

## CALIFORNIA COASTAL COMMISSION

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**Prepared January 15, 2009 (for February 5, 2009 Hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
Susan Craig, Coastal Planner

**Subject: De Minimis Amendment Determination for Santa Cruz County Local Coastal Program Amendment Number 2-08 (Wireless Communication Facilities)**

#### Santa Cruz County's Proposed Amendment

Santa Cruz County is proposing to amend its certified Local Coastal Program (LCP) Implementation Plan (IP) to: 1) apply a visual impact buffer between roof-mounted wireless communication facilities (WCF) and residential areas; 2) limit the number of WCF antennas and equipment shelters/enclosures on a single parcel to nine and three respectively; and 3) require a buffer between WCFs and public schools (see Exhibit B for the proposed changes).

#### De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis." In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3;
2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and off-site in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and
3. The amendment does not propose any change in use of land or water or allowable use of property.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP 10 days after the date of the Commission meeting (in this case, on February 15, 2009).

**The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is de minimis.**



Each of the de minimis criteria is discussed briefly below:

**1. No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:** The County's certified wireless communication facilities (WCF) ordinance prohibits installation of WCFs within particularly sensitive areas of the County (such as between the first public road and the shoreline, in certain residential and agricultural zoning districts, and on school grounds). Within other sensitive areas of the County (the right-of-way of the first public road, and in specific residential and other zoning districts) WCFs are restricted and criteria have been established regarding how and where these facilities could be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs are allowed subject to specific application and siting and design criteria. The proposed amendment to the WCF ordinance would retain the above prohibitions and restrictions while adding further visual protections by: 1) applying a visual impact buffer between roof-mounted WCFs and residential areas; 2) limiting the number of antennas at co-location/multi-carrier WCF sites to no more than nine antennas and no more than three separate equipment shelters/enclosures on any single parcel to limit cumulative impacts; and 3) requiring a buffer between WCFs and public schools (see Exhibit B for proposed amendment language). The proposed changes will reduce the visual impacts of WCFs at multi-carrier sites, and near residences and schools.

The proposed changes will reduce potential impacts on visual resources within the coastal zone. Thus, the proposed amendment will not have an adverse impact, either individually or cumulatively, on coastal resources, and it is consistent with the policies of Chapter 3 of the Coastal Act.

**2. Provision of public notice:** The County provided public notice in advance of both the Planning Commission hearing (held on September 10, 2008) and the Board of Supervisor's hearing (held on October 21, 2008). For the Planning Commission hearing, a newspaper advertisement notice was printed on August 23, 2008. For the Board hearing, a newspaper advertisement notice was printed on October 11, 2008. In addition, the proposed text was made available at the Planning Department front counter, at the office of the Clerk of the Board, and at the Santa Cruz County library, all in advance of the County's hearings; the text was also made available on the County's website in advance of the Planning Commission and Board of Supervisors' hearings. The amendment submittal was subsequently received by Commission staff on December 23, 2008, thus satisfying the 21-day requirement.

**3. No change in use of land or allowable use of property:** No change in use is proposed by this amendment.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its February 5, 2009 meeting at Huntington Beach City Hall City Council Chambers, 200 Main Street in Huntington Beach. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being



processed, please contact Susan Craig at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by January 30, 2009.

LCP Amendment Action Deadline:

This proposed LCP amendment was filed as complete on January 7, 2009. It is IP only and the 60-day action deadline is March 8, 2009. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until March 8, 2009 to take a final action on this LCP amendment.

Exhibits:

Exhibit A: Board of Supervisors' Resolution

Exhibit B: Proposed Changes to LCP Sections 13.10.661 and 13.10.663



## ATTACHMENT 1

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIARESOLUTION NO. 249-2008

On the motion of Supervisor Beautz  
duly seconded by Supervisor Campos  
the following Resolution is adopted:

**RESOLUTION APPROVING AMENDMENTS TO SANTA CRUZ COUNTY CODE  
SECTIONS 13.10.661 AND 13.10.663 TO REDUCE THE VISUAL IMPACT OF  
WIRELESS COMMUNICATION FACILITIES (WCFs)**

WHEREAS, as WCFs have proliferated throughout the County in recent years it has become apparent that, despite the numerous visual impact avoidance protections contained in the current WCF Ordinance, there are numerous examples of significant visual blight that have resulted from the placement of WCFs; and

WHEREAS, WCFs, including roof-mounted WCFs, can be particularly unsightly in populated areas near homes and schools, or if there is an over-proliferation of antennas and related equipment from multiple WCFs located at a single site; and

WHEREAS, on December 4, 2007, the Board of Supervisors considered, and heard testimony on, various issues related to the County's regulations regarding wireless communication facilities (WCFs), of which cell towers are one type; and

WHEREAS, as a result of that hearing, the Board directed that several amendments be made to the County's WCF Ordinance (County Code Sections 13.10.660-668) to reduce the visual impacts of WCFs at multi-carrier sites and near residences or schools, and on March 4, 2008, the Board gave conceptual approval to these ordinance amendments; and

WHEREAS, to address visual impacts from WCFs, the Board of Supervisors directed that the County WCF Ordinance be amended to: (1) apply a 300-foot visual impact buffer between roof-mounted wireless communication facilities (WCFs) and residential areas, unless it can be shown there will not be a visual impact; (2) apply a 300-foot visual impact buffer between WCFs and public schools, unless it can be shown there will not be a visual impact; and (3) limit the number of antennas at co-location/multi-carrier WCF sites to no more than nine antennas, with no more than three separate equipment shelters/enclosures, on any single parcel, unless it can be shown there will not be a visual impact, which are limits that would allow for a reasonable concentration of WCFs at a single site without creating a significant visual blight; and

**CCC Exhibit A**  
**(page 1 of 3 pages)**

## ATTACHMENT 1

WHEREAS, the California Coastal Commission has certified the County's Local Coastal Program (LCP), including County Code Chapter 13.10 as a Coastal Implementing Ordinance, as consistent with and legally adequate to carry out the California Coastal Act; and

WHEREAS, the Board of Supervisors finds that the proposed amendments to the Santa Cruz County Code, which will also amend the County's LCP Implementation Plan, will be consistent with the policies of the General Plan/LCP and other provisions of the County Code, are in compliance with the California Coastal Act, and will contribute to the responsible management of natural resources in the community; and

WHEREAS, the proposed County Code/LCP amendments have undergone environmental review pursuant to the California Environmental Quality Act (CEQA) and have been found to have no significant negative environmental impacts and to be consistent with CEQA; and

WHEREAS, Planning Department staff has prepared a CEQA Negative Declaration for the proposed County Code amendments; and

WHEREAS, on September 10, 2008, after a duly noticed public hearing, the Santa Cruz County Planning Commission considered the proposed County Code amendments and voted unanimously to recommend their approval by the Board of Supervisors; and

WHEREAS, it is intended that the proposed County Code amendments shall go into effect outside the Coastal Zone 31-days after final Board of Supervisors action, and within the Coastal Zone upon certification by the California Coastal Commission.

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz County Board of Supervisors:

1. Approves the proposed County Code amendments to address visual impacts of wireless communication facilities;
2. Certifies the proposed CEQA Negative Declaration based upon the Initial Study for this project that concludes that the proposed amendments will not have a significant impact on the environment; and
3. Directs staff to forward the proposed County Code/LCP Implementation Plan amendment to the Coastal Commission for their consideration and certification.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 21<sup>st</sup> day of October 2008, by the following vote:

ATTACHMENT 1

AYES: SUPERVISORS Beautz, Campos, Coonerty, Stone & Pirie  
 NOES: SUPERVISORS None  
 ABSENT: SUPERVISORS None  
 ABSTAIN: SUPERVISORS None

ATTEST: [Signature] Secretary  
           [Signature] Chairperson

APPROVED AS TO FORM: [Signature]  
   County Counsel

STATE OF CALIFORNIA )  
 COUNTY OF SANTA CRUZ ) ss.  
 I, SUSAN A. MAURIELLO, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of the resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board on 10/27 08 20\_\_\_\_  
 SUSAN A. MAURIELLO, County Administrative Officer  
 By [Signature] Deputy

Exhibit:

1-A: Strike-Through/Underline Version of the Proposed Amendments to the County Wireless Communication Facilities Ordinance (County Code Sec. 13.10.660-68)

ORDINANCE NO. 5020

AN ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE TO REDUCE THE VISUAL IMPACT OF WIRELESS COMMUNICATION FACILITIES (Strike-Through/Underline Version)

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Subsection (3) of Subdivision (c) of Section 13.10.661 of the Santa Cruz County Code is hereby amended, to read as follows:

(3) Exceptions to Restricted Area Prohibition. Wireless communication facilities (WCFs) that are co-located upon existing wireless communication facilities/towers or other utility towers/poles (e.g., P.G.&E. poles), and which do not significantly increase the visual impact of the existing facility/tower/pole, are allowed in the restricted zoning districts listed in (c)(1) above. Proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine (9) total individual antennas, and/or more than three (3) above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures. Applicants proposing new non-collocated wireless communication facilities in the Restricted Areas must submit as part of their application an Alternatives Analysis, as described in Section 13.10.662(c) below. In addition to complying with the remainder of Sections 13.10.660 through 13.10.668 inclusive, non-collocated wireless communication facilities may be sited in the restricted zoning districts listed above only in situations where the applicant can prove that:

(A) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and

(B) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited and restricted areas identified in Sections 13.10.661(b) and 13.10.661(c)) that could eliminate or substantially reduce said significant gap(s).

SECTION II

**CCC Exhibit B**  
**(page 1 of 4 pages)**

Subdivision (g) of Section 13.10.661 of the Santa Cruz County Code is hereby amended, to read as follows:

(g) Co-Location. Co-location of new wireless communication facilities into/onto existing wireless communication facilities and/or existing telecommunication

## EXHIBIT 1-A

towers is generally encouraged if it does not create significant visual impacts. Proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine (9) total individual antennas, and/or more than three (3) above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures. Co-location may require that height extensions be made to existing towers to accommodate additional users, or may involve constructing new multi-user capacity towers that replace existing single-user capacity towers. Where the visual impact of an existing tower/facility must be increased to allow for co-location, the potential increased visual impact shall be weighed against the potential visual impact of constructing a new separate tower/facility nearby. Where one or more wireless communication tower/facilities already exist on the proposed site location, co-location shall be required if it will not significantly increase the visual impact of the existing facilities, or result in more than nine total individual antenna panels and/or three above-ground equipment enclosures/shelters located on the same parcel, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. This may require that the existing tower(s) on the site be dismantled and its antennas be mounted upon the new tower, particularly if the new tower would be less visually obtrusive than the existing tower(s). If a co-location agreement cannot be obtained, or if co-location is determined to be technically infeasible, documentation of the effort and the reasons why co-location was not possible shall be submitted.

## SECTION III

Subsection (2) of Subdivision (a) of Section 13.10.663 of the Santa Cruz County Code is hereby amended, to read as follows:

(2) Co-location. Co-location is generally encouraged in situations where it is the least visually obtrusive option, such as when increasing the height/bulk of an existing tower would result in less visual impact than constructing a new separate tower in a nearby location. However, proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine (9) total individual antennas, and/or more than three (3) above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures.

## SECTION IV

Subdivision (9) of Subdivision (a) of Section 13.10.663 of the Santa Cruz County Code is hereby amended, to read as follows:

**CCC Exhibit** B  
**(page** 2 **of** 4 **pages)**



(9) Visual Impacts to Neighboring Parcels and Public Schools. To minimize visual impacts to surrounding residential uses and public primary or secondary schools, the base of any new freestanding telecommunications tower or building/roof-mounted wireless communication facility shall be set back from the property line of any residentially zoned parcel, or the property line for any public primary or secondary school, a distance equal to five times the height of the tower if mounted upon a telecommunications tower, or a minimum of 300 feet, whichever is greater. This requirement may be waived by the decision making body if the applicant can prove that the tower wireless communication facility will be camouflaged or otherwise made inconspicuous such that visual impacts are not created, ~~not be readily visible from neighboring residential structures~~ or if the applicant can prove that a significant area proposed to be served would otherwise not be provided personal wireless services by the subject carrier, including proving that there are no viable, technically feasible, environmentally equivalent or superior alternative sites outside the prohibited and restricted areas designated in Section 13.10.661(b) and 13.10.661(c)

## SECTION V

Subsection (12) of Subdivision (b) of Section 13.10.663 of the Santa Cruz County Code is hereby amended, to read as follows:

(12) Facility and Site Sharing (Co-Location). New wireless communication towers should be designed to accommodate multiple carriers, and/or to be readily modified to accommodate multiple carriers, so as to facilitate future co-locations and thus minimize the need to construct additional towers, if it will not create significant visual impacts. Proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine (9) total individual antennas, and/or more than three (3) above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures. New telecommunications towers should be designed and constructed to accommodate up to no more than nine (9) total individual future additional antennas, unless the applicant can prove that the additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created ~~and/or height extensions, as technically feasible~~. New wireless communication facility components, including but not limited to parking areas, access roads, and utilities should also be designed so as not to preclude site sharing by multiple users, as technically feasible, in order to remove potential obstacles to future co-location opportunities. The decision making body may require the facility and site sharing (co-location) measures specified in this section if necessary to comply with the purpose, goals, objectives, policies, standards, and/or requirements of the General Plan/Local Coastal Program, including Sections 13.10.660 through 13.10.668 inclusive and the applicable zoning district standards in any particular case. However, a wireless service provider will not be required to lease more land than is necessary for the proposed use. If room for potential future additional users cannot, for technical reasons,

EXHIBIT 1-A

be accommodated on a new wireless communication tower/facility, written justification stating the reasons why shall be submitted by the applicant. Approvals of wireless communication facilities shall include a requirement that the owner/operator agrees to the following co-location parameters:

(A) To respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

(B) To negotiate in good faith for shared use of the wireless communication facility by third parties; and

(C) To allow shared use of the wireless communication facility if an applicant agrees in writing to pay reasonable charges for co-location.

SECTION VI

This ordinance shall become effective in areas outside the Coastal Zone on the 31<sup>st</sup> day following adoption, and upon certification by the Coastal Commission for areas inside the Coastal Zone.

PASSED AND ADOPTED this 21<sup>st</sup> day of October 2008, by the Board of Supervisors of the County of Santa Cruz by the following vote:

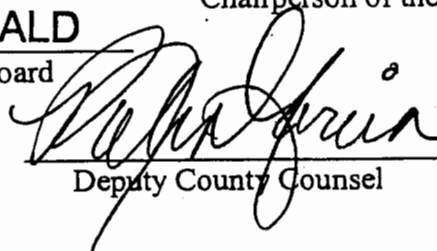
AYES:	SUPERVISORS	Beautz, Campos, Coonerty, Stone & Pirie
NOES:	SUPERVISORS	None
ABSENT:	SUPERVISORS	None
ABSTAIN:	SUPERVISORS	None

ELLEN PIRIE

Chairperson of the Board of Supervisors

Attest: TESS FITZGERALD  
Clerk of the Board

APPROVED AS TO FORM:

  
Deputy County Counsel

CCC Exhibit B  
(page 4 of 4 pages)

DISTRIBUTION: County Counsel, CAO, Planning Department

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE OFFICE ATTEST MY HAND AND SEAL THIS 21<sup>st</sup> DAY OF October 2008  
SUSAN A. MAURIELLO, COUNTY ADMINISTRATIVE OFFICER AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.  
BY Susan Mauriello DEPUTY