

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
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SANTA CRUZ, CA 95060  
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**F5a**

March 24, 2005

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director  
Diane Landry, District Manager  
Susan Craig, Coastal Planner

**RECORD PACKET COPY**

SUBJECT: **CITY OF CAPITOLA: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 3-04 Part B.** For public hearing and Commission action at its meeting of April 15, 2005, to be held in Santa Barbara at Fess Parker's Doubletree Resort, 633 E. Cabrillo Blvd., Santa Barbara, CA 93103.

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**SYNOPSIS**

The City of Capitola is proposing to amend the Implementation Plan (Zoning Ordinance) of the Local Coastal Program to establish citywide regulations for wireless telecommunications facilities. Additionally, the City proposes to amend the certified zoning map to rezone three parcels from RM-M (Multiple Family Residential - Medium Density) to PD (Planned Development).

**SUMMARY OF STAFF RECOMMENDATION**

Staff has reviewed the proposed Zoning Ordinance amendments for consistency with the certified Land Use Plan. Issues raised by the proposed amendments include visual impacts and land use intensity. As discussed in detail below, Staff recommends **approval** of Local Coastal Program Major Amendment No. 3-04 Part B, as submitted.

**ANALYSIS CRITERIA**

The Commission certified the City of Capitola's Land Use Plan in June 1981 and the City Council accepted this certification action in November 1981. The Implementation Plan was certified in January 1990 and the City accepted this certification action in April 1990. The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Sections 30513 and 30514, and California Code of Regulations 13542 and 13551 through 13553).

The proposed amendment affects the implementation plan component of the City of Capitola LCP. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal Land Use Plan.

**California Coastal Commission**

## ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

## **Staff Report Contents**

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### Exhibits:

- Exhibit 1: Wireless Communication Facilities Amendment Language
- Exhibit 2: 409 Pine Street Rezoning Map
- Exhibit 3: 1255 41<sup>st</sup> Avenue Rezoning Map
- Exhibit 4: Brommer Street at 38<sup>th</sup> Avenue Rezoning Map
- Exhibit 5: Resolutions

## **I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS**

Staff recommends adoption of the following resolutions:

### **Resolution I. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 3-04 (Part B) as submitted)**

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion.*** I move that the Commission **reject** Major Amendment #3-04 (Part B) to the City of Capitola Local Coastal Program Implementation Plan as submitted.

***Resolution to Certify the Implementation Plan Amendment as Submitted:*** The Commission hereby certifies Major Amendment #3-04 (Part B) to the Implementation Plan of the City of Capitola Local Coastal Program, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment will meet the requirements of 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 on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse



*impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.*

## **II. FINDINGS AND DECLARATIONS**

The Commission finds and declares as follows:

### **A. Wireless Communication Facilities**

The City of Capitola is proposing to add a wireless communication facilities (WCF) ordinance to its certified Implementation Plan (zoning ordinance). Currently, WCFs (such as cellular telephone facilities, towers, and antennas for transmitting electromagnetic/radio signals) aren't explicitly addressed by the LCP. Such facilities are, however, development regulated by the current LCP in the coastal zone, including the use and design standards of the underlying zone districts in which they may be proposed. The new proposed ordinance provides specific standards for WCFs, including specific siting and design criteria meant to minimize the potential for such facilities to negatively impact the scenic, open space, and community/aesthetic character of the City's built and natural environment. The WCF ordinance sections are not meant to pre-empt federal law, and in particular are written to be consistent with the Federal Telecommunications Act of 1996 (FTA). The FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs (including prohibiting them from regulating WCFs on the basis of the environmental/health effects of radio frequency (RF) emissions). The FTA does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. Per the FTA, such regulation cannot discriminate among service providers and cannot prohibit provision of wireless service within the City.

The purpose of the City's proposed wireless telecommunications ordinance is to provide a uniform and comprehensive set of standards for the development, siting, and installation of wireless communication facilities. The regulations proposed are designed to protect and promote public safety, community welfare, and the aesthetic quality of the City, while not unduly restricting the development of WCFs. The proposed ordinance prohibits the location of new WCFs in or within 500 feet of zoning districts that are primarily residential, such as single-family residential, multiple-family residential, mobile home exclusive, or commercial residential zoning districts, and instead requires the location of new WCFs in predominately non-residential zoning districts. Additionally, the proposed ordinance prohibits the installation of wireless communication facilities in areas within 3,000 feet of the coastline (with a few exceptions) and *absolutely* prohibits the installation of WCFs within 1,000 feet of the coastline (see Exhibit 1, pg. 16). Any proposed WCF device in the Coastal Zone will require a coastal permit. *The proposed ordinance is similar to ordinance language the Commission previously approved for Santa Cruz County and the City of Santa Cruz.*

### **Land Use Plan Consistency**

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan. The following Land Use Plan policies provide protection of views and visual aesthetics within the City of Capitola, as well as protection of parks and open space areas:

*Visual Resources Policy III-3: No permanent structures shall be permitted on the open, sandy*



*beach area of Capitola because of their potential impact on visual resources, hazards, and public recreation, except for facilities required for public health and safety (lifeguard stands, approved beach erosion control structures).*

***Visual Resources Policy III-5:*** *Permitted development shall not block or detract from public views to and along Capitola's shoreline.*

***Natural Systems Policy VI-2:*** *It shall be the policy of the City of Capitola to protect, maintain and, where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone, including dedication and/or acquisition of scenic conservation easements for protection of the natural environment. All developments approved by the City within or adjacent to these areas must be found to be protective of the long-term maintenance of these habitats.*

***Natural Systems Policy VI-8:*** *The City shall maintain and, as feasible, continue to enhance the habitat values of Soquel Creek through the use of the Automatic Review Zone for the Soquel Creek Riparian Corridor and Lagoon (as designated on Map VI-1). When considering or granting a permit in this area, the City shall give special consideration to the environmental sensitivity of this area, including dedication of scenic conservation easements. In addition, the City shall encourage the use of appropriate native local riparian vegetation.*

***Natural Systems Policy VI-10:*** *It shall be the policy of the City of Capitola to protect the winter resting sites of the Monarch Butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek, as designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.*

***Locating New or Intensified Development Policy (in relevant part):*** *It shall be the policy of the City of Capitola to provide for the protection, preservation, and proper disposition (where necessary) of archaeological, historical, and paleontological resources within Capitola...*

The proposed ordinance prohibits wireless communication facilities (WCFs) in or within 500 feet of a number of zoning districts, including the primary residential, parks and open space, and public facilities zoning districts. In addition, the proposed ordinance prohibits WCFs within 3,000 feet of the coastline, with two exceptions: if the proposed wireless facility would eliminate or substantially reduce significant a gap in the applicant's carrier network and if there are no viable alternatives outside the restricted coastal area that would substantially reduced said significant gap (see Exhibit 1, pg. 16). Consistent with the Natural Systems Policies of the LUP, these restrictions would preclude installation of WCFs at New Brighton State Beach (which contains a monarch butterfly eucalyptus grove) given that this area is zoned PF-P (Public Facility – Parks/Open Space) and is located directly adjacent to the coastline. Additionally, WCFs would be prohibited along Soquel Creek because the entire portion of Soquel Creek that lies within the coastal zone is located within 3,000 of the coastline. The proposed ordinance also prohibits installation of WCFs if the design and/or construction of the WCF would damage a known archaeological site (Exhibit 1, pg. 17). Given these restrictions, the primary areas where WCFs could be located in the City include commercial, office, or industrial sites located at least 3,000 feet from the coastline. Any WCF development in these highly developed zones, however, would be subject to specific design guidelines to minimize the visual impacts of any proposed antenna type. These design guidelines address



issues such as location, height, color and materials, as well as “stealth” techniques to camouflage the WCF. All proposed WCFs will be required to be located so as to minimize their visual impact to the maximum extent feasible. Also, landscaping may be required to visually screen WCFs from public view and to provide a backdrop to camouflage the facilities. In addition, all WCFs will be required to comply with all applicable regulations and development standards of the zoning district in which they are situated (see Exhibit 1, pg. 15). Furthermore, the proposed ordinance requires co-location of new WCFs onto existing telecommunication facilities where feasible (see Exhibit 1, pp. 12-13). Finally, as new technology is developed that may lessen the visual impact of WCFs, the proposed ordinance requires that a WCF shall be upgraded to the new standards (see Exhibit 1, pg. 33). These requirements will ensure minimization of visual impacts of WCFs in the coastal zone, consistent with the visual protection policies of the certified Land Use Plan.

The proposed WCF ordinance addresses the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the City’s natural areas and areas within 3,000 feet of the coastline that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas. Thus, the proposed zoning ordinance to regulate development of wireless telecommunication facilities is consistent with and adequate to carry out the policies of the certified LUP.

## **B. Rezoning of Three Properties**

The following City of Capitola LCP policy provides for exclusive residential development in certain areas of the City, and states:

*Policy I-2. It shall be the policy of the City of Capitola to encourage mixed commercial/residential development in the Village and to designate certain existing residential areas as exclusively residential.*

The proposed amendment consists of zoning map amendments to rezone three separate properties from RM-M (Multiple Family Residence – Medium Density) to PD (Planned Development). See Exhibits 2-4 for the location of these properties. The amendment provides for a three-unit townhouse property on Pine Street, a six-unit condominium project on 41<sup>st</sup> Avenue, and a six-unit condominium project (developed by Habitat for Humanity as affordable housing) on Brommer Street. These projects have already been developed, although the City did not apply for the zoning amendments until recently. The property located on Pine Street is approximately 3,000 feet from coastal access points; the properties located on 41<sup>st</sup> Avenue and on Brommer Street at 38<sup>th</sup> Avenue are more than 4,000 feet from coastal access points. In all three cases, the parcels are located in heavily developed residential areas of the City, with the development surrounding these parcels consisting mostly of multi-family dwellings, with some single-family dwellings also. In addition, the property on heavily developed 41<sup>st</sup> Avenue is located behind a church and its associated parking lot.

All three parcels are designated R-M (Residential Medium: 10 to 15 units) on the certified Land Use Plan map. In all three cases, the development densities for the subject parcels are consistent with that allowed under the certified Land Use Plan map (specifically, the Pine Street project has a density of 14 units/acre, the 41<sup>st</sup> Avenue project has a density of 11.5 units/acre, and the Brommer Street project has a density of 13 units/acre).



The proposed PD zoning district provides that standards for area, coverage, density, yard requirements, parking and screening for PD uses shall be governed by the zoning district most similar to the proposed PD district (RM-M in this case). However, exceptions to these standards are allowed when it is found that the exceptions “encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.” The City originally had approved a triplex for the Pine Street parcel; the applicant then wished to construct the units as townhouses, which would allow them to be individually owned. Although the triplex project on the single lot met the RM-M zoning district development standards regarding setbacks, lot size, and lot coverage, the conversion from a triplex to townhouses required a subdivision, which made it difficult to conform to the development standards of the RM-M zoning district within the newly created lot lines. The same is true for the condominium developments located on 41<sup>st</sup> Avenue and Brommer Street. Thus, the rezoning to PD allows appropriate flexibility regarding setbacks, lot size, and lot coverage for these individually owned units (which would have met the requirements of the RM-M zoning district if the developments were standard multi-family units that were not individually owned). Regarding parking standards, the projects on Pine Street and 41<sup>st</sup> Avenue meet the certified parking standards of the RM-M zone; the Brommer Street Habitat for Humanity project provides 1 covered space and 1 additional space for each unit, which is one space less than is required under the RM-M zoning district regulations. Rezoning to PD also allows for the flexibility to reduce the required parking to two spaces. This parking reduction will not have an adverse impact on coastal access given that this project is located more than 4,000 feet from coastal access points.

In conclusion, the Commission finds that the proposed zoning map amendments are consistent with the LUP designation for the parcels regarding density and are consistent with LCP Policy 1-2 regarding exclusively residential areas within the City of Capitola.

### **III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Coastal Commission’s review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. Approval of the amendments, as submitted, will not have significant environmental effects, consistent with the California Environmental Quality Act.



COPY

ORDINANCE NO. 862

2155

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
ADDING CHAPTER 17.98 TO THE CAPITOLA MUNICIPAL CODE  
PERTAINING TO WIRELESS COMMUNICATIONS FACILITIES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AS  
FOLLOWS:

**Section 1.** Chapter 17.98 is hereby added to the Capitola Municipal Code to read as follows. Chapter 17.98 will be effective the 31<sup>st</sup> day after approval of this Ordinance as to those areas outside the Coastal Zone. Chapter 17.98 of the Capitola Municipal Code will be effective upon certification of this Ordinance by the California Coastal Commission as to those areas within the Coastal Zone.

**"Chapter 17.98**

**WIRELESS COMMUNICATIONS FACILITIES**

**Sections:**

- 17.98.010 Purpose
- 17.98.020 Definitions
- 17.98.030 Applicability
- 17.98.040 Approval Process and Noticing
- 17.98.050 Revocation of Approval
- 17.98.060 Pre-application
- 17.98.070 Submittals
- 17.98.080 General Requirements
- 17.98.090 Location Standards
- 17.98.100 Preferred Antenna Siting and Mounting Techniques
- 17.98.110 Facade-Mounted Wireless Telecommunications Facilities
- 17.98.120 Roof-Mounted Wireless Telecommunications Facilities
- 17.98.130 Ground-Mounted Wireless Telecommunication Facilities
- 17.98.140 Freestanding Monopole Wireless Telecommunication Facilities



- 17.98.150 Setbacks and Projections into Yards
- 17.98.160 Projections into Public Rights of Way
- 17.98.170 Number of Antennas and Facilities Permitted
- 17.98.180 Noise
- 17.98.190 Interference
- 17.98.200 Maintenance and Safety
- 17.98.210 Historical and Archaeological Sites
- 17.98.220 Cessation of Operation On-Site
- 17.98.230 Transfer of Ownership
- 17.98.240 Preexisting and Nonconforming Wireless Communication Facilities
- 17.98.250 Length of Approvals
- 17.98.260 Change in Federal or State Regulations
- 17.98.270 Indemnity and Liability
- 17.98.280 Review of Ordinance
- 17.98.290 Severability

17.98.010 Purpose.

The purpose and intent of this Chapter is to provide a comprehensive set of standards for the development and installation of wireless communications facilities. The regulations contained herein are designed to protect and promote public safety and community welfare, property values, and the character and aesthetic quality of Capitola, while at the same time not unduly restricting the development of wireless communications facilities, and not unreasonably discriminating among wireless communications providers of functionally equivalent services.

These regulations are further intended to:

A. Require the location of new monopoles, towers and antennas in non-residential zoning districts unless technically necessary for provision of the service.

B. Require wireless telecommunication facilities to be designed in a way to minimize adverse visual impacts.



- C. Encourage co-location of facilities.
- D. Protect the public's interest in the safe operation of public safety, emergency and medical services.
- E. Protect the public from exposure to electromagnetic frequency or radio frequency radiation in excess of federal standards.

#### 17.98.020 Definitions

A. As used in this Chapter, the following terms shall have the meaning set forth below, unless the context clearly dictates a different meaning.

1. "Amateur radio facilities" are antennas and related equipment for the purpose of self-training, intercommunication, or technical investigations carried out by an amateur radio operator who operates without commercial interest, and who holds a written authorization from the Federal Communications Commission to operate an amateur radio facility.

2. "American National Standards Institute (ANSI)" is a private organization that develops widely accepted standards for various modern day equipment.

3. "American National Standards Institute/Institute of Electrical and Electronic Engineers Report (ANSIIEER)" is the current version of the ANSI standard governing human exposure to RFR. The full title of the C95.1-1992 of the ANSI RFR standard is "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 Khz to 300 Ghz."

4. "Antenna" is a device or system of wires, poles, rods, dishes, discs or similar devices used for the transmission and/or receipt of electromagnetic waves.

5. "Analog" is a signal that is continuous and varies in voltage to reflect variations to certain extent, such as loudness.

6. "Base transceiver station (BTS)" is the electronic equipment housed in cabinets that together with antennas comprises a PCS facility or "site". The cabinets include an air conditioning unit, heating unit, electrical supply, telephone hook-up and back-up power supply.

7. "California Public Utility Commission (CPUC)" is the state level regulatory agency responsible for regulating wireless telecommunications.

8. "Cell" is the coverage area through which wireless receiving and transmitting equipment from a particular cell site successfully propagates.

9. "Cell site" is a parcel of real property or public right-of-way on which a wireless telecommunications facility is to be located.

10. "Cellular service" is a wireless transmission technology that uses a grid of antennas or cell sites to send and receive signals from mobile telephones and has been licensed by the Federal Communications Commission to operate in the 800 to 900 MHz frequency band.

11. "Co-location" is a wireless telecommunications facility comprising a single telecommunications tower, monopole or building supporting antennas owned or used by more than one wireless telecommunications carrier.

12. "Digital" A digital signal which is a nominally discontinuous electrical signal that changes from one state to another in discrete steps.

13. "Direct-to-home" generally means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises.

14. "Director" is the Director of Community Development or his or her authorized representative.

15. "Effective radiated power ( ERP ) " means the amount of power emitted by an antenna.

16. "Electro-magnetic field (EMF)" means the local electric and magnetic fields that envelop the surrounding space. The most ubiquitous source of electromagnetic fields is from the movement and consumption of electric power, such as with transmission lines, household appliances and lighting.

17. "Enhanced specialized mobile radio (ESMR)" is a wireless telecommunication system that utilizes digital technology and has been licensed by the Federal Communications Commission to operate in the 800 to 900 MHz frequency band.

18. "Facade-mounted antenna" is an antenna that is directly attached or affixed to any facade of building.

19. "Federal Communications Commission (FCC)" is the federal agency responsible for licensing and regulating wireless telecommunications providers. The agency has primary regulatory control over communications providers through its powers to control interstate commerce and to provide a comprehensive national system in accordance with the Federal Communications Act.

20. "Freestanding monopole" is a structure composed of a single spire used to support communications equipment.

21. "Frequency" is the number of cycles made by electromagnetic radiation in one second, usually expressed in units of hertz (Hz).

22. "Gigahertz (Ghz)": See Hertz.

23. "Ground-mounted" is an antenna with its support structure placed directly on the ground.

24. "Hertz" is a term for expressing frequency, which is the number of times a wave-like radio signal changes from maximum positive to maximum negative charge per second. It is abbreviated as Hz. 1 Hz=1 cycle per second. 1 kilohertz (kHz)=1,000 Hz; 1 megahertz (MHz)=1,000 kHz or 1,000,000 Hz; 1 gigahertz (GHz)=1,000 MHz or 1 million kHz or 1 million kHz or billion Hz.

25. "Ionizing radiation" means electromagnetic energy above visible light. Includes ultraviolet, nuclear or radioactive emissions, x-rays and gamma rays.

26. "Megahertz (Mhz) ": See Hertz.

27. "Microwave" is that portion of the radio spectrum between 950 Mhz and 30,000 Mhz.

28. "Monopole." See "Freestanding monopole."

29. "National Council on Radiation Protection and Measurements (NCRP)" is a quasi-governmental entity created to examine RFR exposure level guidelines.

30. "Non-ionizing electromagnetic radiation (NIER)" means low energy and low frequency electromagnetic energy, including visible light, television, pagers, AM/FM radio, cellular systems, enhanced specialized mobile radio (ESMR) systems and personal communications services (PCS) systems.

31. "Omni-directional" means an antenna that is equally effective in all directions (360 degrees) and are typically cylindrical in shape. The size of which varies with the frequency for which it is designed. Whip antenna are often referenced by this name.

32. "Panel antenna" means an antenna or array of antennas designed to concentrate a radio signal in a particular area. Panel antennas are typically flat, rectangular, long devices generally three square feet in size, although some technologies utilize larger panel antennas. Also known as directional antennas.

33. "Personal communications services (PCS)" means a common carrier radio service licensed by Federal Communications Commission to operate in the 900 and 1,850 to 1,990 MHz frequency bands.

34. "Radio frequency radiation (RFR)" means electromagnetic radiation in the portion of the spectrum from 3 kilohertz to 300 gigahertz.

35. "Roof-mounted" means an antenna directly attached or affixed to the roof of an existing building, water tank, tower or structure other than a telecommunications tower. This type of installation is sometimes called a freestanding roof mounted antenna.

36. "Service provider" means a wireless telecommunications provider, a company or organization, or the agent of a company or organization that provides wireless telecommunications services.

37. "Significant gaps" is a gap in the service provider's own wireless communications facilities, as defined in Federal case law interpretations of the Federal Telecommunications Act of 1996, including Sprint Spectrum v. Willoth (1999) 176 F.3d 630 and Cellular Telephone Company v. Zoning Board of Adjustment of the Borough of Ho-Ho Kus (1999) 197 F.3d 64.

38. "Specialized mobile radio (SMR)" is equivalent to private versions of cellular radio systems.

39. "Stealth facility" is any communications facility, which is designed to blend into the surrounding environment, and is visually unobtrusive. Examples of stealth facilities may include architecturally screened roof-mounted antennas, facade-mounted antennas painted and treated as architectural elements to blend with the existing building, or elements designed to appear as vegetation or trees. Also known as concealed telecommunications facilities.

40. "Telecommunications" is any transmission, emission or reception of signals, images and sound or information of any nature by wire, radio, visual or electromagnetic system that work on a "line-of-sight" principle.

41. "Telecommunication tower" is a monopole, lattice tower, free standing tower or other structures designed to support antennas.

42. "Visual impact" means the placement or design of an antenna or the associated equipment and/or buildings such that they are not screened or shielded or are plainly visible and are likely to be noticeable or otherwise conspicuous.

43. "Whip antenna" See "Omni-directional antenna."

44. "Wireless telecommunications facility" is a land use facility supporting antennas that sends and/or receives radio frequency signals. Wireless telecommunications facilities include antennas and all other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar structures built to support such equipment; equipment cabinets, base transceiver stations, and other accessory development. Also referred to as a telecommunication facility.

45. "Wireless telecommunications provider" is any company or organization that provides or who represents a company or organization that provides wireless telecommunications services.

#### 17.98.030 Applicability.

A. This Chapter shall apply to all property owned by private persons, firms, corporations or organizations, and property owned by the City, including public streets and alleys, and property owned by any agencies or by any local, state, or federal government agency

or political subdivision thereof required to comply with local government regulations or by written agreement.

B. This Chapter shall not apply to the following facilities:

1. Amateur (including ham and short-wave) radio facilities on private property provided that the antenna does not exceed sixty-five feet (65') in height or is not more than twenty-five feet (25') above the height limit prescribed by the regulations for the district in which the facility is located, whichever is less.

2. Amateur (including ham and short-wave) radio facilities on public property provided:

a. The facilities do not exceed sixty-five feet (65') in height or are not more than twenty-five feet (25') above the height limit prescribed by the regulations for the district in which the facilities are located, whichever is less;

3. Wireless communications facilities, which are not licensed by the Federal Communications Commission and are determined by the Director to have little or no adverse visual impact.

4. Direct-to-home satellite services smaller than two (2) feet in diameter provided that such facilities are in accordance with the exceptions listed in subsection 17.63.030 of this Title.

5. Any wireless communications facility located on land owned by one of the public entities listed below and operated for the public entity's public purpose only and not for commercial reasons:

a. The United States of America or any of its agencies;

b. The State or any of its agencies or political subdivisions of the State not required by State law to comply with local zoning ordinances.

#### 17.98.040 Approval Process and Noticing

A. Any proposed façade-mounted or roof-mounted wireless communication facility that is determined by the Community Development Department to be consistent with all of the

requirements of this ordinance, and incorporates stealth technologies and/or is not visible from public areas, shall require administrative review for compliance from the Community Development Department and a building permit based on the following:

1. Findings are prepared that demonstrate consistency of the proposed project with Sections 17.98.080 through 17.98.120 (as applicable).
2. At the discretion of the Director, the project may also be forwarded to the Architecture and Site Review Committee for review and comment.
3. A public notice is published in a local newspaper following administrative review allowing the proposed project to be appealed to the Planning Commission within 10 working days of the public notice.

B. All other wireless communications facilities that do not meet the criteria defined in Section A above shall require review by the Architectural & Site Review Committee, and a Conditional Use Permit with a public hearing before the Planning Commission. Notwithstanding Section 17.63.080, all property owners within six hundred feet (600') of a property on which a wireless communications facility is proposed shall be notified by mail of the wireless communications facility application no later than ten (10) days prior to a public hearing by the Planning Commission. In approving an application, the City may impose such conditions as it deems appropriate or necessary to further the purposes of this Chapter, including, but not limited to, requiring the redesign or relocation of the facility. Alternatively, the City may direct the applicant to resubmit a revised proposal for further consideration.

17.98.050 Revocation of Approval.

A. If the Director finds that a use is not in compliance with this Chapter, that conditions of approval have not been fulfilled, or that there is a compelling public necessity, the Director shall notify the wireless communications facility provider of the same, in writing, and state the actions necessary to cure. After thirty (30) days from the date of notification, if the use is not brought into compliance with this Chapter, the conditions of approval have not been fulfilled, or there is still a compelling public



Commission for review. Such reviews shall occur at a noticed public hearing where the wireless communications provider may present relevant evidence. If, upon such review, the Commission finds that any of the above has occurred, the Commission may modify or revoke all approvals and/or permits.

B. The terms of this Section shall not apply to preexisting legal nonconforming wireless communications facilities.

17.98.060 Pre-Application.

A. A pre-application conference with the Community Development Department and Public Works is strongly recommended for all wireless communication proposals. This conference should take place at the earliest stage of looking for an appropriate site. Applicants are encouraged to bring to this informal meeting a map of the geographic service area and geographic area where an antenna site could be located, a preliminary site plan and architectural drawing, and photographs of the proposed project site.

17.98.070 Submittals.

A. For all proposed wireless communications facilities, the wireless communications provider, including providers establishing co-location services, shall provide the following to the Director:

1. Architectural & Site Review Application. A completed City architectural and site review application, which includes the signature of the wireless communications provider and the property owner.

2. Fees. All applicable fees.

3. Title reports. Title reports may be obtained from the Santa Cruz County Assessor's Office.

4. Site Plan. Provide a site plan (24" x 36" format), drawn to a measurable scale, showing the metes and bounds of the property, the location of existing features of the site including existing structures, roads, landscaping, trees and other significant natural and constructed features. The site plan shall show the location of each new structure to be

located on the site including telecommunications antennas, base transceiver stations, equipment cabinets and buildings and appurtenant structures including screening.

5. Elevations. Provide elevations of all proposed communication structures and appurtenances and composite elevations from the street of all structures on site.

6. Section Drawings. Provide section drawings (elevations) of all proposed communication structures and appurtenances and composite elevations from the street of all structures on site.

7. Visual Analysis. A visual impact analysis including scaled elevation diagrams within the context of the building, before and after photo simulations from various locations and/or angles from which the public would typically view the site, and a map depicting where the photos were taken. Where the installation would be readily visible from the public right-of-way or from surrounding properties, the application shall include an explanation as to why, if screening or other techniques to minimize visibility are not proposed, such approaches to reduce the visibility of the installation would not be effective. The Director may require the submission of photo overlays, scaled models, renderings, and/or field mock-ups to assess any potential visual impact including proper coloration and blending of the facility with the proposed site.

8. Landscape Plan. A landscape plan may be required that shows existing vegetation, indicating any vegetation proposed for removal, and identifying proposed plantings by type, size, and location. This may be required depending on the potential visual impacts of ground-mounted equipment. If deemed necessary by the Director, an arborist's report may be also required to verify that the existing landscaping will not be adversely affected by the installation of the facility. The arborist's report may recommend protective measures to be implemented during construction.

9. Existing & Future Facilities Map. A map, to scale, of the wireless communications provider's existing and planned facilities and service area(s), including information about the location, height and design, coverage, and significant gaps within the City limits and within one-half (1/2) mile there from.

10. Miscellaneous and Appurtenant Structures. Show in all relevant plans all facility related structures and support equipment to be installed. This includes, but is not limited to, the location(s) and method(s) of placement, support, protection, screening, paint and/or other treatments of the antennas, base transceiver stations, equipment cabinets and buildings, cables, and other appurtenances.

11. Screening Techniques. A statement describing the proposed means of visually screening unsightly public views of facilities, as needed, including submittals of sample exterior materials and colors of towers, antennas, accessory structures (such as equipment cabinets and structures), and security fences. This statement should include a justification of why the proposed height and visual impact of the wireless communications facility cannot be reduced.

12. Equipment Inventory. The number, type and dimensions of antennas, equipment cabinets, and related facilities proposed for use by the wireless communications provider. The size of equipment cabinets and related facilities are not required if the cabinets and related facilities are located completely underground or entirely within a building, not including an equipment cabinet.

13. Structural Engineering Report. A report from a structural engineer, licensed by the State, regarding the number and type of antennas that a proposed or existing structure is designed to support.

14. Site Selection Process. A letter indicating whether, and why, each site identified is essential for completion of the wireless communications provider's coverage objective. This letter should describe the site selection process including information about other sites which were considered that could service the same or similar coverage area and the reasons for their rejection.

15. Co-location. A statement of whether the facility could be co-located elsewhere and, if not, why co-location is not being proposed. This statement should also state the wireless communications provider's commitment to allow other wireless communications providers to co-locate antennas on their proposed facilities wherever structurally and technically feasible, to demonstrate how the facilities have been designed to allow co-location of other carriers (if

applicable), and to provide at any time additional information, as requested by the Director, to aid in determining whether or not another wireless communications provider could co-locate on/near their facilities if approved.

16. FCC Compliance. A report prepared by a certified professional radio frequency engineer: a) stating the power rating for all antennas and backup equipment proposed; b) verifying that the system, including the antennas, and associated equipment cabinets/structures, conforms to the non-ionizing electromagnetic radiation (NIER) standards adopted by the Federal Communications Commission, including operating within its frequency assigned by the Federal Communications Commission; and c) confirming that operation of the facilities, both individually and cumulatively if located adjacent to other wireless communications facilities, will not exceed all adopted Federal Communications Commission standards. The report should confirm that the proposed wireless communications facility shall be operated in a manner, which complies with the Federal Communications Commission's regulations regarding signal interference. FCC compliance information should be presented in a concise and easy-to-read format that clearly demonstrates in a non-technical manner the current site conditions, conditions with the proposed project, and FCC thresholds as they relate to all applicable emissions standards.

17. Easements. Provide information about any necessary easements.

18. Safety/Security Plan. A detailed description of the proposed measures to ensure that the public would be kept at a safe distance from any NIER transmission source associated with the proposed wireless communications facility, consistent with the NIER standards of the FCC or any potential future superceding standards. The submitted plans must show that the outer perimeter of the facility site (or NIER hazard zone in the case of rooftop antennas) will be posted with bilingual NIER hazard warning signage that also indicates the facility operator and an emergency contact who is available on a 24-hour a day basis and is authorized by the applicant to act on behalf of the applicant regarding an emergency situation.

19. Third-Party Technical Review. A statement, at the discretion of the Director, that the applicant will pay the reasonable actual costs of a reasonable administrative fee for the

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City to hire an independent qualified radio frequency or electrical engineers to evaluate any technical aspect of the proposed telecommunication facility including, but not limited to, compliance with applicable Federal emission standards, feasibility of collocation, need for proposed location and suitability of alternative sites, potential for interference with existing or planned public safety emergency response telecommunication facilities, or analysis of feasibility of alternative screening methods or devices. Any proprietary information disclosed to the city or the consultant in confidence (as noted by the applicant) shall, to the extent permitted by law, not be considered a public record and shall remain confidential and not be disclosed to any third party without the express consent of the applicant. The City shall return all proprietary information to the applicant and not retain any copies of such information once its decision is final.

20. Financial Guarantee. A financial guarantee, satisfactory to the City Manager, for the removal of the facility in the event that its use is abandoned, or its approval is terminated.

21. Maintenance Program. A letter to the Director, which describes in detail the maintenance program for the facilities.

B. The Director or Planning Commission may require the applicant to submit additional documentation, which the Director deems necessary to evaluate the proposed site or facility, including but not limited to the following:

1. Other Agency Permits and Licenses. Information sufficient to determine that the wireless communications provider has applied for and received all applicable operating licenses or other approvals required by the Federal Communications Commission and California Public Utilities Commission to provide wireless communications within the City.

2. Alternative Equipment Configuration. The types and range of sizes of antennas and equipment cabinets, which could serve as alternatives for use by the wireless communications provider.

3. Topographic Map. A USGS topographic map or survey, to scale, with existing topographic contours showing the proposed antennas, accessory structures, and new roads in an area.

4. Site Selection Data. Technical data related to the site selection process.
5. Noise Impact Analysis. Provide noise and acoustical information for the base transceiver stations, equipment buildings and associated equipment such as air conditioning units and back-up generators.
6. Proof of Irrigation Facilities. Written proof of the availability of any required irrigation facilities on-site prior to permit issuance. This may be in the form of a letter from the owner of the land allowing the wireless communications provider the use of required water facilities for landscaping.

#### 17.98.080 General Requirements

A. All wireless communications facilities, except for exempt facilities described in Chapter 17.98.010, shall comply with all applicable goals, objectives and policies of the General Plan/Local Coastal Program, area plans, zoning regulations and development standards; the California Coastal Act; and are subject to the California Environmental Quality Act (CEQA).

B. Restricted Zoning Districts. Wireless communication facilities shall generally be allowed on parcels in non-residential zoning districts. Wireless communication facilities are prohibited within or 500 feet of the following zoning districts, subject only to exceptions as described in Chapter 17.98.080(D) below.

1. Single Family Residence (R-1)
2. Multiple Family Residence – Low Medium (RM-LM)
3. Multiple Family Residence – Medium (RM-M)
4. Multiple Family Residence – High (RM-H)
5. Mobilehome Exclusive (MHE)
6. Commercial Residential (CR)
7. Parks and Open Space (P/OS),
8. Public Facilities (PF)
9. Transient Rental Use Overlay (TRO)

C. Restricted Coastal Areas; School Areas; Skilled Nursing Facility Areas. To the extent that this Subsection's coastline protection objective can be accomplished consistent with the Federal Communications Act of 1996, and any other applicable federal or state law, wireless communication facilities shall be prohibited in areas that lie within 3,000 feet of the coastline. Wireless communication facilities shall be absolutely prohibited in areas that lie within 1,000 feet of the coastline. Wireless communication facilities shall also be prohibited in areas that lie within 500 feet of a school property or a skilled nursing facility that cares for patients on a long-term basis. No portion of a wireless facility shall extend onto or impede access to a public beach. The restrictions set forth in this subsection are subject to the exceptions set forth in subsection D.

D. Exceptions to Restricted Areas. Wireless communication facilities may be sited in the restricted zoning and coastal areas described above only in situations where the applicant can prove that:

1. The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
2. There are no viable, technically feasible, and environmentally (e.g. visually) equivalent or superior potential alternatives (i.e., sites/facility types) outside the restricted zoning districts or coastal areas that could eliminate or substantially reduce said significant gap(s).

E. Compliance with FCC Regulations. Wireless communication facilities shall comply with all Federal Communication Commission (FCC) rules, regulations, and standards. Every two years the wireless telecommunications service provider shall submit to the Director of Community Development: 1) a certification by a licensed engineer that the emissions are within the current FCC standards; and 2) a report on the level of cumulative radio frequency emissions within an 800-foot radius from the subject antenna.

F. Co-location. Where technically, legally, and fiscally feasible, co-location of new wireless communication facilities onto existing telecommunication ground-mounted and freestanding monopole towers shall be required. Co-location may require that height extensions be made to existing towers or wireless communication facilities to accommodate additional



users, or may involve constructing new multi-user facilities that replace existing single-user capacity towers.

G. Visual Effect. All proposed wireless telecommunications facilities shall be located so as to minimize their visual impact to the maximum extent feasible. Measures to achieve this objective may include but are not limited to the following:

1. The applicant shall use the smallest and least visible antennas feasible to accomplish the owners/operator's coverage objectives. All wireless telecommunications facilities proposed for locations where they would be readily visible from the public right-of-way or from the habitable living areas of residential units within 100 feet shall incorporate appropriate techniques to camouflage or disguise the facility, and/or blend it into the surrounding environment, to the extent feasible.

2. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting. Wireless telecommunication facilities located on historic features (as defined in Chapter 17.87), a national or California registered historic building, or within a designated historic district, shall be limited to façade-mounted facilities only and integrated architecturally with the style and character of the structure or otherwise made unobtrusive. No wireless communications facility shall be sited such that its design and/or construction will damage an archeological site.

3. Whenever possible, base transceiver stations, equipment cabinets and buildings, back-up generators, and other equipment associated with building-mounted antennas should be installed within the existing building envelope. If this is not feasible, the equipment shall be as low profile, screened, fenced, landscaped, painted, or otherwise treated architecturally to minimize its appearance from off-site locations and to visually blend with the surrounding natural and built environment. Equipment buildings should be designed in an architectural style and constructed of exterior building materials that are consistent with surrounding development and/or land use setting (if applicable) and should be a visually pleasing feature.

4. All ground-mounted base transceiver stations, equipment cabinets, and utility panels for telecommunications facilities shall be limited to a maximum height of six (6) feet above

grade unless other techniques are adopted to ensure minimal visual impact. Base transceiver stations, equipment cabinets, and utility panels that are taller may be partially buried underground or installed by use of another technique to maintain the six (6) foot height limit. Greater height may be granted upon a finding that it is not possible to meet the height limitation and that adequate screening of the equipment is provided.

5. No advertising signage or identifying logos shall be displayed on wireless telecommunications facilities, except for small identification plates used for emergency notification or hazardous or toxic materials warning.

6. Applicants are encouraged to consider providing architectural treatments and to use "stealth techniques" to reduce potential visual impacts for all telecommunication facilities. Stealth techniques are especially encouraged in areas easily visible from a major traffic corridor or commercial center or in residential areas. Stealth techniques may be required as Conditions of Approval when determined to be necessary to mitigate adverse visual impacts. However, under no circumstances will "in wall" cell towers, i.e. cell towers constructed partially or wholly within the walls of a building, be permitted.

7. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The Director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance. The design of the fencing and other access control devices shall be subject to design review.

H. Landscaping. Landscaping may be required to visually screen wireless communications facilities from adjacent properties or public view and/or to provide a backdrop to camouflage the facilities. All proposed landscaping is subject to the Director's review and approval. Landscaping guidelines include but are not limited to the following:

1. To the extent feasible, existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized. Additional trees and other

vegetation shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations where such vegetation is deemed necessary to provide screening of wireless communications facilities and related access roads.

2. All trees used in landscaping shall be a minimum of fifteen (15) gallons in size and all shrubs in a minimum of five (5) gallons, unless otherwise approved.

3. Existing trees and other screening vegetation in the vicinity of the proposed facility and associated access-ways shall be protected from damage both during and after construction.

4. Where applicable, the applicant shall enter into a landscape performance and maintenance agreement with the City to ensure the installation and establishment of required landscaping. This agreement shall be secured by financial guarantees acceptable to the Director in an amount equal to 150% of the estimated cost of materials and labor for required improvements. The duration of the landscape maintenance agreement shall be for the length of the permit.

5. All landscape design shall meet the water efficiency landscaping requirements of Chapter 17.97 of this title, including installing or upgrading existing irrigation systems if necessary.

I. Access Roads. All wireless communications facilities shall use existing access roads, where available. Unless visual impacts can be adequately mitigated, no new access roads shall be allowed with any proposed wireless communications facility.

J. Minor Modifications. Minor modifications to wireless communications facility equipment design, location, height, and other elements may be allowed, subject to the approval of the Director, if such modifications are in keeping with the architectural statement and layout design of the original approval, and meet the requirements of this Chapter.

#### 17.98.090 Location Standards.

A. Location preference for wireless communications facilities should be given to the following locations:

1. Industrial or commercial

2. Facilities attached or sited adjacent to existing structures. Appropriate types of existing structures may include, but not be limited to: buildings, telephone and utility poles, signage and sign standards, traffic signals, light standards and flagpoles.

3. Sites that are not highly visible from adjacent roadways, public areas, parks, schools, or other visually sensitive areas, as determined by the Director.

B. A wireless communications facility shall not be located in any ~~non~~-residential zoning district unless the proposed facility is located as far away as is feasible from the property lines of Restricted Zoning Districts as described in 17.98.080, as determined by the Director and in no event less than three hundred (300') feet.

C. When feasible and in conformance with other provisions of this Chapter, wireless communications providers shall be encouraged to locate their wireless communications facilities on publicly owned or controlled property or right of way.

D. Amateur radio facilities are prohibited on public property in any zoning district, unless the facility meets the requirements of subsection 17.98.030 (B) of this Chapter.

#### 17.98.100 Preferred Antenna Siting and Mounting Techniques.

A. The following wireless telecommunications facilities and mounting techniques are listed in order of preference:

1. Façade-mounted facilities.
2. Roof-mounted facilities.
3. Ground-mounted facilities.
4. Freestanding monopole facilities.

#### 17.98.110 Facade-Mounted Wireless Telecommunication Facilities.

A. Facade-mounted antennas shall be integrated architecturally with the style and character of the structure or otherwise made as unobtrusive as possible. If possible, antennas should be located entirely upon an existing or newly created architectural feature so as to be completely screened from view. Otherwise, antennas should be painted and/or textured to match the wall surface on which it is to be exhibited. To the extent feasible, facade-mounted antennas

should not be located on the front or most prominent facade of a structure and should be located out of the pedestrian line-of-sight unless stealth techniques will reasonably eliminate visual impacts and are designed to appear as an integral part of the structure. Facade-mounted equipment shall not project more than eighteen (18) inches from the face of the building or other support structure, unless specifically authorized by the Director.

B. Facade-mounted antennas shall be camouflaged by incorporating the antennas as part of a design element of the building or by painting and/or texturing to match exterior wall background.

C. Antennas and the associated mountings shall be of a scale compatible with the building and shall generally not project beyond a maximum of 12-inches from the face of the building.

D. Facade-mounted antennas shall be mounted so that the foot of the antenna structure, at a minimum, is ten feet above ground.

17.98.120 Roof-Mounted Wireless Telecommunications Facilities.

A. Roof-mounted antennas are discouraged on residential buildings and are not allowed unless a finding can be made that no other reasonable alternative is available that meets the service requirements of the service provider.

B. Roof-mounted antennas shall not be allowed when they are placed in locations where they significantly affect scenic views. However, such facilities may be allowed with incorporation of appropriate stealth techniques.

C. The height of roof-mounted wireless communications facility shall be based on a visual analysis demonstrating that views of the facility are minimized or are substantially screened from residential land uses, or other sensitive land uses such as parks, schools, or major streets, and on an engineering analysis justifying the height of the proposed wireless communications facility. The Director may require an independent review, paid for in advance by the applicant, to evaluate the applicant's request. Factors to be considered are: whether or not another site exists where the standards set forth in (Part B) whether there is another method of

installation that would result in a project that complies with the standards; whether the addition of another wireless telecommunications facility would allow the reduction in height of the proposed facility; and whether there is any other technically feasible method of siting the facility that would reduce the height. If it is determined that the additional height is necessary, additional screening may be required to mitigate adverse visual impacts.

D. All roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized. Screening panels may be used to mitigate visual impacts but must be designed to blend with the architecture of the building in terms of scale, material and color. The cost to provide such screening of visual equipment shall not by itself provide justification to allow conspicuous equipment or antennas to remain visible.

E. All roof-mounted facilities shall be painted with a non-reflective matte finish using an appropriate color that blends with the backdrop. The final choice of colors shall be determined by the Community Development Department on a case-by-case basis, in accordance with this subsection.

F. Whenever feasible, all rooftop equipment installations shall be set back such that they are not viewed from the street. The equipment cabinets, base transceiver stations, cables and other appurtenant equipment, if located on the rooftop of buildings, shall be so located as to be minimally visible from public rights-of-way. Roof screening in compliance with this section may be required in cases where equipment is considered a visual impact.

G. Notwithstanding any other provision of this Section, no roof-mounted antennas, including support structures, shall exceed 6 feet in height above the parapet of the roof.

#### 17.98.130 Ground-Mounted Wireless Telecommunication Facilities.

A. The height of ground-mounted antennas shall adhere to the guidelines as defined for roof-mounted antennas as described above in Section 17.98.120 (C).

B. Whenever possible, proposed wireless telecommunications facilities shall be located within easy reach of existing access roads.

C. Ground-mounted facilities shall be painted using non-reflective matte finished shades designed to blend with the backdrop. However, the final choice of colors shall be determined on a case-by-case basis upon determination of the color that best blends into the backdrop. If equipment cannot be painted, adequate screening shall be provided that blends with the predominant architectural design and material of adjacent buildings, including material, finish and texture. A photo simulation may be required to illustrate the blending.

D. Substantial screening by landscaping shall be used as natural screening to minimize any visual impacts. All proposed vegetation shall be compatible with existing vegetation in the area.

E. All ground-mounted antennas that are located on undeveloped sites, where allowed, shall be converted to roof- or façade-mounted antennas with the development of the site when technically feasible.

17.98.140 Freestanding Monopole Wireless Telecommunication Facilities.

~~B.~~ A. Freestanding monopoles shall be located and designed to minimize visual impacts. For example, a monopole could be located in a grove of existing trees so that natural screening or background is provided. Freestanding monopoles in high visibility locations shall incorporate "stealth techniques" to camouflage them as a piece of art/sculpture, a clock tower, flag pole, tree or other interesting, appropriate and compatible visual form. Such stealth installations shall be used when the siting and surrounding environment helps them to blend with the setting. Freestanding monopoles may not be located within the required front yard setback of any property, unless appropriate architectural elements for a "stealth facility" are incorporated in the design of the monopole

~~B.~~ C. Freestanding monopoles shall be prohibited in the Capitola Village unless all other types of wireless communication facility structures are considered not technically feasible.

~~C.~~ D. Freestanding monopoles shall generally not be allowed within 1,000 feet of each other except when the cumulative visual impacts are not significant.



**D** ~~E~~. Freestanding monopoles shall be designed at the minimum functional height required. The height of monopoles shall be reviewed on a case-by-case basis for the visual impact on the neighborhood and community. The Director may require an independent review through a supplementary report, paid for in advance by the applicant, to evaluate the applicant's request. Factors to be considered are: whether or not another site exists where a more preferred method of installation could be met; whether the future addition of another wireless telecommunications facility could affect the future height of the proposed facility; and whether there is any other technically feasible method of siting the facility that would reduce the overall proposed height.

**17.98.150 Setbacks and Projections into Yards**

A. Wireless communication facilities shall comply with all applicable setback regulations of the Zoning District in which they are situated. All setbacks shall be measured from the furthest extent of a wireless communications facility to the closest applicable property line or structure, with the exception of equipment shelters. Equipment shelters shall be measured from the outside wall of the shelter to the closest applicable property line or structure.

B. Underground equipment shelters or cabinets may adjoin property lines, if approved by the Building Official.

C. Ground-mounted antennas and related equipment shall not be located in front of main structures and/or along major street frontages where they will be readily visible.

D. The clear vertical height under a projection shall be at least fifteen feet (15').

**17.98.160 Projections into Public Rights of Way**

A. Ground-mounted antennas and related equipment shall not extend over a sidewalk, street or other public right of way, except that ground-mounted antennas and related equipment on streetlight poles, traffic signals, and existing telephone poles may extend over a sidewalk or street, subject to Director and Director of Public Works approvals.

B. Roof-mounted and façade-mounted antennas and their related equipment shall not extend over a street.

C. Roof-mounted and façade-mounted antennas and their related equipment may extend over a sidewalk provided that there shall be a setback of at least two feet (2') between the curb and any portion of an antenna and its related equipment.

D. The clear vertical height under a projection shall be at least fifteen feet (15').

17.98.170 Number of Antennas and Facilities Permitted

A. The Director shall determine the number of antennas allowed per site on a case-by-case basis, or defer to the Architecture and Site Review Committee and/or Planning Commission, with the goal of minimizing adverse visual impacts

17.98.180 Noise

A. All wireless communications facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to adjacent uses and activities. Noise attenuation measures shall be required for all air-conditioning units. Backup generators shall only be operated during power outages and for testing and maintenance purposes. At any time, noise attenuation measures may be required by the Director when deemed necessary.

B. Testing and maintenance activities of wireless communications facilities which generate audible noise shall occur between the hours and eight o'clock (8:00) A.M. and five o'clock (5:00) P.M., weekdays (Monday through Friday, non-holiday) excluding emergency repairs, unless allowed at other times by the Director. Testing and maintenance activities, which do not generate audible noise, may occur at any time, unless otherwise prohibited by the Director.

17.98.190 Interference

All wireless communications facilities shall be operated in a manner, which complies with the Federal Communication Commission's regulations regarding signal interference.

17.98.200 Maintenance and Safety

A. All wireless communications providers shall provide signage, as required by the Director, which shall identify the name and phone number of the wireless communications

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provider for use in case of an emergency.

1. The design, materials, colors and location of the identification signs shall be subject to Director review and approval.

2. If at any time a new wireless communications provider takes over operation of an existing wireless communications facility, the new wireless communications provider shall notify the Community Development Department of the change in operation within thirty (30) days and the required and approved signs shall be updated within thirty (30) days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs.

B. In addition to providing visual screening, each antenna site may be required to provide warning signs, fencing, anti-climbing devices, or other techniques to achieve the same end to control access to the facilities in order to prevent unauthorized access and vandalism. However, the use of fencing shall not unnecessarily add to the visual impact of the facility, and the design of the fencing and other access control devices shall be subject to Director review and approval. All signs shall be legible from a distance of at least ten feet (10') from the wireless communications facility. No sign shall be greater than two (2) square feet in size.

C. All wireless communications facilities, including, but not limited to, antennas, towers, equipment, cabinets, structures, accessory structures, and signs shall be maintained by the wireless service provider in good condition. This shall include keeping all wireless communications facilities graffiti-free and maintaining security fences in good condition.

D. All wireless communications facilities shall be reviewed by an electrical engineer licensed by the State according to the following guidelines:

1. Within forty-five (45) days of initial operation or modification of a wireless communications facility, the wireless communications provider shall submit to the Community Development Department a written certification by an electrical engineer licensed by the State that the wireless communications facility, including the actual radio frequency radiation of the facility, is in compliance with the application submitted, any conditions imposed, and all other provisions of this Chapter in order to continue operation past the forty-five (45) day period. At

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the wireless communications provider's expense, the Director may employ on behalf of the City an independent technical expert to confirm and periodically reconfirm compliance with the provisions of this Chapter

2. Every wireless communications facility shall demonstrate continued compliance with all radio frequency standards adopted by the Federal Communications Commission. The wireless communications provider shall hire a qualified electrical engineer licensed by the State, and approved by the Director to measure the actual radio frequency radiation of the approved facility and determine if it meets the Federal Communications Commission's standards. A report of all calculations, required measurements, and the engineer's findings with respect to compliance with the radio frequency standards shall be submitted to the Community Development Department within three (3) years thereafter. In the case of a change in the standard, the required report shall be submitted within ninety (90) days of the date the said change becomes effective. In order to assure the objectivity of the analysis, the City may require, at the wireless communications provider's expense, independent verification of the results of any analysis. If a wireless communications provider fails to supply the required reports or remains in continued noncompliance with the Federal Communications Commission standard, the Director shall schedule a public Planning Commission hearing. After conducting the hearing, if the Planning Commission determines that the wireless communications provider has failed to supply the required reports or remains in continued noncompliance, the Planning Commission shall modify or revoke all approvals.

E. All wireless communications facilities providing service to the government or general public shall be designed to survive a natural disaster without interruption in operation. To this end, the following measures shall be implemented:

1. Nonflammable exterior wall and roof covering shall be used in the construction of all above ground equipment shelters and cabinets.
2. Openings in all above ground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers.

3. The material used as supports for the antennas shall be fire resistant, termite proof, and subject to all the requirements of the Uniform Building Code.

4. Wireless communications facility towers shall be designed to withstand the forces expected during the "maximum credible earthquake." All equipment mounting racks and attached equipment shall be anchored in such a manner that such a quake will not tip them over, throw the equipment off its shelves, or otherwise act to damage it.

5. All connections between various components of the wireless communications facility and with necessary power and telephone lines shall be protected against damage by fire, flooding and earthquake.

6. Measures shall be taken to keep wireless communications facilities in operation in the event of a disaster.

7. All equipment shelters and wireless communications facility towers shall be reviewed and approved by the Central Fire Protection District.

8. A building permit shall be required for the construction, installation, repair or alteration of all support structures for wireless communications facilities equipment. Wireless communications facilities must be stable and must comply with the Uniform Building Code and any conditions imposed as a condition of issuing a building permit.

F. All reports, certifications and verifications required to be prepared and maintained by this Section shall at all times be readily available for public examination and review. To this end, upon the request of any person to the City or any wireless communications provider, the City or provider shall promptly make any such report, certification or verification available for review and/or copying. Reasonable copying cost reimbursement may be required. In addition, the wireless communication provider shall post all current reports, certifications and verifications at the site of the wireless communication facility to which they pertain.

#### 17.98.210 Cessation of Operation On-Site

A. Wireless communications providers shall provide the City with a notice of intent to vacate a site a minimum of thirty (30) days prior to the vacation.

B. A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of six (6) months have lapsed since cessation of operations.

C. All equipment associated with a wireless communications facility shall be removed by the property owner after cessation of the said use for more than six (6) consecutive months, and the site shall be restored to its original pre-construction condition. Any access road installed shall also be removed by the property owner and the ground returned to its natural condition after continuous cessation of the said use for more than six (6) months unless the property owner establishes to the satisfaction of the Director that these sections of road are necessary to serve another use which is permitted or conditionally permitted and has been approved for the property or to provide access to adjoining parcels. An exception to this subsection may be made by the Director for an extension of up to twelve (12) months if the property owner continues to make a good faith attempt to sell or lease the property as a wireless communications facility site, as certified by a licensed real estate broker who is under contract with a right to sell or lease the property.

D. Any wireless communications provider that is buying, leasing, or is considering a transfer of ownership of an already approved facility shall submit a letter of notification of intent to the Director.

17398.220 Transfer of Ownership.

A. In the event that the original permittee sells its interest in a wireless communication facility, the succeeding carrier shall assume all responsibilities concerning the project and shall be held responsible to the City for maintaining consistency with all project conditions of approval, including proof of liability insurance. A new contact name for the project shall be provided by the succeeding carrier to the Community Development Department within 30-days of transfer of interest of the facility.

17.98.230 Preexisting and Nonconforming Wireless Communications Facilities

A. The wireless communications provider of a wireless communications facility which was approved by the City before the effective date of this Chapter shall submit a copy of the following to the Director within six (6) months from the date of notification:

1. A written summary certifying the commencement date and expiration date of any lease, license, property right, or other use agreement for the wireless communications facility, including any options or renewal terms contained therein. To the extent permitted by law, the information disclosed in this summary is, and shall remain, confidential, shall not be made a matter of public record, and shall not be disclosed to any third party without the express written consent of the applicant.

2. The approval by the City, which had been granted for the wireless communications facility prior to the effective date hereof.

3. A report stating that the facility complies with the current emissions standards adopted by the Federal Communications Commission as certified by an electrical engineer licensed by the State.

4. A site plan showing the location of the wireless communications facility.

B. The wireless communications provider which operates a wireless communications facility which was approved by the City prior to the effective date of this Chapter and which does not comply with this Chapter on the date of its adoption shall be considered a preexisting legal nonconforming use provided that the wireless communications provider submits the information required in subsection A of this Section.

1. Preexisting legal nonconforming wireless communications facilities shall be permitted to remain until the lessor's lease, including exercised renewals, with the property expires, or the City Council takes action pursuant to subsection F of this Section.

2. A nonconforming wireless communications facility shall not be altered or modified unless approved by the Director subject to the determination that the alteration or modification will cause the wireless communications facility to be in greater conformance with this Chapter.

C. Wireless communications facilities, approved prior to the date of this Ordinance, which comply with the provisions of this Chapter shall be subject to the regulations in this Chapter including Section 17.98.260 of this Chapter.

D. Within eight (8) months from the effective date of this ordinance, the Director shall review the approval for all wireless communications facilities approved prior to the effective date hereof to determine if they are conforming or nonconforming uses.

E. Any wireless communications facility approved by the City prior to the effective date hereof shall cease operations within six (6) months of the enactment of this Ordinance and shall be immediately removed, unless the wireless communications facility submits the materials required in subsection A of this Section.

F. The Director shall determine which nonconforming uses as defined in subsection B of this Section, are to be submitted to the City Council for review. The Director shall base his/her decision on substantial evidence that the nonconforming use is a threat to the public health, safety and general welfare, and/or materially injurious to the properties or improvements in the vicinity. The City Council shall then hold a noticed public hearing.

The wireless communications provider shall be provided written notice, not less than thirty (30) days prior to the hearing, including, with reasonable specificity: 1) the nature of the threat and/or material injury and copies of all of the evidence and materials upon which the Director based his/her determination; 2) a reasonably ascertainable means to correct the threat and/or material injury, if possible; and 3) a reasonable opportunity to cure the same, if curable, which time period in no event shall be less than thirty (30) days from the date of notification or such lesser time period as may be warranted by virtue of a public emergency.

At the hearing, the City Council shall accept evidence from the wireless communications provider, the public, and any other interested persons in determining whether substantial evidence supports the finding that the nonconforming use is a threat to the public health, safety and general welfare, and/or materially injurious to the properties or improvements in the vicinity; and if the City Council so determines, it shall also determine whether to:



1. Require modifications of such wireless communications facility to eliminate the threat to the public health, safety and general welfare, and/or the material injury to the properties or improvements in the vicinity;

2. Immediately eliminate such wireless communications facility by paying the provider just compensation pursuant to the procedures set forth in the State Eminent Domain Law, California Code of Civil Procedure section 1230.010 et seq.; or,

3. Subject such nonconforming use and/or structure to the provisions of this Chapter.

G. If the City and the provider voluntarily agree on just compensation to remove the nonconforming facility pursuant to subsection F-2 of this Section, the City and the provider shall thereafter enter into an agreement for just compensation and the removal of the facility. If the parties cannot voluntarily agree, then the determination of just compensation and the removal of the facility shall be determined under the applicable law.

H. The remedies for the removal of nonconforming uses set forth in this Section are not exclusive. City retains the right to use any and all other means legally available to remove a nonconforming facility.

#### 17.98.240 Length of Approvals

A. All approvals for wireless communications facilities shall be valid for an initial maximum period of five (5) years. An approval may be extended administratively from the initial approval date for a subsequent five (5) years and may be extended administratively every five (5) years thereafter upon the verification of the wireless communications provider's continued compliance with this Chapter and with the findings and conditions of approval under which the application was originally approved. Costs associated with the review process shall be borne by the wireless communications provider. This does not apply to preexisting legal nonconforming uses.

B. Should the Director determine that the wireless communications facility may no longer be in compliance with this ordinance, the Director may, at his/her discretion, schedule a

public hearing before the Planning Commission at which the Planning Commission may modify or revoke an approval if the Commissioners find that:

1. The report showing that the wireless communications facility complies with the current Federal Communications Commission radio frequency standards, as required in subsection 17.98.230 of this Chapter, has not been submitted to the Community Development Department.

2. The wireless communications facility fails to comply with the requirements of this Chapter as they exist at the time of renewal, and the wireless communications provider has failed to supply assurances acceptable to the Director that the facility will be brought into compliance within ninety (90) days.

3. The wireless communications provider has failed to comply with the conditions of approval imposed.

4. The wireless communications facility has not been properly maintained as defined in this ordinance.

5. The wireless communications provider has not agreed in writing to upgrade the wireless communications facility within six (6) months to minimize the facility's adverse visual impact to the greatest extent permitted by the technology that exists at the time of renewal. The Director, with the aid of an independent industry expert, shall determine if a new technology shall further minimize a facility's adverse visual impact and if a facility shall be required to be upgraded. A wireless communications facility shall not be upgraded unless it shall continue to comply with the requirements of this Chapter, as they exist at the time of renewal.

Notwithstanding the foregoing, no public hearing to schedule a denial of an extension pursuant to this Section shall be calendared until the Director has first provided a written notice to the wireless communications provider including with reasonable specificity: a) the nature of the deficiency or violation; b) a reasonably ascertainable means to correct such deficiency or violation; and c) a reasonable opportunity to cure the same if the deficiency or violation is curable, which time period in no event shall be less than thirty (30) days from the date of notification or such lesser period as may be warranted by the nature of a public emergency.

C. If an approved wireless communications facility meets the requirements of this Chapter but it is no longer allowed in its applicable zoning district, the wireless communications facility shall be permitted to remain for five (5) years from the date of the facility's next approval renewal, or until such time as the lessor's lease, including renewals, with the property expires, or the City Council takes action pursuant to subsection 17.98.230 (F) of this Chapter, whichever is soonest.

A nonconforming wireless communications facility shall not be altered or modified unless approved by the Director subject to a determination that the alteration or modification will cause the wireless communications facility to be in greater conformance with this Chapter.

D. The Director's decision to deny a renewal may be appealed pursuant to Chapter 2.52 of this Code.

E. At the Director's request, the wireless communications provider shall provide a written summary certifying the commencement date and expiration date of any lease, license, property right, or other use agreement for the wireless communications facility, including any options or renewal terms contained therein.

F. An approval for a wireless communications facility may be modified or revoked by the Planning Commission as described in this Section.

#### 17.98.250 Change in Federal or State Regulations

All wireless communications facilities shall meet the current standards and regulations of the Federal Communications Commission, the California Public Utilities Commission, and any other agency of the Federal or State government with the authority to regulate wireless communications providers. If such standards and regulations are changed, the wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within ninety (90) days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling Federal or State agency. Failure to bring wireless communications facilities into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of such facilities at

the wireless communications provider's expense.

17.98.260 Indemnity and Liability

A. The wireless communications provider shall defend, indemnify and hold harmless the City or any of its boards, commissions, agents, officers and employees from any claim, action or proceeding against the City, its boards, commissions, agents, officers or employees to attack, set aside, void or annul the approval of the project, unless such claim, action or proceeding is based on the City's negligence or misconduct. The City shall promptly notify the providers of any such claim, action or proceeding. Nothing contained in this subsection shall prohibit the City from participating in a defense of any claim, action or proceeding if the City bears its own attorney fees and costs, and the City defends the action in good faith.

B. Wireless communications providers shall be strictly liable for any and all sudden and accidental pollution and gradual pollution from the usage of their wireless communications facilities within the City. This liability shall include responsibility for clean-up, injuries or damages to persons or property. Additionally, wireless communications providers shall be responsible for any sanctions, fines or other monetary costs imposed as a result of the release of pollutants from their operations.

C. Wireless communications providers shall be strictly liable for any and all damages resulting from electromagnetic waves or radio frequency emissions in excess of the current Federal Communication Commission's standards.

17.98.270 Review of Ordinance

A. Wireless communications technology is currently subject to rapid change. Innovations may render the need for specific sections of this Chapter obsolete. The City shall review this ordinance at least once every five (5) years from the date of adoption.

B. Whenever a wireless communications facility provider applies to locate a significantly different type of technology in the City, the City shall review this Chapter for its applicability prior to the approval of the placement and/or design of the new technology.

C. The City shall review, and may revise, this Chapter after a change to the Federal Communication Commission's regulations, which states that local governments may regulate wireless communications facilities based on their health effects.

17.98.280 Severability

If any section or portion of this Chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the Chapter, which shall continue in full force and effect."

**Section 2.** For areas outside of the Coastal Zone, this Ordinance shall take effect and be in force thirty (30) days after final adoption. For areas inside of the Coastal Zone, this Ordinance shall take effect and be in force upon certification of this Ordinance by the California Coastal Commission.

This ordinance was introduced on the 10<sup>th</sup> day of July, 2003, was modified on the 24<sup>th</sup> day of July and the 9<sup>th</sup> day of October, 2003, passed to a second reading on the 25<sup>th</sup> day of November, 2003, and was finally passed and adopted by the City Council of the City of Capitola on the 11<sup>th</sup> day of December, 2003, by the following vote:

AYES: Council Members Norton, Ortiz, Gualtieri, Arthur and Mayor Harlan

NOES: None

ABSENT: None

ABSTAIN: None

APPROVED: Stephanie Harlan  
Stephanie Harlan, Mayor

ATTEST:

Pamela Greeninger CMC  
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Ordinance No. 862 passed and adopted by the City Council on the 11<sup>th</sup> day of December, 2003.

Pamela Greeninger  
Pamela Greeninger, CMC, City Clerk

## AMENDMENT TO THE ZONING MAP

## EXHIBIT A



200 0 200 400 Feet

THIS IS TO CERTIFY THAT THE ABOVE AND  
FOREGOING IS A TRUE AND CORRECT COPY  
OF ORDINANCE NO. 819 PASSED AND  
ADOPTED BY THE CITY COUNCIL ON THE  
12 DAY OF October 2000

CITY CLERK

Applicant: Greg Martell  
Application #: 00-64  
APN: 036-062-07  
Address: 409 Pine Street



Parcel Boundary

N



# AMENDMENT TO THE ZONING MAP

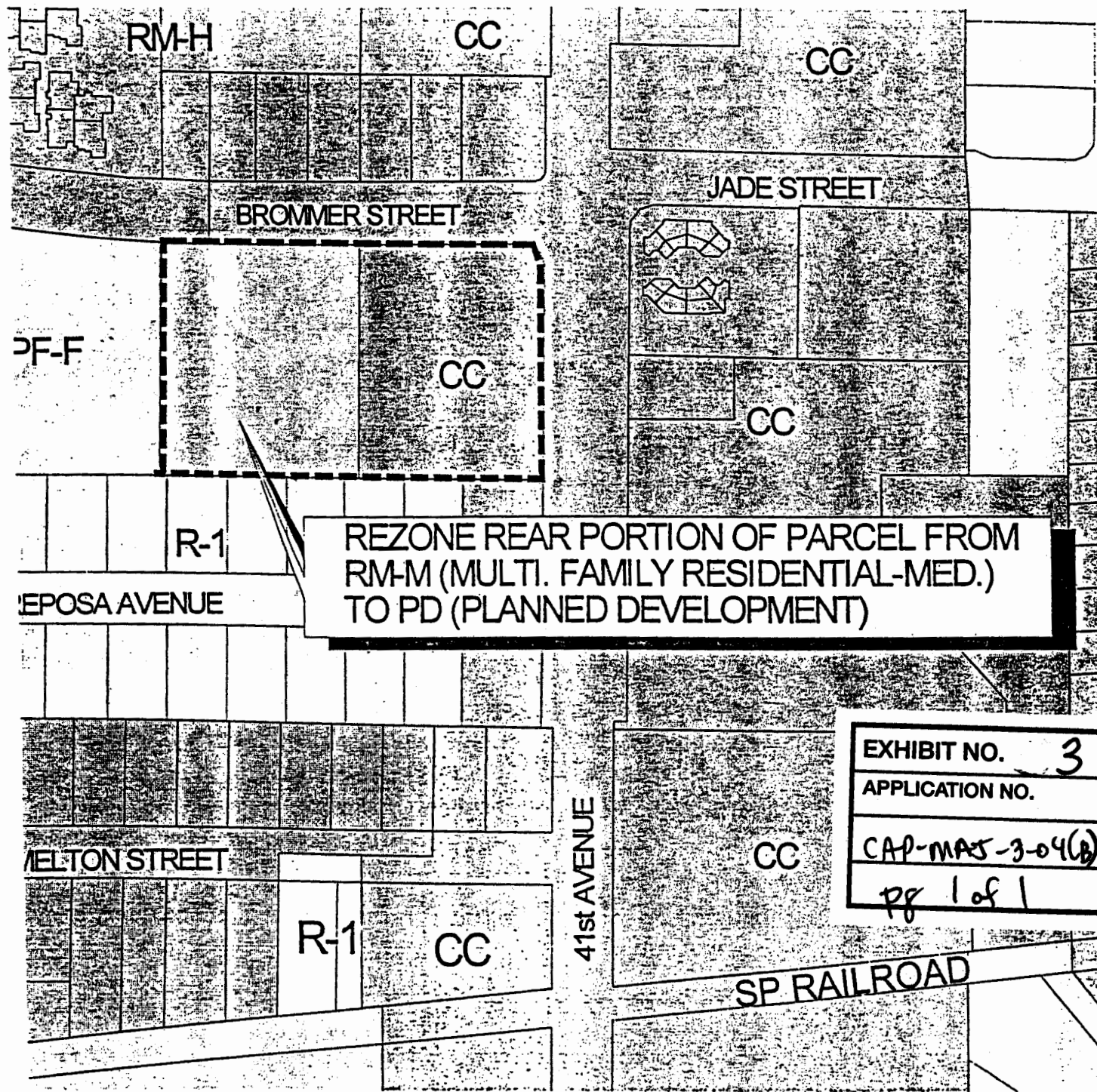


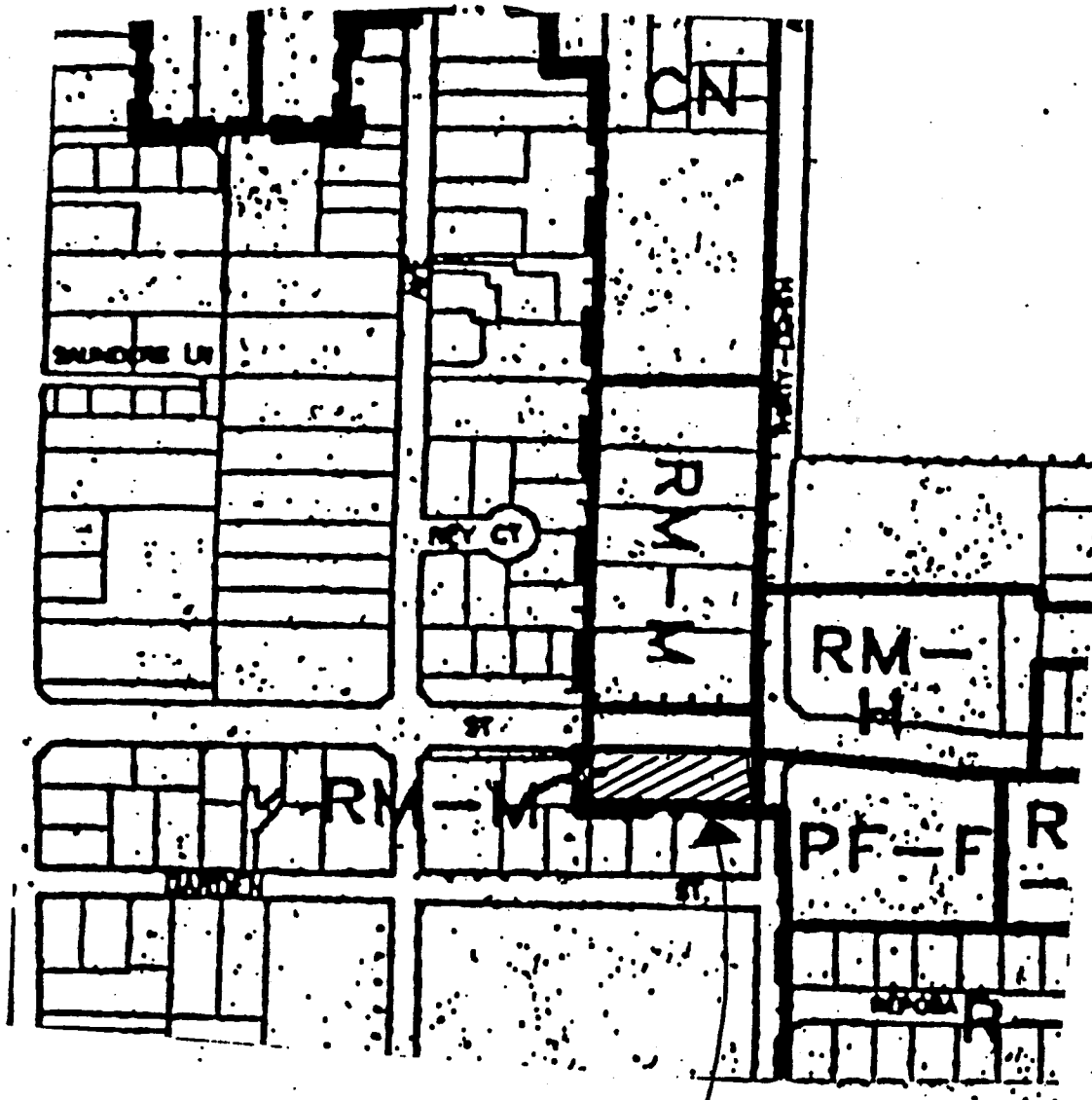
EXHIBIT NO.	3
APPLICATION NO.	
CAP-MAJ-3-04(B)	
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0 0 100 Feet



Applicant: William Jenkins  
Application #: 98-18  
APN: 034-161-12  
Address: 1255 41st Avenue

## EXHIBIT "A"



AMENDMENT TO THE ZONING MAP:  
 REZONE ASSESSOR'S PARCEL NUMBER 034-182-01 FROM THE  
 RM-M (MULTIPLE FAMILY RESIDENTIAL-MEDIUM) ZONING DISTRICT  
 TO THE PD (PLANNED DEVELOPMENT) ZONING DISTRICT

(Brommer St. at 38th Ave.)

EXHIBIT NO. 4

APPLICATION NO.

CAP-MAS-3-04(B)

pg 1 of 1



COPY

## RESOLUTION NO. 3355

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AUTHORIZING THE CITY MANAGER TO SUBMIT THE CURRENT AND  
PREVIOUS CITY LOCAL COASTAL PROGRAM AMENDMENTS TO THE  
CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION**

**WHEREAS**, the City's Local Coastal Program was certified by the California Coastal Commission on June 1981, and updated in October of 2001; and

**WHEREAS**, the Planning Commission conducted a public hearing on February 19 and March 4, 2004; and the City Council held a public hearing on March 11 and took action on March 25, 2004, for amendments to the City's Local Coastal Program as part of a Coastal Commission grant completed in March 2004, and forthwith collectively referred to as the Coastal Commission Grant LCP Amendment, which include the following:

1. A Zoning Ordinance amendment to revise Chapter 17.30 Visitor Serving (VS) and Section 17.46.50 Permit Exemptions, and adding a new Section 17.46.55 Exclusionary Areas (Ordinance No. 868);
2. Amendment to the Local Coastal Program to include within the City of Capitola Coastal Zone boundary three areas formally designated as "Areas of Deferred Certification," namely Rispin Mansion, Shadowbrook Restaurant, and Blodgett/Dodds' Properties (Resolution No. 3353);
3. An ordinance to amend the Blodgett/Dodds' Properties Zoning Map designation from AR/VS/R-1 to VS/R-1 for Assessor's Parcel Numbers 036-142-26, 036-142-27, 036-143-31, 036-142-28, and 036-143-29; and from AR/VS/R-1 to VS/RM-LM for Assessor's Parcel Number 036-143-30 (passed to a second reading on March 25, 2004);
4. Amend the General Plan Map/Local Coastal Program Land Use Plan and Implementation Program to Designate Property located at 620, 720, and 723 El Salto Drive (Assessor's Parcel Numbers 036-142-26, 036-142-27, 036-142-28, 036-143-29, 036-143-30 and 036-143-30) for Visitor Serving / Residential-Low Medium (VS/R-LM) (Resolution No. 3354);
5. Authorization to forward these above amendments as well as previous Local Coastal Program amendments listed below to the California Coastal Commission for certification of the City's Local Coastal Program (this Resolution No. 3355):

Ord. No. 587

Amending Section 10.36.195 of the Municipal Code concerning areas of no weekend or holiday parking.

Ord. No. 755

Amending Sections 17.50.010 and 17.50.100 and adding Sections 17.50.035 and 17.50.045 to the municipal code regarding flood regulations.

Ord. No. 756

Amending Section 17.51.100 (Floor Area Defined) and Adding Section 17.51.035 (Quasi-Public Seating Area).

Ord. No. 757

Deleting Chapter 17.48 re Future Width and Special Building Lines, Amending Section 17.21.110 and Section 17.27.110, and Adding Subsection N. to Section 17.63.090.

Exhibits

CAP-MAS-3-04  
(B)

pg 1 of 3

6270

RESOLUTION NO. 3355

~~Ord. No. 759~~ Amending Chapter 17.90 of the Capitola Municipal Code pertaining to changes of use of Mobilehome Parks.

~~Ord. No. 795~~ Amending Chapter 17.57, and Land Use Map re off-site Real Estate for Sale signs.

★ ~~Ord. No. 799~~ Amending Zoning Map of Zoning Ordinance for APN 034-182-01 (3790 Brommer Street) from RM-M to PD District (Habitat).

~~Ord. No. 798~~ Amending GP/LCP Land Use Map from PF/VS (Public Facilities/Visitor and Res. No. 2896 Serving) to R-MH (Residential- Mobile Homes) for the Surf and Sand MHP.

★ ~~Ord. No. 805~~ Amending the zoning map of the Zoning Ordinance for APN: 034-161-12, at 1255 41st Avenue, by way of rezoning a portion of the parcel from the "RM-M" (Multiple Family Residential-Medium) district to the "PD" (Planned Development) District.

~~Ord. No. 809~~ Adding Section 17.63.055 to Chapter 17.63 Architectural and Site Review and Res. No. 2989 re: Visualization Requirements.

~~Ord. No. 817~~ Amending Sections 17.03.690 defining "use," 17.60.020 re CUP requirements, 17.60.030 adding criteria to evaluate Use Permits for uses in excess of 12,000 sq., and 17.60.100 for Master Use Permits.

★ ~~Ord. No. 819~~ Amending the Zoning Ordinance for APN 036-062-07, (409 Pine Street) from RM-M to PD District.

~~Ord. No. 837~~ Repealing Ordinance 586 and Section 10.36.045 pertaining to parking meter zones and parking meter rates, and adding a new Section 10.36.045 and Section 10.36.055 to the Municipal Code regarding the same.

~~Ord. No. 853~~ Amending Section 17.63.020 pertaining to the Architectural and Site Review Board.

~~Ord. No. 858~~ Secondary Dwelling Units (SDU) Ordinance amending Section 17.15.040 to include SDU as a Principally Permitted Use. Added Chapter 17.99 pertaining to SDU.

~~Ord. No. 860~~ Urgency Ordinance re Secondary Dwelling Units.

★ ~~Ord. No. 862~~ Ordinance adding Chapter 17.98 to Capitola Municipal Code pertaining to Wireless Communications Facilities.

~~Ord. No. 863~~ Amendment replacing Chapters 12.12, and 12.16 with a new Chapter 12.12 Community Tree and Forest Ordinance.

Exhibit 5  
CAP-MAS-3-04(B)  
Pg 2 of 3

WHEREAS, the City Council conducted a public hearing on March 11, 2004, and took final action on March 25, 2004, for these Coastal Commission Grant Amendments; and

WHEREAS, this Coastal Commission LCP Grant Amendment is Statutorily Exempt under CEQA Section 15265 (a) (1); and

WHEREAS, this Coastal Commission LCP Grant Amendment is intended to bring the City's Local Coastal Program into conformance with the Coastal Act; and

WHEREAS, This Coastal Commission LCP Grant Amendment provides the Coastal Commission with the benefit of viewing the proposed changes as a comprehensive package; and

WHEREAS, a Notice of Availability was prepared six weeks prior to final action by the City Council.

NOW, THEREFORE, the City Council of the City of Capitola hereby finds:

1. This Coastal Commission LCP Grant Amendment is Categorical Exempted, and in conformance with the under CEQA Section 15265 (a) (1).
2. This Coastal Commission LCP Grant Amendment is consistent with the Local Coastal Land Use Plan, and the Coastal Act.
3. This Coastal Commission Grant Amendment, as drafted, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Program.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that this Coastal Commission LCP Grant Amendment is hereby adopted and are in full conformity with the City of Capitola Local Coastal Program and provisions of the California Coastal Act.

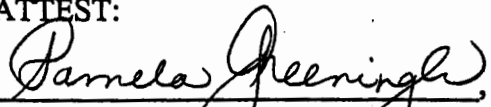
BE IT FURTHER RESOLVED, that the City Manager or his designee is directed to submit the said Coastal Commission LCP Grant Amendment to the California Coastal Commission for its review and certification. If the Coastal Commission approves the amendment package, it will take effect automatically upon Coastal Commission approval. If the Coastal Commission modifies the amendment package, only the modifications will require formal action by the City of Capitola.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 25<sup>th</sup> day of March, 2004, by the following vote:

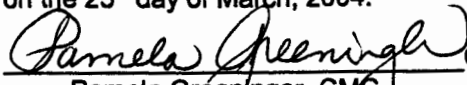
AYES: Council Members Norton, Ortiz, Arthur and Mayor Harlan  
NOES: None  
ABSENT: Council Member Gualtieri  
ABSTAIN: None

Exhibit 5  
CAP-MAR-3-04(B)  
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Stephanie Harlan, Mayor

ATTEST:  
 CMC  
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3355 passed and adopted by the Capitola City Council on the 25<sup>th</sup> day of March, 2004.

 City Clerk  
Pamela Greeninger, CMC