrude more than two feet horizontally from the structure. If mounted on the roof of an existing structure the highest point of the antenna shall not extend above the parapet wall or architectural façade.
- 5) Equipment shelters proposed to be installed on the roof of an existing or proposed structure shall be fully screened or architecturally integrated into the design of the structure (e.g., located behind a parapet wall or architectural façade) and the highest point of the equipment shelter shall not protrude above the parapet wall or architectural façade.
- 6) Colors and materials. Colors and materials shall be chosen to minimize visibility, using textures and colors to match or blend with the primary background.**
- ~~(67)~~ Access to the facility shall be provided by existing roads or driveways.

**c. Standards for Tier 2 projects, collocated facilities.** Wireless telecommunication facilities that comply with the following may be allowed: ~~– Additions to existing structures that a facility is proposed to be located on or within may be allowed in order to comply with the following.~~ Any addition to an existing structure shall be subject to all applicable permit requirements (e.g., approval of a Coastal Development Permit pursuant to Section 35-169).

- 1) The facility qualifies as a collocated telecommunications facility that does not otherwise qualify as a small wireless facility under C.2.a, above.

- 2) Antennas, associated antenna support structures, and equipment shelters shall comply with the height limit of the zone that the project is located in subject to the limitations and exceptions provided below. ~~If the facility is located in an agricultural zone as identified in Section 35-52 (Zoning District Designations and Applicability), the height limit is that which applies to residential structures in that location.~~ Modifications to the height limit in compliance with Section 35-174.8 (Conditions, Restrictions, and Modifications) shall not be allowed.
  - 3a) Antennas, associated antenna support structures, and equipment shelters may exceed the height limit of the zone that the project is located in under the following circumstances:
    - ai) As provided in Subsection C.2.b.3).
    - bii) The highest point of the any portion of the new facility proposed to be located on an existing facility does not extend above the existing antenna support structure or the portion of any other structure, including parapet walls and architectural façades, that it is mounted on and shall not protrude more than two feet horizontally from the structure.
3. **Tier 3 projects.** Commercial telecommunication facilities that comply with the following may be permitted as a Tier 3 commercial facility:
  - a. **Standards for Tier 3 projects, facilities not exceeding 50 feet in height.** Wireless telecommunication facilities that do not otherwise qualify as small wireless facilities under C.2.a, above and that comply with the following may be allowed:
    - 1) Antennas, the associated antenna support structures, and equipment shelters shall comply with the height limit of the zone that the project is located in subject to the limitations and exceptions as provided below. ~~If the facility is located in an agricultural zone as identified in Section 35-52 (Zoning District Designations and Applicability), the height limit is that which applies to residential structures in that location.~~ A modification to the height limit in compliance with Section 35-172.12 (Conditions, Restrictions, and Modifications) may be allowed. However, the highest point of the antenna and associated antenna support structure shall not exceed 50 feet.
    - 2) Antennas, associated antenna support structures, and equipment shelters may exceed the height limit of the zone that the project is located in without the approval of a modification in compliance with Section 35-172.12 (Conditions, Restrictions, and Modifications) under the following circumstances:
      - a) As provided in Subsection C.3.c.1).~~C.2.d.(1).~~
      - b) The antenna and antenna support structure are mounted on an existing structure and the height of the antenna and antenna support structure does not exceed 15 feet above the highest point of the structure provided the highest point of the antenna does not exceed 50 feet. Architectural projections shall not be used in determining the highest point of the structure.
    - 3) New freestanding antenna support structures and associated antennas that do not utilize an existing operational public utility pole or similar support structure, as determined by the Director, shall not exceed a height of 50 feet.
    - 4) The base of a new freestanding antenna support structure shall be set back from a residentially zoned lot a distance equal to five times the height of the antenna and antenna support structure, or a minimum of 300 feet, whichever is greater.
  - b. **Standards for Tier 3 projects, satellite ground station facilities, relay towers, towers or antennas for radio/television transmission and/or reception.** Other telecommunication

facilities or structures, including satellite ground station facilities, relay towers, towers or antennas for the transmission and/or reception of radio, television, and communication signals that comply with the following may be allowed:

- 1) Are not located in a residential zone as identified in Section 35-52 (Zoning District Designations and Applicability).
- 2) Do not exceed 50 feet in height.

**c. Standards for Tier 3 projects, facilities that comply with the zone height limit.** Wireless telecommunication facilities that do not otherwise qualify as small wireless facilities under C.2.a, above and that comply with the following may be allowed:-

- 1) Antennas, associated antenna support structures, and equipment shelters shall comply with the height limit of the zone that the project is located in except as provided below. ~~If the facility is located in an agricultural zone as identified in Section 35-52 (Zoning District Designations and Applicability), the height limit is that which applies to residential structures in that location.~~ Modifications to the height limit in compliance with Section 35-174.8 (Conditions, Restrictions, and Modifications) shall not be allowed.
  - a) Antennas, associated antenna support structures and equipment shelters may exceed the height limit of the zone that the project is located under the following circumstances:
    - ~~4i) As provided in Subsection C.2.c.2)a).3).~~
    - 2ii) The antenna is mounted on an existing, operational public utility pole or similar support structure (e.g., streetlight standard), as determined by the Director, provided that the highest point of the antenna does not exceed the height of the existing utility pole or similar support structure that it is mounted on.
  - 2) The height of the antenna and associated antenna support structure shall not exceed 15 feet above the highest point of the structure on which the antenna and support structure is located. Architectural projections shall not be used in determining the highest point of the structure. If located on a flat roof of an existing structure, the height of the antenna above the roof shall not exceed the distance the antenna is set back from any edge of the roof.
  - 3) The base of a new freestanding antenna support structure shall be set back from a lot with a residential zone designation a distance equal to five times the height of the antenna and antenna support structure, or a minimum of 300 feet, whichever is greater.

**4. Tier 4 projects.** Commercial telecommunication facilities that comply with the following may be permitted as a Tier 4 commercial facility:

- a. **Standards for Tier 4 projects, facilities that are not allowed in compliance with Tier 1 through Tier 3.** Wireless telecommunication facilities that may not be permitted in compliance with Subsections C.1 through C.3 above, but do comply with the following development standards, under Subsection D below, may be allowed provided the height of the antenna and associated antenna support structures shall not exceed 75 feet ~~in the Coastal Zone, and 100 feet in Inland areas.~~
- b. **Standards for Tier 4 projects, other facilities that are subject to regulation by the FCC or CPUC, e.g., AM/FM radio stations, television stations.** Other telecommunication facilities as follows are allowed in nonresidential zones as identified in Section 35-52 (Zoning District Designations and Applicability). These do not include wireless telecommunication facilities that are subject to the provisions of Subsection C.4.a above, or amateur radio facilities that are subject to the provisions of Section 35-144G (Noncommercial Telecommunication Facilities).

- 1) Facilities that are subject to regulation by the ~~Federal Communications Commission~~FCC or the California Public Utilities Commission (e.g., AM/FM radio stations, television stations). Such facilities may include: equipment shelters, antennas, antenna support structures, and other appurtenant equipment related to communication facilities for the transmission or reception of radio, television, and communication signals.
- 2) Other commercial telecommunication facilities that exceed 50 feet in height.

**D. Additional development standards for telecommunication facilities.** In addition to the development standards in Subsection C (Processing) above, with the exception of temporary mobile telecommunications facilities, commercial telecommunication facilities regulated by this Section 35-144F (Commercial Telecommunication Facilities) shall also comply with the following development standards unless otherwise indicated below.

1. Telecommunication facilities shall comply in all instances with the following development standards:

**a. Setbacks.** The facility shall comply with the setback requirements of the zone in which the facility is located except as follows:

- 1) Antennas may be located within the setback area without approval of a modification in compliance with Section 35-172.12 (Conditions, Restrictions, and Modifications) or Section 35-174.8 (Conditions, Restrictions, and Modifications) provided they are installed on an existing, operational, public utility pole, or similar existing support structure.
- 2) Underground equipment (e.g., equipment cabinet) may be located within the setback area and rights-of-way provided that no portion of the facility shall obstruct existing or proposed sidewalks, trails, and vehicular ingress or egress.
- 3) A modification to the setback is granted in compliance with Section 35-172.12 (Conditions, Restrictions, and Modifications) or Section 35-174.8 (Conditions, Restrictions, and Modifications).

**b. Height limits and exceptions.** Antennas and associated antenna support structures (e.g., lattice tower, monopole) are limited to 50 feet in height and shall comply with the height limits specified in Subsection C (Processing) above.

- 1) This height limit may be increased to a maximum of 75 feet in height where technical requirements dictate.
- 2) Antennas and support structures used in connection with wireless communication facilities may exceed 75 feet if:
  - a) The antenna is mounted on or within an existing structure and the highest point of the antenna does not protrude above the highest point of the structure, including parapet walls and architectural façades, that the antenna is mounted on; or,
  - b) The antenna is mounted on an existing, operational public utility pole or similar support structure (e.g., street light standard), as determined by the Director provided the highest point of the antenna does not exceed the height of the existing utility pole or similar support structure that it is mounted on.
- 3) In all cases the height of antennas, including support structures, shall be in compliance with the requirements of Section 35-100 (F - Airport Approach Overlay District).

**c. Fencing.** The general public is excluded from the facility by fencing or other barriers that prevent access to the antenna, associated antenna support structure, and equipment shelter.

**d. Historical landmarks.** Facilities proposed to be installed in or on a structure or site that has been designated by the County as a historical landmark shall be reviewed and approved by the ~~Historical~~ Landmarks Advisory Commission, or the Board on appeal.

- e. **Compliance with ~~Federal Communication Commission~~FCC.** The facility shall comply at all times with all ~~Federal Communication Commission~~FCC rules, regulations, and standards.
- f. **Access roads and parking areas.** The facility shall be served by roads and parking areas consistent with the following requirements:
  - 1) New access roads or improvements to existing access roads shall be limited to the minimum required to comply with County regulations concerning roadway standards and regulations.
  - 2) Existing parking areas shall be used whenever possible, and new parking areas shall not exceed 350 square feet in area.
  - 3) Newly constructed roads or parking areas shall, whenever feasible, be shared with subsequent telecommunication facilities or other allowed uses.
- g. **Lighting.** The facility shall be unlit except for the following:
  - 1) A manually operated light or light controlled by motion-detector that includes a timer located above the equipment structure door that shall be kept off except when personnel are present at night.
  - 2) Where an antenna support structure is required to be lighted, the lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of light that falls onto nearby residences and habitats.
- h. **Location within F - Airport Approach Overlay District.** The facility shall not be located within the safety zone of an airport unless the airport operator indicates that it will not adversely affect the operation of the airport.
- i. **Exterior finish.** The visible surfaces of support facilities (e.g., vaults, equipment rooms, utilities, equipment enclosures) shall be finished in non-reflective materials.
- j. **Painted surfaces.** Structures, poles, towers, antenna supports, antennas, and other components of each telecommunication site shall be initially painted and repainted as necessary with a non-reflective paint. The lessee shall not oppose the repainting of their equipment in the future by another lessee if an alternate color is deemed more appropriate by a decision-maker in approving a subsequent permit for development.
- k. **Landscaping.** The facility shall be constructed so as to maintain and enhance existing vegetation, without increasing the risk of fire hazards, through the implementation of the following measures:
  - 1) Facilities shall be sited to avoid the removal of trees and to avoid fuel modification within environmentally sensitive habitats and environmentally sensitive habitat buffers. Existing trees and other vegetation that screens the facility and associated access roads, power lines and telephone lines that are not required to be removed in order to construct the facility or to achieve fire safety clearances, shall be protected from damage during the construction period and for the life of the project.
  - 2) Underground lines shall be routed to avoid damage to tree root systems to the maximum extent feasible.
  - 3) Additional trees and other native or adapted vegetation shall be planted and maintained in the vicinity of the project site, and associated access roads, power lines, and telephone lines, under the following situations:
    - a) The vegetation is required to screen the improvements from public viewing areas.
    - b) The facility or related improvements are likely to become significantly more visible from public viewing areas over time due to the age, health, or density of the existing



vegetation.

Required landscape plans shall be comprised of appropriate species and shall be prepared by a botanist, licensed landscape contractor, or licensed landscape architect. A performance security shall be required to guarantee the installation and maintenance of new plantings.

- 4) Existing trees or significant vegetation used to screen the facility that die in the future shall be replaced with native trees and vegetation of a comparable size, species, and density. The facility may be required to be repainted during the time required for the newly planted vegetation to mature and provide adequate screening.
- 5) The vegetation that exists when the project is initially approved that is required to provide screening for the facility shall not be altered in a manner that would increase the visibility of the facility and associated access roads, power lines, and telephone lines, except:
  - a) Where the alteration is specifically allowed by the approved project; or
  - b) Where necessary to avoid signal interference to and from the approved facility subject to all required approvals and permit requirements and provided that impacts to environmentally sensitive habitats, environmentally sensitive habitat buffers, and other coastal resources are avoided.

Any alteration of the vegetation, conducted pursuant to an approved permit, shall be completed under the direction of a licensed arborist, licensed landscape contractor, or licensed landscape architect.

- 6) Vegetation proposed and/or required to be planted in association with a commercial telecommunications facility shall consist of non-invasive plant species only.
2. Telecommunication facilities shall comply with the following development standards in all instances, except that the decision-maker may exempt a facility from compliance with one or more of the following development standards if requested by the applicant. An exemption may only be granted if the decision-maker finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility and will not decrease public safety, and will not result in greater impact to coastal resources, including sensitive habitat, coastal waters, and public access, or (b) is required due to technical considerations ~~such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility,~~ or (c) would avoid or reduce the potential for environmental impacts and will not increase the visibility of the facility, and will not decrease public safety, and will not result in greater impacts to coastal resources, including sensitive habitat, coastal waters and public access.
- a. The primary power source shall be electricity provided by a public utility. Backup generators shall only be operated during power outages and for testing and maintenance purposes. New utility line extension longer than 50 feet installed primarily to serve the facility shall be located underground unless an overhead line would not be visible from a public viewing area. New underground utilities shall contain additional capacity (e.g., multiple conduits) for additional power lines and telephone lines if the site is determined to be suitable for collocation.
  - b. Disturbed areas associated with the development of a facility shall be prohibited on prime agricultural soils. An exemption may be approved only upon a showing of sufficient evidence that there is no other feasible location in the area or other alternative facility configuration that would avoid or minimize impacts to prime soils and that agricultural operations will not be adversely impacted by placement or operation of the telecommunication facility.
  - c. Collocation on an existing support structure shall be required for facilities allowed in compliance with Subsection C.2 through Subsection C.4 of this Section, unless:

- 1) The applicant can demonstrate that reasonable efforts, acceptable to the decision-maker, have been made to locate the antenna on an existing support structure and these efforts have been unsuccessful; or
- 2) Collocation cannot be achieved because there are not existing facilities in the vicinity of the proposed facility; or
- 3) The decision-maker determines that:
  - a) Collocation of the proposed facility would result in greater visual impacts than if a new support structure were constructed.
  - b) The non-collocated development will not result in greater impact to coastal resources, including sensitive habitat, coastal waters, and public access.

All proposed facilities shall be assessed as potential collocation facilities or sites to promote facility and site sharing so as to minimize the overall visual and environmental impacts. Sites determined by the Department to be appropriate as collocated facilities or sites shall be designed in a way that antenna support structures and other associated features (e.g. parking areas, access roads, utilities, equipment buildings) may be shared by site users. Criteria used to determine suitability for collocation include the visibility of the existing site, potential for exacerbating the visual impact of the existing site, availability of necessary utilities (power and telephone), existing vegetative screening, availability of more visually suitable sites that meet the radiofrequency needs in the surrounding area, avoiding or minimizing disturbance to environmentally sensitive habitats, and cumulative radiofrequency emission studies showing compliance with radiofrequency standards established by the ~~Federal Communications Commission~~ FCC. Additional requirements regarding collocation are located in Subsection E.3 (Collocation) below.

- d. Support facilities (e.g., vaults, equipment rooms, utilities, equipment enclosures) shall be located underground, if feasible, if they would otherwise be visible from public viewing areas (e.g., public road, trails, recreational areas).
  - e. Facilities shall be prohibited in areas that are located between the sea and the seaward side of the right-of-way of the first through public road parallel to the sea, unless a location on the seaward side would result in less visible impact. An exemption may be approved only upon showing of sufficient evidence that there is no other feasible location in the area or other alternative facility configuration that would avoid or minimize visual impacts.
3. Telecommunication facilities shall comply with the following development standards in all instances, except that the decision-maker may exempt a facility from one or more standards if requested by the applicant. If an exemption from one or more of the following standards is requested, then the facility shall require a Conditional Use Permit approved by the Planning Commission in compliance with Section 35-172 (Conditional Use Permits). An exemption may only be granted if the decision-maker finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility and will not decrease public safety, and will not result in greater impact to coastal resources, including sensitive habitat, coastal waters, and public access, or (b) is required due to technical considerations ~~such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility,~~ or (c) would avoid or reduce the potential for environmental impacts and will not increase the visibility of the facility, and will not decrease public safety, and will not result in greater impacts to coastal resources, including sensitive habitat, coastal waters and public access.
- a. A facility shall not be located so as to silhouette against the sky if substantially visible from a state-designated scenic highway or roadway located within a scenic corridor as designated on the Comprehensive Plan maps.

- b. A facility shall not be installed on an exposed ridgeline unless it blends with the surrounding existing natural or manmade environment in a manner that ensures that it will not be substantially visible from public viewing areas (e.g., public road, trails, recreation areas) or is collocated in a multiple user facility.
- c. A facility that is substantially visible from a public viewing area shall not be installed closer than two miles from another substantially visible facility unless it is an existing collocated facility situated on a multiple user site.
- d. Telecommunication facilities that are substantially visible from public viewing areas shall be sited below the ridgeline, depressed or located behind earth berms in order to minimize their profile and minimize any intrusion into the skyline. In addition, where feasible, and where visual impacts would be reduced, the facility shall be designed to look like the natural or manmade environment (e.g., designed to look like a tree, rock outcropping, or streetlight) or designed to integrate into the natural environment (e.g., imbedded in a hillside). These facilities shall be compatible with the existing surrounding environment.
- e. Disturbed areas associated with the development of a facility shall not occur within the boundaries or buffer of an environmentally sensitive habitat area. An exemption may be approved only upon showing of sufficient evidence that there is no other feasible location in the area or other alternative facility configuration that would avoid impacts to environmentally sensitive habitat areas. If an exemption is approved with regard to this standard, the County shall require the applicant to fully mitigate impacts to environmentally sensitive habitat consistent with the provisions of the certified Local Coastal Program. Associated landscaping in or adjacent to environmentally sensitive habitat areas shall be limited to locally native plant species appropriate to the habitat type and endemic to the watershed. Invasive, non-indigenous plant species that tend to supplant native species shall be prohibited.

**E. Project installation and post installation provisions.**

- 1. **FCC Compliance.** The facility shall be operated in strict conformance with: (i) all rules, regulations, standards and guidance published by the ~~Federal Communications Commission (FCC)~~, including but not limited to, safety signage, Maximum Permissible Exposure (MPE) Limits, and any other similar requirements to ensure public protection and (ii) all other legally binding, more restrictive standards subsequently adopted by federal agencies having jurisdiction provided that such requirements are consistent with the certified Local Coastal Program and will not result in impacts to coastal resources.
  - a. **Demonstration of compliance.** Compliance with all applicable standards shall be demonstrated with a report prepared by a qualified professional acceptable to the County to perform radio-frequency (RF) field testing to evaluate compliance with current federally established MPE standards. Compliance shall be demonstrated as needed to address changes in setting, technology and FCC regulations.
  - b. **Conditions of approval.** The approved planning permit for the facility may include conditions of approval as determined to be appropriate by the decision-maker to ensure that the facility is operated in a manner that does not pose, either by itself or in combination with other facilities, a potential threat to public safety. Said conditions of approval may include the following requirements:
    - 1) **Initial verification.** The Permittee shall submit a report prepared by a qualified professional acceptable to the County (wholly independent of Permittee) that includes a RF field test that measures actual RF electromagnetic exposure at the site within 30 days of Final Building Permit Clearance.
      - a) This RF field-testing shall measure all ambient sources of RF energy at the site and report the cumulative RF exposure, including contributions from the site together with other sources of RF energy in the environment as a whole.

- b) The field test should include the author's/professional's findings with respect to compliance with federally established MPE standards.
  - c) Should the facility exceed the applicable standards, the facility shall cease and desist commercial operations until it complies with, or has been modified to comply with, applicable RF standards.
- 2) **Continued compliance.** The Permittee shall demonstrate continued compliance with the Mimits through submittal of regular ~~radio frequency (“RF”)~~ field test reporting co npliance with the following:
- a) Every five years, or other time period as specified by the decision-maker as a condition of approval of the project, a report prepared by a qualified professional acceptable to the County to perform RF field testing to evaluate compliance with current federally established MPE standards shall be prepared that lists the actual measured level of RF emissions radiating from the whole facility. The report shall be submitted by the newest carrier operating at the facility to the Director. If the level of RF emissions has changed since permit approval, measurements of RF levels in nearby inhabited areas shall be taken and submitted with the report.
  - 3) **Facility upgrades.** Prior to the addition/replacement of equipment which has the potential to increase RF emissions at any public location beyond that estimated in the initial application and is within the scope of the project description, Permittee shall submit a report providing the calculation of predicted maximum effective radiated power including the new equipment as well as the maximum cumulative potential public RF exposure expressed as a percentage of the public MPE limit attributable to the site as a whole. Once the new equipment has been installed, Permittee shall perform Initial Verification as stated above.
  - 4) **Updated standards.** In the event the federally established RF public exposure standards change, the Permittee shall submit a report with calculations of the maximum potential public RF exposure from the Project with respect to the revised RF public exposure standards within 90 days of the date the change becomes effective. If calculated levels exceed 80 percent of the applicable RF standards, Permittee shall notify the County and submit a MPE compliance verification report with the results from current RF field-testing at the site.
- c. **Failure to supply reports.** Failure to supply the reports required in compliance with this Subsection E.1 within 30 days following the date that written notice is mailed by the Director that such compliance report is due or failure to remain in continued compliance with the MPE limit shall be grounds for revocation of the Coastal Development Permit or Land Use Permit or other entitlement of use by the Director. The decision of the Director to revoke the Coastal Development Permit or Land Use Permit or other entitlement of use is final subject to appeal in compliance with Chapter 35.102 (Appeals).
2. **Project Review.** The County reserves the right to undertake inspection of the facility and require the pPermittee to modify its facilities should a more effective means of ensuring aesthetic compatibility with surrounding uses have become available as a result of subsequent technological advances, changes in circumstance from the time the project was initially approved, or the project fails to achieve the intended purposes of the development standards listed in Subsection D. (Additional development standards for telecommunication facilities).
3. **Collocation.** The Permittee shall avail its facility and site to other telecommunication carriers and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following parameters:
- a. The party seeking collocation shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs, and permit processing.

- b. The Permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk.
- c. The Permittee shall make its facilities and site available for collocation on a non-discriminatory and equitable cost basis.
- d. The County retains the right to verify that the use of the Permittee's facilities and site conforms to County policies.

**4. Abandonment-Revocation.**

- a. The Permittee shall remove all support structures, antennas, equipment and associated improvements and restore the site to its natural pre-construction state within one year of discontinuing use of the facility or upon permit revocation.
- b. Should the Permittee require more than one year to complete removal and restoration activities the Permittee shall apply for a one-time time extension.
- c. In the event the Owner requests that the facility or structures remain, the Owner shall apply for necessary permits for those structures within one year of discontinued use.
- d. If use of the facility is discontinued for a period of more than one year and the facility is not removed the County may remove the facility at the Permittee's expense.

**5. Transfer of ownership.** In the event that the Permittee sells or transfers its interest in the telecommunications facility, the Permittee and/or succeeding carrier shall assume all responsibilities concerning the Project and shall be held responsible by the County for maintaining consistency with all conditions of approval. The succeeding carrier shall immediately notify the County and provide accurate contact and billing information to the County for remaining compliance work for the life of the facility.

**6. Color compatibility.** Prior to the issuance of a Zoning Clearance, Coastal Development Permit or Land Use Permit, the applicant shall erect an onsite demonstration structure of sufficient scale and height to allow the Director to determine that the proposed exterior color is aesthetically compatible with the surrounding area. If the applicant elects not to erect this demonstration structure prior to issuance of the Zoning Clearance, Coastal Development Permit or the Land Use Permit, the Director may determine within 30 days of the facility becoming operational that the exterior color is not aesthetically compatible with the surrounding area and require that the exterior color be changed.

**F. Public notice.**

1. Notice of the application and pending decision on a Coastal Development Permit in compliance with Section 35-144F.C.1 shall be given in compliance with Section 35-181 (Noticing).
2. Notice of the pending decision of the Director on a Development Plan in compliance with Section 35-144F.C.2 shall be provided in compliance with Section 35-181 except that:
  - a. Notice shall be mailed to property owners and residents within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to the Planning and Development Department.
  - b. The notice shall provide the date that the Director will take action on the Development Plan.
  - c. The notice shall provide a statement that the person to whom the notice was mailed may request a public hearing on the proposed Development Plan by submitting a written request to the Planning and Development Department within 10 calendar days of such notice. If a written request for a hearing is submitted to the Planning and Development Department within 10 calendar days of such notice the project shall be processed as a Development Plan under the jurisdiction of the Zoning Administrator.
3. Notice of projects that require a Conditional Use Permit shall be provided in a manner consistent with

the requirements of Section 35-181 (Noticing) and shall include mailed notice to property owners and residents within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request with the Planning and Development Department.

4. If the project is located in a residential zone district as identified in Section 35-52 or within 1000 feet of residentially zoned property, and the project includes a new freestanding antenna that is visible from the surrounding area, then, in addition to the noticing required above, notice shall be mailed to all property owners and residents within 1000 feet of the exterior boundaries of the facility lease area that the project is located on.

**G. Additional findings.** In addition to the findings required to be adopted by the decision-maker in compliance with Sections 35-169 (Coastal Development Permits), 35-172 (Conditional Use Permits), 35-174 (Development Plans) and 35-178 (Land Use Permits), in order to approve an application to develop a telecommunication facility, the decision-maker shall also make the following findings:

1. The facility will be compatible with existing and surrounding development in terms of land use and visual qualities.
2. The facility is located so as to minimize its visibility from public view.
3. The facility is designed to blend into the surrounding environment to the greatest extent feasible.
4. The facility complies with all required development standards unless granted a specific exemption by the decision-maker in compliance with Section 35-144F.G.4.a, below.
  - a. An exemption to one or more of the required development standards may be granted if the decision-maker additionally finds that in the specific instance that the granting of the exemption:
    - 1) Would not increase the visibility of the facility, will not decrease public safety, and will not result in greater impacts to coastal resources, including sensitive habitats, coastal waters, and public access, or
    - 2) Is required due to technical considerations ~~and if the exemption was not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility,~~ or
    - 3) Would avoid or reduce the potential for environmental impacts and will not increase the visibility of the facility, will not decrease public safety, and will not result in greater impacts to coastal resources including sensitive habitats, coastal waters, and public access.
5. The applicant has demonstrated that the facility will be operated within the allowed frequency range permitted by the ~~Federal Communications Commission~~FCC and complies with all other applicable health and safety standards.
- ~~6. The applicant has demonstrated a need for service (i.e. coverage or capacity) and the area proposed to be served would not otherwise be served by the carrier proposing the facility.~~
- ~~7. The applicant has demonstrated that the proposed facility design and location is the least visually and environmentally intrusive means feasible for the carrier proposing the facility to provide the needed coverage.~~

**H. Application requirements.**

1. The Director shall establish and maintain a list of information that must accompany every application for the installation of a telecommunication facility. Said information may include, but shall not be limited to:
  - a. Completed supplemental project information forms;
  - b. Cross-sectional area calculations;

- c. Service area maps;
- d. Network maps;
- e. Alternative site analysis;
- f. Visual analysis and impact demonstrations including mock-ups and/or photo-simulations;
- g. RF exposure studies;
- h. Title reports identifying legal access;
- i. Security programs;
- j. Lists of other nearby telecommunication facilities.

The Director may excuse an applicant from having to provide one or more of the required submittals if it is determined that in the specific case the information is not necessary in order to process or make an informed decision on the submitted application.

2. The Director is authorized at his or her discretion to employ on behalf of the County independent technical experts to review technical materials submitted including materials required under this section ~~and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required~~. Proprietary information disclosed to the County or the hired expert shall remain confidential and shall not be disclosed to a third party.
3. Commercial telecommunication facilities shall be subject to review by the Board of Architectural Review in compliance with Section 35-184 (Board of Architectural Review) under the following circumstances:
  - a. The facility includes the construction of a new structure or the remodel of or addition to an existing structure that is otherwise subject to review by the Board of Architectural Review in compliance with Section 35-184 (Board of Architectural Review).
  - b. The Planning Commission is the decision-maker for the facility.
4. ~~The applicant must demonstrate a need for service (i.e. coverage or capacity) as part of the project application and provide reasonable evidence that the area proposed to be served would not otherwise be served by the carrier proposing the facility.~~
5. ~~The applicant must demonstrate as part of the application that the proposed facility design and location is the least intrusive means feasible for the carrier proposing the facility to provide the needed coverage.~~

### **SECTION 3:**

DIVISION 11, Permit Procedures, of Article II, is hereby amended to delete Subsection 8, Time extension due to economic hardship, of Subsection D. Processing, of Section 35-179B, Time Extensions, in its entirety.

### **SECTION 4:**

DIVISION 11, Permit Procedures, of Article II is hereby amended to add a new Section 35-179D, titled “Recordable Documents” and to read as follows:

#### **Section 35-179D. Recordable Documents. Reserved**

In addition to any requirements to record a Notice to Property Owner for certain identified land uses pursuant to Division 4 (Zoning Districts), Division 7 (General Regulations), and Division 18 (Gaviota Coast Plan (GAV) Overlay), applicants shall record a Notice to Property Owner, Agreement, or other document, for the following

matters related to real property, when a condition of approval of a planning permit or other land use entitlement requires it.

**A. Notices to Property Owners.** Any notice to property owner required by this Coastal Zoning Ordinance, including, but not limited to, the following, are recordable documents.

1. Accessory structure.
2. Agricultural employee dwelling.
3. Building and development envelopes.
4. Buyer beware/notification regarding availability of public water and/or sewer.
5. Development exclusion areas.
6. Development standards and other provisions when required pursuant to a community plan.
7. Fencing to allow animal passage.
8. Fuel management zones.
9. Landscaping maintenance.
10. Plans (e.g., a solid waste management plan or habitat management plan) or actions (e.g., maintenance activities) that an applicant must implement, maintain, and/or take for an extended period of time (e.g., for the life of a project).
11. Temporary dwelling unit (or temporary second unit).
12. Wa tchman' s tr ai ler .

**B. Other Notices, Agreements, Covenants, and Easements.** Documents to require, or notify future buyers of real property of, the following are recordable.

1. Compliance with the parking requirements of this Coastal Zoning Ordinance, including, but not limited to, provision of an offsite parking easement.
2. Compliance with project and/or permit conditions of approval.
3. Implementation of historic structural preservation and restoration/renovation plan or program.
4. Implementation of Stormwater Control Plan or Stormwater Quality Management Plan.
5. Maintenance of stormwater quality and retention measures.
6. Prohibitions on high water use/consumption businesses.
7. Resale Restrictive Covenant and Preemptive Right.
8. Water well meter monitoring, provision of meter records, and measures to take in the event water quality degrades.

## **SECTION 5:**

DIVISION 12, Administration, of Article II, is hereby amended to delete Subsection e, of Subsection 2, Notice for projects that require a public hearing or discretionary decision-maker action, of Section 35-181.8, Contents of Notice, of Section 35-181, Noticing, in its entirety.

## **SECTION 6:**

DIVISION 13, Summerland Community Plan Overlay, of Article II, is hereby amended to clarify Figures 13-1, 13-2, and 13-3, and renumber and title as Figure 13-1 – Illustrative example for calculating the



floor below grade adjustment, and revise reference to the figure within the text, of Subsection 35-191.5.2.a.b., Floor below grade, of Section 35-191, Summerland–SUM, as follows:

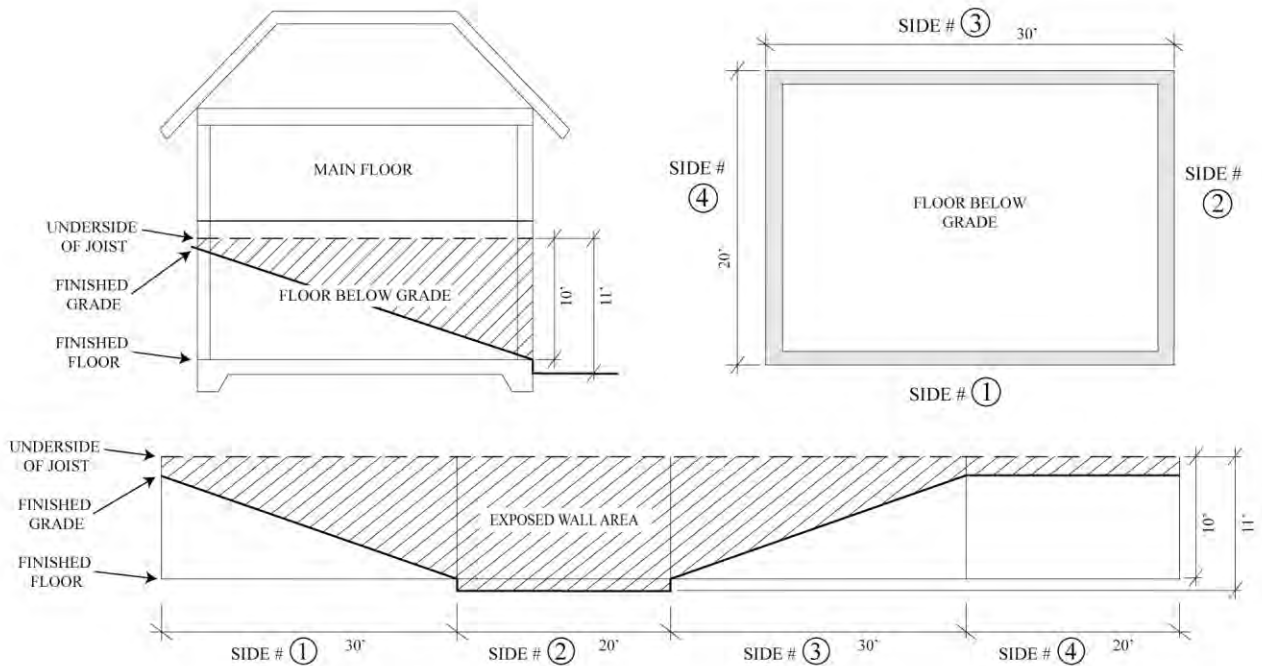


Figure 13-1 – Illustrative example for calculating the floor below grade adjustment

**SECTION 7:**

DIVISION 15, Montecito Community Plan Overlay District, DIVISION 16, Toro Canyon Plan (TCP) Overlay District, and DIVISION 18, Gaviota Coast Plan (GAV) Overlay, of Article II, are hereby amended to reorder and renumber the divisions as “DIVISION 15, Toro Canyon Plan (TCP) Overlay District”, “DIVISION 16, Montecito Community Plan Overlay District”, and “DIVISION 17, Gaviota Coast Plan (GAV) Overlay”.

**SECTION 8:**

All existing indices, section references, and figure and table numbers contained in Article II are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

**SECTION 9:**

Except as amended by this Ordinance, Division 2, Definitions, Division 7, General Regulations, Division 11, Permit Procedures, and Division 12, Administration, of Article II shall remain unchanged and shall continue in full force and effect.

**SECTION 10:**

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later, and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the

Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES: NOES:

ABSTAINED:

ABSENT:

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STEVE LAVAGNINO, CHAIR  
BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy County Counsel